

a waterlogged home, which may cost more to repair than you can hope to repay. It is fair to say that this region is in crisis.

A significant portion of our State's population has lost everything. In many cities, thousands had to be rescued by boat or airlifted—taking nothing with them and forced to leave everything behind.

The good news is our community is strong. Neighbors are helping neighbors slowly put pieces back together, but there are challenges repairing infrastructure, sending kids to school, and disposing of large amounts of debris.

Aside from that, we are still in hurricane season. We don't know what might come next, but another storm hitting Louisiana before recovery is complete would be devastating.

Right now my office is working in tandem with the entire Louisiana congressional delegation and our Governor on securing expedited authorization and funding to build the Comite River Diversion and other mitigation projects to keep this from happening again. This is critical for rebuilding and preventing this level of damage from occurring with future storms. Remembering that our State has experienced severe flooding in 36 parishes in less than 6 months, our delegation is requesting a 90-percent to 10-percent cost share between FEMA and the State of Louisiana. We are also asking for supplemental appropriations of disaster recovery community development block grant funds to help with the long-term recovery.

Louisianans will work tirelessly, as we have for weeks, to rebuild. We are so lucky that we have had volunteers from out of the State come to help. Hopefully today, by increasing the awareness of this disaster, more people are encouraged to volunteer and donate in order to help fellow Americans recover.

Mr. President, I yield back.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## RECESS

Mr. BARRASSO. Madam President, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 12:18 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. FLAKE).

## WATER RESOURCES DEVELOPMENT ACT OF 2016—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Utah.

### OBAMACARE

Mr. HATCH. Mr. President, I rise to speak once again on the failures of the so-called Affordable Care Act and what they mean for hard-working families and taxpayers.

This is far from the first time I have come to the floor to talk about ObamaCare. Indeed, over the past several years, I don't think I have spoken as often about any other topic, and I am not alone. Since the time the Democrats forced the Affordable Care Act through Congress on a series of pure party-line votes, my Republican colleagues and I have been speaking about the poor judgment and short-sightedness that has unfortunately defined the trajectory of this law from its drafting to its passage and now well into its implementation. Quite frankly, we have had plenty of ammunition. It seems like we are treated to at least one new ObamaCare horror story every week.

My friends on the other side of the aisle have done their best to downplay our criticisms and minimize every negative story written about the problems with ObamaCare. In fact, just this morning the Senate minority leader came to the floor and pronounced the Affordable Care Act a success, but the American people have long recognized the truth: ObamaCare isn't working and it never will. This isn't a matter of opinion. This is not just political rhetoric in an election year. By its own standards—and the standards of those who drafted, passed, and implemented the Affordable Care Act, ObamaCare has been a historic failure.

Case in point, the American people were promised that ObamaCare would bring down health costs, but in reality costs are continuing to go up. Over this summer, as we moved ever closer to the next open enrollment period for the ObamaCare insurance exchanges, we have learned that insurers throughout the country have submitted requests to raise premiums by an average of 18 to 23 percent over last year's premiums. For some plans, the requested rate hikes are significantly higher than that average, coming in at more than 60 percent according to some recent reports.

Consider the following expected rate increases. In California, policyholders can expect a 13-percent average increase in premiums, which more than triples the increases seen in the past 2 years. In Florida, they can expect a rate increase over 19 percent on average over this year. In Nebraska, they can expect an average increase of 35 percent, with some rates increasing by nearly 50 percent. In Wisconsin, rates are expected to increase on average by as much as 30 percent. These numbers are more staggering when you consider

that when the law was passed, the Congressional Budget Office projected rate increases of only 8 percent at this point.

By some estimates, premiums for silver plans—the standard metric—are expected to increase 11 percent, more than they have at any point since ObamaCare was implemented.

While some of my colleagues have claimed that the evidence of massive premium increases is mostly anecdotal and that tax credits help blunt the overall cost increase, they simply cannot ignore the facts. Premiums in the ObamaCare insurance exchanges are going up in markets throughout the country, and according to CBO, the Congressional Budget Office, 12 million individuals are estimated to have to pay the full price next year because they either are not eligible for credits or they would choose to purchase coverage outside the ObamaCare exchanges. What is more, the middle class is increasingly bearing the brunt of these increased costs.

As the Wall Street Journal recently reported, middle-class families are spending 25 percent more on health care costs, which reduces their spending on other necessities. David Cutler, the health care economist from Harvard, is quoted in the article as saying, when it comes to health care, it is “‘a story of three Americas.’ One group, the rich, can afford health care easily. The poor can access public assistance. But for lower middle to middle-income Americans, ‘the income struggles and the health-care struggles together are a really potent issue.’”

Our focus should no longer be on the question of whether premiums are going up. We should instead be trying to figure out why it is happening. In the end, there are a lot of reasons why Americans are paying more for health insurance under a new system that was supposed to help them pay less, but the overall explanation is actually pretty simple: The President's health care law was poorly designed, and they know it.

Recall when my friends were drafting and passing the Affordable Care Act, they claimed that the system they were putting in place—complete with higher taxes, burdensome mandates, and draconian regulations—would entice more people into the health insurance market. With the larger pool of insured individuals, my colleagues on the other side of the aisle argued that insurers would be able to keep pace with all the new requirements imposed under the law without passing costs on to patients. We now know that these projections were, to put it nicely, foolhardy. From the outset, enrollment in the ObamaCare exchanges has lagged behind the rosy projections we saw when the law was passed. As time has worn on, more and more people have opted to pay the fines rather than purchase health care on the exchanges.

In February 2013, CBO projected that more than 24 million people would be enrolled in the exchanges. As of this

past March, the actual number was less than half of that number.

My colleagues, in their desperate attempts to defend the health care law, tend to focus solely on the number of uninsured people in the United States—a number that has, admittedly, gone down in recent years. However, what they tend to leave out is the fact that the vast majority of newly insured people under the law haven't purchased insurance through the exchanges. They have enrolled in Medicaid, a fiscally unsound program that provides less than optimal coverage options for patients. In fact, there are over 30 million people without insurance, which was the reason we enacted the law—or at least that was the argument. Today there are at least 30 million people without insurance.

The Washington Post recently ran an article on the enrollment shortfalls in the exchanges, plainly spelling out the issues. They said:

Debate over how perilous the predicament is for the Affordable Care Act, commonly called ObamaCare, is nearly as partisan as the divide over the law itself. But at the root of the problem is this: The success of the law depends fundamentally on the exchanges being profitable for insurers, and that requires more people to sign up.

Long story short, people are not signing up on the exchanges in the numbers that were promised. As a result, health insurance plans have been forced to adhere to the law's burdensome mandates and regulations without the benefit of an expanded and healthier risk pool. So as we have seen in recent months, plans in many of the exchanges have reported massive losses, leading a number of major insurers in important markets throughout the country to terminate their plans altogether. The result: patients and consumers are being left with fewer and fewer options.

According to a recent study by the Kaiser Family Foundation, nearly one out of every three counties in the United States is likely to have only one health insurance option available on the exchanges in 2017. Another third of U.S. counties will only have two options available. Thus, what had been approximately 35 percent of the counties with two or less options on the exchanges is likely to double to around 67 percent.

Furthermore, more than 2 million individuals are expected to have to change plans for 2017 as a result of insurers leaving States, which is nearly double compared to those who had switched carriers at the end of last year.

You don't need a Ph.D. in economics to know that, generally speaking, fewer options means higher costs for consumers and lower quality products being offered. That is exactly what the American people are dealing with when it comes to health insurance. This includes people from my home State of Utah. For example, one of my constituents, Mr. Chris Secrist, wrote to me. He said:

Since the new health care law was forced on us my premiums along with my deductibles have skyrocketed. With my premium, deductible, and "out of pocket" expense . . . my total out of pocket expense for insurance now tops \$20,000 per year . . . can anyone . . . explain how this can be considered "affordable health care"?

Over the August recess, I met with the Utah board of directors of the Leukemia & Lymphoma Society, and there I heard from many Utahns about the skyrocketing cost of care over the past 3 years. These constituents repeatedly emphasized that they had initially hoped ObamaCare would help them, but in their experience, it had only made things worse and much more expensive.

The downward spiral of ObamaCare is a circle that cannot be broken without some kind of intervention. While there are a number of ideas out there to address these problems, there are really only two major paths we can take. We can enact reforms that are patient-centered and market-driven or we can expand the role of government in regulating, mandating and, in the end, paying for more and more of our health care system.

Republicans in Congress, myself included, have proposed plans that would take us down the first path toward more patient-centered reforms. My friends on the other side, when they are not doubling down on the status quo under ObamaCare, are advocating for even more government involvement. Case in point, the Democrat's nominee for President has outlined a number of "reforms" she would like to add to the "progress we've made" under ObamaCare. Each of her proposals amounts to an expanded role for the Federal Government, including the renewed idea of the so-called "public option" or a government-run plan.

In other words, in this election season, the Democrats' answer to the failure of ObamaCare is more government control of our health care system.

It is funny, beginning in 2009, when the health care law was being finalized, I argued that Democrats intended to keep expanding the role of the Federal Government in health care to the point where they could argue that the only workable option after a series of failures would be to create a single-payer health care system; in other words, socialized medicine.

Some pundits and even my colleagues declared that I was paranoid, that I was trying to scare people into opposing ObamaCare. Yet 7 years later, those claims look relatively prescient, if I do say so myself.

Faced with the failure of ObamaCare to live up to its many promises, my colleagues are not arguing for a change in direction. Instead, they are clamoring for more authority to dictate the terms of what had been a private health care marketplace before. In a world where the government dictates both the products on the market and the prices at which they are sold, the eventual result is a marketplace in which the government is the only

available provider. In other words, while many of my friends on the other side will deny they want to create a single-payer or socialized medicine health care system in the United States, that is the direction they have us headed.

Fortunately, the march toward a single-payer system is not a fait accompli. We can take action to right this ship now. We can control costs. We can take government out of the equation and give patients and consumers more choices. Of course, to get there, more of my colleagues on the other side will have to acknowledge the failures of the current approach and agree on the need to plot a new course.

Perhaps once the upcoming election is over, we can begin to make progress on these issues. It is my hope that with the current administration in the rear-view mirror, people will be more willing to acknowledge the failures of the ObamaCare status quo. I recognize that the coming election may embolden those who support even more rigorous government involvement in the health care sector to try to take us further down the path of a single-payer system. If that is the case, we are looking at an even more contentious environment than the one we are in now.

Don't get me wrong. I want to see more bipartisanship around here. I want us to find more opportunities to work together and get past the blind partisanship that currently fuels so much of what we do here and that caused 100 percent of the Democrats and not one Republican in either House to support ObamaCare. But make no mistake, if the next administration or the next Congress tries to take us further down that path, they are going to have a heck of a fight on their hands. It is a fight that I personally am prepared to win so that we can eventually have a health care system that works for everyone.

I yield the floor.

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

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

UNANIMOUS CONSENT REQUESTS—EXECUTIVE CALENDAR

Ms. HEITKAMP. Mr. President, I come to the floor today after spending the last 7 weeks traveling the beautiful State of North Dakota and working with communities on issues that matter the most to them, whether it is agriculture, opioid abuse—any number of issues involving urban and rural housing. But one common message occurs at every stop: Why can't Congress get its job done? Why aren't you doing what you are supposed to be doing?

So the people of North Dakota and I think the people of this country have a simple message: They want us to do

our job. They are sick and tired of politics getting in the way of work getting done, and they don't understand why even the most basic issues, the most simple issues, issues where there are vast majorities that support them, get hung up in partisan politics.

That got me thinking about three numbers that really sum up the inability of my friends in the majority to do their job. Those numbers are 90, 175, and 20.

Let's start with 90. Ninety is the current number of judicial vacancies across our various Federal courts in the United States. Thirty-two of those vacancies have been deemed judicial emergencies. That means that justice is being severely delayed in those jurisdictions. Every day, Americans and American businesses have to sit and wait for resolution and certainty when we are capable of getting the job done, when we actually believe we have qualified nominees ready to take the bench and hear those cases.

The majority has brought to the floor and confirmed only 20 circuit and district court judges during this Congress—20. How does that compare? Well, if you look at the last 2 years of the George W. Bush Presidency, the Senate Judiciary Committee, which was then chaired by Senator LEAHY, actually approved nearly three times as many. In fact, 68 judges were approved during that time period—68 judges compared to 20. Last year the majority matched the record for confirming the fewest number of judicial nominees in more than half a century. That is just 11 nominees for the entire year.

These are not records that any of us should be proud of, not when we hear from judges, lawyers, and our constituents about the backlog of cases in the Federal courts and around this country.

Right now, 31 nominees still have yet to either have a hearing or a vote in the Senate Judiciary Committee. Some of these nominees have put their lives on hold and are ready to serve their country in some of the highest positions a lawyer can hope to achieve. They are putting their lives on hold and delaying their economic viability, waiting to find out.

That leads me to the second number. The second number is 175. That is the number of days since the President nominated Merrick Garland to the U.S. Supreme Court. My friends in the majority will come down and claim they absolutely could not give him a hearing because of something called the Biden rule—something which I have never voted on and which I did not know existed. I went looking in the rule book to try to find out where this Biden rule exists, and I have yet to track it down. But I do know that when we talk about statements on the floor attributed to then-Senator JOE BIDEN and now-Vice President JOE BIDEN, we ought to look at not what he said but what he did when he chaired the all-im-

portant Senate Judiciary Committee. So when we look at this from the lens of actions speaking louder than words and if we look at what JOE BIDEN was able to accomplish when he chaired the committee, he gave a hearing to every single nominee who came before him, whether that nominee was nominated by a Democratic President or a Republican President.

That brings me to my last number, which should be the easiest of all to address. That number is 20. Twenty is the number of circuit and district court judges who have had a hearing, who have been reported out of the Senate Judiciary Committee on a bipartisan basis—in fact, 18 of them were unanimous—but they are still awaiting an up-or-down vote in the Senate.

I think it is unusual that I should even have to come to the floor to explain how ridiculous this is. These nominees are all noncontroversial. They are noncontroversial enough to have received a hearing and been voted out of the committee with Republican and Democratic support. That means the majority of the committee that we charge with fully vetting these nominees found all of the nominees qualified to serve a lifetime appointment on the Federal district court bench. Well, 12 were nominated over 300 days ago and 6 others were nominated over 200 days ago, and still they wait. Several of these judges were nominated and have the support of both their home State Democratic and Republican Senators. Several of these judges were nominated by and have the support of all of their Senators. It is just unheard of that they should have to wait, given that we have gone through the process.

One of those nominees I want to particularly point out is a woman by the name of Jennifer Puhl. Jennifer Puhl is from Devils Lake. Her family is a huge and important part of the community there. Her dad runs a small business, a plumbing business, and she worked her way up through the ranks and currently serves as an assistant U.S. attorney in North Dakota. She was appointed by a Democratic President, but she served initially and received her initial appointment as an assistant U.S. attorney from a Republican appointee. She is highly qualified and completely noncontroversial; yet she waits and yet the Eighth Circuit waits for another person to sit on the bench and carry the load of that important circuit court.

So I think it is time to do our job. I think it is time to move these 20 nominees and to get the court fully functioning.

I make this point because when we look at the role Congress plays in the judiciary, we have a very significant role, given lifetime appointments, that we would, in fact, provide advice and consent. But beyond that, the judiciary is an incredibly important part of our checks and balances. When we don't have a functioning judiciary, we do not have a functioning democracy. I think

it is very important that we look at this in the light of our responsibility to make sure these three branches of government are fully functioning and doing their job and able to do their job because we have people in place.

So I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 359, 362, 363, 364, 459, 460, 461, 508, 569, 570, 571, 572, 573, 597, 598, 599, 600, 687, 688, and 689; that the Senate proceed to vote without intervening action or debate on the nominees in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nomination; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The majority leader.

Mr. McCONNELL. Mr. President, reserving the right to object, the Senate has treated President Obama very fairly with respect to his judicial nominations. By comparison, at this point in President Bush's Presidency, the Senate had confirmed 316 of his judicial nominations—316. As of now, the Senate has already confirmed 329 of President Obama's judicial nominees. In fact, the Senate has already confirmed more of President Obama's judicial nominees than it did during the entirety—the entirety—of President Bush's 8 years in office.

So at this point I am going to object to the request, but I am prepared to enter into an agreement to process a bipartisan package of four more judicial nominations that would include a California judicial nomination, two Pennsylvania judicial nominations, and a Utah judicial nomination. This would presumably be agreeable to the senior Senator from California, the junior Senator from California, and to the senior Senator from Pennsylvania, along with the junior Senator from Pennsylvania and both Utah Senators.

So I am going to ask the Senator from North Dakota to modify her request as follows: Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider individually the following nominations, at a time to be determined by the majority leader in consultation with the Democratic leader: Calendar Nos. 364, 460, 461, and 569; that there be 30 minutes for debate only on each nomination, equally divided in the usual form; that upon the use or yielding back of time on the respective nomination, the Senate proceed to vote, without intervening action or debate, on the nomination.

The PRESIDING OFFICER. Is there objection?

The Senator from New Jersey.

Mr. BOOKER. Mr. President, reserving the right to object, as the junior

Senator from New Jersey, this is difficult for me because one of the judges the Republican leader is suggesting be skipped is the judge who has been waiting for the longest time. Judge Julien Neals has been waiting since February of 2015. He is someone who came out of the committee with bipartisan support and someone who has deep qualifications. In addition to this, he is suggesting that we skip another judge named Ed Stanton, who is the U.S. attorney for the Western District of Tennessee.

I bring out those two judges who are next on the list. They are the two longest waiting judges for the district court—one from May and one from February. I single those two out not just because one of them is from New Jersey but, if you look at the list of the next 15 judges, these are the only two African Americans on the list. The two longest waiting district court judges and the only two African Americans are the two who are being singled out, among others, to be skipped over in what the Republican leader is suggesting.

I know that for my colleagues in the Republican Party this is not a conscious thing. I know this is a coincidence and that it is not intentional that the two longest waiting judges—the only two African-American judges on this list of 15—are being skipped over, but I do feel it is necessary to point out this fact. At a time when this Nation is looking at this judicial system as needing to confront judicial bias, at a time when judicial organizations of all backgrounds are pointing out the need for diversity on the Federal court, what is being suggested right now is that we come up with a bargain to skip over the two longest waiting district court judges, who happen to be the only two African Americans on the list of the next 15. That, to me, is unacceptable, especially when you look at the qualifications of these two judges and especially if you look at their wide bipartisan support within the Judiciary Committee. The perception alone should be problematic to all of us in this body.

So I would like to object to this offer, especially given the tensions that exist right now in our country, the urgency for diversity on the bench, and the clear qualifications of these men, and, finally, the fact that they have been waiting since May and February of 2015.

Thank you.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. BOOKER. Yes, there is objection. I object to the modification.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the request of the Senator from North Dakota?

Mr. MCCONNELL. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Wisconsin.

Ms. BALDWIN. Mr. President, before I returned home for the August recess, I came to the floor to call on the Senate to take up pending judicial nominations. Once again, today I join my colleagues in calling for action on the crisis that is facing our Federal courts.

We had an unusually long recess—what is called the August recess, but it actually started in mid-July. We have a brief period of time when we are back in session before we are about to have yet another recess prior to the elections. I understand the Senate has been in session fewer days than the Senate has been in session in some decades—60 years.

I feel it necessary that we step up and deal with this crisis in the Federal courts and do our jobs. I call on my colleagues in the majority to do our jobs.

The obstruction that we have seen with regard to filling judicial vacancies is harming our Federal courts and our Nation, our economy, and individuals who come before those courts to seek justice.

In this current Congress, only 22 judges have been confirmed by the Senate. As we have discussed today, we currently have 90 vacancies on the Federal courts. Thirty-two—one-third—have been declared judicial emergencies. Yet before the Senate right now, we have Presidential nominees for these vacancies—27 in number—that are available for our consideration. Each of those names has garnered a bipartisan majority from the Judiciary Committee. A bipartisan majority has supported those Presidential nominees. Each and every one of them deserve a vote in the full Senate. The American people fully deserve a functioning Federal judiciary—whether the Supreme Court, our circuit courts, or the district courts.

From my home State of Wisconsin, we have a longstanding vacancy on the Seventh Circuit Court. This longstanding vacancy is absolutely unacceptable. This traditional Wisconsin seat on the Seventh Circuit Court has been vacant for more than 6 years. This is the longest Federal circuit court vacancy in the country. Today marks the 2,435th day—that is 6 years and 8 months—of this vacancy. The people of Wisconsin and our neighbors in Illinois and Indiana deserve a fully functioning court of appeals.

During this long vacancy, the Seventh Circuit has been considering issues that face people of our State as well as our country. These issues include women's health, labor rights, campaign finance, marriage equality, and, most recently, voting rights. These are important issues, and the people of Wisconsin deserve better than an empty seat when judgments are being made on such consequential issues.

We have a highly qualified nominee for this seat. Don Schott was nominated by the President on January 12. He has strong bipartisan support. Both

Senator JOHNSON and I have returned our blue slips, a part of the process to advance one of these nominees. A bipartisan majority of the Wisconsin judicial nominating commission recommended and supported his consideration by the President.

Don Schott also received the support of a bipartisan majority of the Senate Judiciary Committee when they voted to advance his nomination. Don Schott is very well qualified. He has the experience and the temperament to be an outstanding Federal court judge on the circuit court, and his nomination deserves a vote. The people of the State of Wisconsin deserve to have this traditionally Wisconsin seat filled.

Nine judicial nominees who have been previously approved by the Senate Judiciary Committee prior to Don Schott still haven't had their up-or-down vote either by the Senate, and they deserve it. As is the tradition of this body, we vote on these nominees in the order they appear in the Executive Calendar. As such, I will request that the Senate Republican leader schedule votes on each of these nominees, as well as on Don Schott.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 359, 362, 363, 364, 459, 460, 461, 508, 569, 570, 571, 572, 573, and 597; that the Senate proceed to vote, without intervening action or debate, on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object, I have already pointed out that President Obama has already had more judges confirmed than President Bush in his entire 8 years.

I offered a counter UC that would confirm four of the judges. I will not repeat the modification that I offered earlier.

Therefore, I object.

The PRESIDING OFFICER (Mr. TOOMEY). Objection is heard.

The Senator from Hawaii.

Ms. HIRONO. Mr. President, there are currently 27 pending nominations on the Executive Calendar and 90 total judicial vacancies. More than half of these nominations have been waiting since 2015 for a confirmation vote.

Hawaii's own Clare Connors was nominated to the Federal bench 1 year ago tomorrow. She is one of the nominees who would be skipped under the Republican leader's compromise offer, which is not a fair offer any way you look at it. Claire's resume is extensive and impressive.

In her time as a U.S. assistant attorney, Clare prosecuted Hawaii's most extensive mortgage fraud case. The case involved 15 criminals who were making it harder for Hawaii's families to obtain mortgages. This is only one example of Clare's nonpartisan commitment to public service.

During her career, Clare has worked for Attorney General John Ashcroft and Attorney General Eric Holder. She is impartial, she is qualified, and she deserves a vote.

If Clare is not confirmed, the Hawaii district court seat would be left vacant for over a year. People who appear before our courts don't want to know or care if their judge is a Democrat or a Republican. They just want to know that when they get their day in court, there will be a competent and qualified judge sitting there. This goes double, of course, for the highest Court in the land, the Supreme Court, which, because of an unfilled vacancy, has resulted in a number of 4-to-4 votes. That is not how the U.S. Supreme Court should operate. We need to do our jobs.

Mr. President, I rise today, therefore, and ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 359, 362, 363, 364, 459, 460, 461, 508, 569, 570, 571, 572, 573; that the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the Record; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object, I previously stated on two occasions that President Obama has already gotten 13 more judges confirmed than President Bush in all of his 8 years as President. I offered a counter consent that was objected to that would have confirmed a district judge in California, two district judges in Pennsylvania, and a district judge in Utah. That was objected to, so I will spare the Senate the counter UC I offered earlier because I know it will be objected to. But with regard to the consent that has just been requested, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Massachusetts.

Ms. WARREN. Mr. President, Republicans who control the Senate are setting new records for obstruction by slowing the pace of judicial nominations to a crawl and leaving courts across this Nation overburdened and understaffed.

I have listened as Senator MCCONNELL has asserted that he is acting fairly on judges because more Obama judges have been confirmed than total

George W. Bush judges. Here is my question: What kind of game does he think this is? At this point in time during the Bush administration, there were 42 judicial vacancies. Today, there are 90. At this point during the Bush administration, there were 13 judicial emergencies—vacancies in courts that are severely shorthanded and overburdened with cases. Today there are 32—more than twice as many vacancies, more than twice as many emergencies.

Senator MCCONNELL says, well, he just doesn't want to do his job, and neither do other Republicans. And we all know why. Republican leaders in Congress have made it abundantly clear that they want Donald Trump to be President so that he can appoint judges who will bend the law to suit his own interests and those of his wealthy friends, and if that doesn't work, then Republicans will settle for paralyzing the judicial system so that it cannot serve anyone at all.

Judicial nominees stand ready to provide American individuals, families, small businesses, and entrepreneurs with the justice they are guaranteed by our Constitution. One of those nominees is Inga Bernstein, a highly regarded Massachusetts attorney who has spent years serving families, teachers, and workers. Ms. Bernstein is not controversial. She is supported by both Republicans and Democrats. Give Ms. Bernstein her vote. In fact, give these 10 noncontroversial nominees their votes.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following 10 nominations: Calendar Nos. 359, 362, 363, 364, 459, 460, 461, 508, 569, 570; that the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the Record; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. WARREN. Mr. President, it is disgraceful that Republicans are blocking confirmation of these judges. It is even more disgraceful that 18 additional nominees haven't even had hearings yet, including Merrick Garland, who has now waited longer than any Supreme Court nominee in the history of the United States to receive a confirmation vote, while our highest Court continues to deadlock on issue after issue of importance to this Nation.

All we are asking for is the Senate Republicans to stop playing politics and do their job.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, to keep appropriate balance here in the Chamber, the Senate has treated President Obama fairly in terms of his judicial nominations. As the majority leader has pointed out, by comparison, at this point in President Bush's Presidency, the Senate had confirmed 316 of his judicial nominations. As of now, the Senate has already confirmed 329 of President Obama's judicial nominations. So President Obama is ahead of President Bush by that count. In fact, the Senate has already confirmed more of President Obama's judicial nominees than it did during the entirety of President Bush's 8 years in office.

Senator MCCONNELL offered an agreement to process a bipartisan package of four more judicial nominations that would include a California judicial nomination, two Pennsylvania judicial nominations, and a Utah judicial nomination, but Democrats objected.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BOOKER. Mr. President, I rise again to continue the plea to move forward when it comes to fulfilling the vacancies now pending in our courts. I don't know about the Constitution saying anything about a tit-for-tat—what one President got another should get—but to me the obligation of the Senate is clear, and that is, we have an obligation to do our job and to fill vacancies.

During this Presidency, significantly more vacancies have come up because of retirements and other reasons. As we have already heard from the Senator from Massachusetts, not only are there double the vacancies, but the judicial emergencies being talked about now, which have nothing to do with party, are real. Around our country right now, there are many districts that are in crisis because of our failure to do our job.

Relying on a tit-for-tat partisan understanding reflected nowhere in our Constitution is unacceptable when we are not supporting the proper functioning of the judiciary.

We have nominations on the floor, ones that have passed out of the Judiciary Committee in a bipartisan fashion. One of those nominations—to fill a vacancy in the U.S. District Court for the District of New Jersey—is Julien Neals, who is a well-qualified nominee and who has had to wait for over 19 months on his nomination—19 months. On this list, he is the longest waiting judge. Judge Neals has served as the chief judge of Newark Municipal Court, worked in private practice, and served his community as corporation counsel and business administrator for the city of Newark. The President nominated Judge Neals to the Federal bench over a year and a half ago. A hearing was held on his nomination in September 2015. The Judiciary Committee favorably reported his nomination by voice vote in November of 2015.

The delay in confirming this nomination is unfair to the people of New Jersey, who expect their justice system to

be working in its full capacity. But we know this isn't just a burden for New Jerseyans; States across this country are being forced to shoulder the Senate's failure to confirm judges, precipitating a massive judicial crisis in our country.

Continued judicial vacancies means that current Federal judges will be overworked and understaffed. Continued judicial vacancies means the American people must wait a year or two or longer to receive justice in a case. This goes counter to the very ideals we pledge allegiance to, this idea of liberty and justice for all. Without judges on the Federal bench, justice is denied for the woman who was fired on account of her gender. Without judges on the Federal bench, justice is denied for the transgender individual who is seeking to access a restroom or other public accommodation. Without judges on the Federal bench, justice is denied for the criminal defendant who deserves a speedy trial before a jury of their peers—fundamental constitutional ideas. The longer the Republican leadership delays filling our country's judicial vacancies, the longer justice is denied for Americans across our country.

I ask the Senate to promptly vote on the next two nominees who would be up, nominees from Tennessee and New Jersey. The Western District of Tennessee nominee, Edward Stanton, is a former U.S. attorney and has been pending for over 16 months. It is important for me to point out, especially after the suggestion from the Republican leader that we skip these first two judges, the longest waiting judges—I know there was no intention here, but I think it is important that we point out that in the compromise suggested by the majority leader, these are the only 2 African-American judges in the next 15.

So here we have two of the longest waiting judges, two qualified judges, two judges who passed out of the Judiciary Committee, two judges who deserve Senate action and who are also African-American judges who can help create diversity on our Federal judiciary so that it better reflects our society as a whole.

Given all of that—the totality of the crisis in our country, the urgency that is explicitly addressed in our Constitution that the Senate do its job—I now ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 359 and 362; further, that the Senate proceed to vote without intervening action or debate on the nominations in the order listed and that, if confirmed, the motions to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. CASSIDY. On behalf of the leader, I object.

The PRESIDING OFFICER. Objection is heard.

The PRESIDING OFFICER. The Senator from Tennessee.

OBAMACARE

Mr. ALEXANDER. Mr. President, the Americans I have talked with are tired of ObamaCare rhetoric. They are worried about the ObamaCare reality. And what is the reality today? The reality is that ObamaCare is unraveling at an alarming rate. There appears to be a very real danger that without structural changes there may be entire States with no insurer willing to sell plans on their ObamaCare exchanges in 2018.

We are talking about 10.8 million Americans who buy health insurance for themselves or their families on the ObamaCare exchanges created in each State as a result of the law passed in 2010. What we are saying is there are whole States where these 10.8 million Americans may have no options to purchase health care with ObamaCare subsidies. This unraveling is happening sooner than anyone thought and will require us to act both in the short term and in the long term.

If we don't take action in the short term, many Americans will have fewer options and no relief from skyrocketing premium costs. If we don't take action to address the longer term structural failure of ObamaCare, we could have a complete collapse of the individual insurance market. Again, what we mean is that you may be living in a State where you cannot buy health insurance if you rely on an ObamaCare subsidy.

The reality of ObamaCare today is alarming even for those of us who have been critical of the law and its thousands of pages of regulations. Before ObamaCare even became law, Republicans warned President Obama and we warned Democrats in Congress that ObamaCare was bad news for Americans.

In February of 2010, more than 6 years ago, I spoke for Republicans at a White House summit on health care and warned President Obama that premiums for millions of Americans with individual insurance would rise under his proposal. I was right about that. Republicans warned that ObamaCare would increase the cost of health care, that people would lose their choice of doctors, that policies would be canceled, that people would lose jobs, that taxes would go up, and that Medicare beneficiaries would be harmed. We were right about all of that. Today an alarming number of health care insurance companies are leaving ObamaCare exchanges. Americans are being forced to pay much more in premiums for the same health plans next year. This might be what Republicans predicted, but it is happening even faster than we imagined, and no one is happy about being right.

Unfortunately, I don't need to look any further than my home State of Tennessee to see how bad things have become. When Tennesseans woke up on August 24 and read the front page of

our State's largest newspaper, they saw this headline: "Very Near Collapse." The story wasn't about a bridge or about a foreign dictatorship. "Very Near Collapse" was our State insurance commissioner's description of the ObamaCare exchange in Tennessee, which more than 230,000 Tennesseans—almost a quarter of a million Tennesseans—used to buy health plans last year.

What does "Very Near Collapse" mean in the real world? This November, when Tennesseans are signing up for 2017 ObamaCare plans, there will be fewer plans to choose from, and they will be much more expensive. That is what it means. This picture will be the same for many Americans across the country.

Next year, Tennesseans will be paying intolerable increases—on average, between 44 and 62 percent more for their ObamaCare plans than they paid last year. Even for a healthy 40-year-old, nonsmoking Tennessean with the lowest price silver plan on Tennessee's exchange, premiums increased last year to \$262 a month. Next year, it is \$333 a month. And if you, the policyholder, don't pay all of it, then you, the taxpayer, will because a large portion of ObamaCare premiums are subsidized with tax dollars. Surely, it is not a valid excuse to say that just because taxpayers are paying most of the bill, that justifies having a failing insurance market where costs are so out of control that we may soon have a situation where no insurance company is willing to sell insurance on an ObamaCare exchange.

Tennessee had to take extreme measures to allow these increases because insurance companies told the State: If you don't let us file for rate increases, we will have to leave. And if that happens, Tennesseans might have only one insurer to choose from. That is what is happening in States all over the country as ObamaCare plans and rates get locked in for next year.

According to the consulting firm Avalere Health, Americans buying insurance in one-third of ObamaCare exchange regions next year may have only one exchange to choose from. People buying on ObamaCare exchanges will have only one insurer to choose from in the entire State in five States next year: Alabama, Alaska, Oklahoma, South Carolina, and Wyoming, according to the Kaiser Family Foundation. The same Kaiser Family Foundation report found that a growing number of States that have multiple insurers have only one insurer selling policies in a majority of counties.

Tennessee is one of those States. Last year, Tennesseans could choose ObamaCare plans between at least two insurers in all 95 counties in the State. For the 2017 plan year, next year, it is estimated that 60 percent of Tennessee's counties will have only one insurer offering ObamaCare plans—in other words, no choice.

North Carolina is also experiencing a dramatic reduction in options under



ObamaCare. Next year, 90 percent of counties in North Carolina are estimated to have only one insurer offering ObamaCare plans, up from 23 percent of counties last year. A similar picture exists in West Virginia, in Utah, South Carolina, Nevada, Arizona, Mississippi, Missouri, and Florida.

Just last week, the Concord Monitor, a newspaper in New Hampshire, published an article with this headline: "Maine health insurance cooperative leaves N.H. market, reeling from losses."

The story goes on to describe how the Maine-based Community Health Options insurance plan will no longer be operating in New Hampshire after experiencing over \$10 million in losses in the ObamaCare exchange over just the first two quarters of this year alone. This move will leave 11,581 individuals in the Granite State looking for new health plans.

Politico reports that one Arizona county is "poised to become an ObamaCare ghost town"—those are Politico's words—because no insurer can afford to sell health plans on the ObamaCare exchange. That leaves 9,700 people in Pinal, AZ, with no ObamaCare plan options in 2017.

Millions of Americans need relief from ObamaCare. Here is the action that is needed: First, Americans need immediate relief from the cost of health insurance and the lack of options on the ObamaCare exchanges. We could do that by giving States more flexibility to give individuals and their families options to purchase lower cost private health insurance plans outside of ObamaCare, and we could do that now. I intend to offer legislation that would provide that relief. That is only to deal with the emergency of next year.

Second, we need big, structural change in order to avoid a near collapse of our Nation's health insurance market. If there is a Republican in the White House next year, we need to repeal ObamaCare and replace it with step-by-step reforms that transform the health care delivery system by putting patients in charge, giving them more choices, and reducing the cost of health care so that more people can afford it. But if there is a Democrat in the White House, broad systemic, structural changes will still be necessary.

Republicans didn't create this problem, but we are prepared to solve it. Democrats want to spend more taxpayer dollars to prop up the exchanges. They want to expand the role of government in your private health care decisions.

In an article last month in the Journal of the American Medical Association, here is what President Obama wrote: "I think Congress should revisit a public plan to compete alongside private insurers in areas of the country where competition is limited."

Of course, the President's proposal means more money and more govern-

ment, but Republicans know and Americans have seen over the last 6 years that more money and more government are not the solution; they are the problem. We saw the problem ahead of time. We warned about it. We criticized the poor regulations that made a bad law even worse. Now, we are ready to take action. We are ready to do something about this emergency—both for next year and for the longer term.

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.

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

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

Mr. CASSIDY. Mr. President, I rise to speak about ObamaCare and the incredibly negative impact it is having on millions of Americans. Let's just speak about its impact upon the middle class. There was a recent article in the Wall Street Journal, dated August 26, which spoke about how ObamaCare is pushing the burden of health care costs to the middle class. It speaks about how deductibles have risen 256 percent, but wages have only increased 32 percent. It also goes on to say how folks are spending 32 percent more on health care, but they are having to cut back on groceries, restaurants, entertainment, and clothing. Everything else is being cut back as health care consumes more and more.

ObamaCare was supposed to change health care. The President promised that premiums would fall \$2,500 per family. The logical question is, Why didn't that happen?

I have a good example. A physician friend I know who happens to be a neurologist in Baton Rouge texted me. She had a couple in her office who were paying \$1,600 a month for insurance. They have a \$10,000 family deductible. They are middle class and don't get a subsidy. Let's think about this. They are paying \$1,600 a month and have a \$10,000 family deductible. Let's do a little quick math. That is roughly \$16,000 a year plus \$3,200, which comes to \$19,200 a year, if my math is correct. When we add \$10,000 for a deductible—let's say they both get in a car wreck and they are taken to the emergency room at the same time—they will be out \$29,000 before they see a benefit from their insurance. They will have to pay \$29,000 before they see a benefit from ObamaCare which is supposed to hold down costs.

These are statistics and anecdotes. Let's speak in a different sense. Let's speak about premium hikes. Premiums are up 31 percent this year in Louisiana, but premium increases are rising as high as 67 percent in Arizona. There is a 69-percent premium increase in Tennessee, and that is consistent across the Nation.

As it turns out, there is one county now which doesn't have any insurance

company providing coverage, but there are many other counties in our Nation in which there is only one insurance carrier. I can tell you, the less competition you have, the higher costs will go. As this continues, competition decreasing—and insurance companies like Aetna, Humana, and Blue Cross are pulling out of the exchanges in some States—we can expect these premiums to continue to rise.

The situation we are in is that people are either going to be insurance poor or they will be forced to go without insurance. There is an incredible irony. The bill which passed, the Affordable Care Act, had the stated goal of making health care affordable. It is becoming so unaffordable that people are going without insurance. I think this will only worsen.

Up to today, ObamaCare has received \$10.5 billion in Federal tax dollars as subsidies, and there were a series of co-ops set up. The co-ops were going to foster competition. As it turns out, 16 out of the 23 co-ops have gone out of business, health expenditures are on an alltime rise, and the subsidies are going away—some of them have been ruled illegal by the Federal courts—and so only the beneficiary will be paying the premiums. Despite \$10.5 billion in subsidies, insurance companies have lost \$2.7 billion. Again, if these subsidies go away because they are illegal, we can expect premiums to rise even more.

I am a big believer that if you are going to criticize something, you should offer an alternative. I would like to point out that this Republican and another Republican have offered an alternative. We call it the World's Greatest Healthcare Plan. We have kind of a cheeky title to draw attention to it, but it is serious legislation. Under the World's Greatest Healthcare Plan, we change the paradigm of ObamaCare. If under ObamaCare the presumption is that government knows best and folks in Washington can make better decisions for the folks in Baton Rouge, New Orleans, Lafayette, Shreveport, the Presiding Officer's hometown in Pennsylvania, or any other place in the Nation, and knows what to tell them and what they should buy—therefore how much they should spend—under the World's Greatest Healthcare Plan, we take the opposite approach.

We assume that the woman in the household—usually it is a woman. I am a physician so I know this. Usually, the woman makes 95 percent of the decisions on health care for a family—let's use the feminine—so she knows what is best for her family. There is kind of a humorous anecdote. On the campaign trail 2 years ago, I had two different women speak to me in a very memorable way. One of them came up and said: You know, I am 58 and my husband is 57. Our two boys are 18 and 19. Unless my name is Sarah and my husband is Abraham, we are not having more children, we do not need pediatric

dentistry, and I do not need obstetrical benefits, but that is included in my policy, which I am forced to pay for, and my husband and I are paying \$28,000 a year for insurance.

Another woman from Jefferson Parish walked up to me and said: My name is Tina. I am 56 years old, and I had a hysterectomy. My husband and I are paying \$500 more a month for insurance—\$6,000 more a year—and I am paying for pediatric dentistry and obstetrics. I do not need these benefits, but I sure as heck would like to have my money.

Washington is making the decision that these two women in Louisiana, and women across the Nation should pay for benefits they don't need, therefore paying far more. By paying far more, they have less to spend on other things they might need to purchase, for example, flood insurance in my State, clothing, restaurants, entertainment, a night out in their own State, wherever that State might be, but they cannot make that decision.

Under the World's Greatest Healthcare Plan, we take the power away from Washington and give it to the family. We allow them to choose the benefits they wish, those they need, making the decisions between pocketbook and health care that they are uniquely qualified to make. By the way, we also do away with the individual mandate. We know that individual mandate. It is the ObamaCare provision saying that you shall buy insurance or the Federal Government will fine you.

Under the World's Greatest Healthcare Plan, we take all the money a State would receive from the Federal Government for health care and we allow the State to give a credit to each individual in that State who is eligible, and that would be most folks. The State legislature would have the option to say that everyone in the State who is eligible is enrolled unless they choose not to be—unlike ObamaCare, where you have a 16-page online form where you have to get on and have your W-2 and check it off. If you don't have a W-2 with you and are a poorer person and have to go to the library for your Internet access and you go home by public transportation to get the right form and have to take public transportation back, it is not going to happen. Under our plan, you are enrolled unless you choose not to be. We expect to have 95-plus percent enrollment.

We don't provide the bells and whistles of ObamaCare, but what we do is give first-dollar coverage. Instead of a \$6,000 deductible per individual or a \$10,000 deductible per family, every family will have a health savings account with which they have first-dollar coverage. If they need to take their daughter to the urgent care center to have an earache treated, they have first-dollar coverage. There is not a \$6,000 deductible to work through. They have a pharmacy benefit and a

catastrophic coverage on top. If they are in a car wreck and admitted to the hospital, they will be protected from medical bankruptcy by that catastrophic coverage.

Another thing we do by giving power to the patient is price transparency. Under ObamaCare we have seen prices rise and rise and rise even more. Part of the problem is the consumer has no power. She does not have the ability to know that if a doctor orders a CT scan for her child—if she goes to this place and pays cash, it is \$250 or if she goes to that place, it is \$2,500. I picked those numbers, by the way, because the Los Angeles Times had an article a few years ago and found that the cash price for a CT scan in the L.A. Basin varied from \$250 to \$2,500, and there would be no way someone would know. With the World's Greatest Healthcare Plan, the power of price transparency is given to that mom so she knows where she can take the child for the best cash price and the highest quality and balance that with her budget. If the family wishes to really take matters into their own hands, they can put their family credits all together in a pool and buy a group policy for their family or they can give it to their employer as the employee's contribution for an employer-sponsored plan and buying into the richer coverage that employers typically give.

I could go on, but, if you will, the premise I learned as a physician is that if you give the patient the power, she will make the right decision for her family, both for their health and their pocketbook—unlike ObamaCare, which says: Family, you are not as wise as folks in Washington. We are going to tell you what you have to buy, therefore what you have to pay, and if prices escalate even more and you decide you can no longer afford insurance, we are coming after you to make you pay a penalty. It is wrong, I think it is un-American, and it is certainly bad for families.

The principle under the World's Greatest Healthcare Plan, which I like to say in a phrase is giving the patient the power, but the academic literature would call it the activated patient—someone who is now fully engaged in managing her and her family's health care. Not only does that result in lower costs, statistically it gives you better outcomes.

There is a physician Congressman on the other side in the House of Representatives who tells a story of someone he worked with. They went through a health savings account, and the manager came up and said: Dr. FLEMING, I don't particularly care for this plan because it doesn't pay for my inhaler. He said: Well, your health savings account can pay for your inhaler, I suppose, if it is not covered by your pharmacy benefit, but if you stop smoking, you don't need an inhaler, and he walked away not thinking about it. She later approached him and she said: Dr. FLEMING, let me tell you.

He said: Yes? She said: You are right. He is thinking: What was I right about? She said: I stopped smoking and no longer need an inhaler. That is a personal story, if you will, of that which statistically is demonstrated. If people become engaged in their health care, they are not only healthier, but they save money. Under the World's Greatest Healthcare Plan, we take that Republican principle of believing in the power of the individual to shape her life and her family's destiny in a much more positive way than you would expect from a bureaucrat telling you to be passive and to otherwise obey.

I will return. Unfortunately, the President's health care law, the Affordable Care Act or ObamaCare, is crushing the middle class with ever-higher premiums, higher deductibles, higher copays, an inability to pay, and becoming insurance poor as they cut back on everything else to avoid paying the penalty for the needed health insurance.

Republicans have offered an alternative. One alternative is the World's Greatest Healthcare Plan, and in our alternative we give the patient the power. I suggest that would be an important area of compromise; that we all see that giving the patient the power, the individual American the responsibility, is a better way to go.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mrs. CAPITO. Mr. President, I wish to thank my fellow Senator from Louisiana, Mr. CASSIDY—Dr. CASSIDY—for his really creative ideas—the World's Greatest Healthcare Plan and the way he frames it, in terms of his years of practice and the sincerity with which I know he has practiced in all kinds of health care settings and has done a lot of work with folks who never could or never would have afforded health insurance. So I thank the Senator for what he is doing and for working with us to try to solve this issue.

I rise today to join many of my colleagues in sharing the realities of ObamaCare. We have heard a lot about this. In my home State of West Virginia, for many, this law has been nothing short of devastating. While the number of people insured has increased because of the expansion of Medicaid in my State, the way these policies were put into place has created possible catastrophic fiscal cliffs for States. My State, by the way, last fiscal year was over \$300 million in the hole because of other issues, and now they are looking at this fiscal cliff of having to pay the full rate of Medicaid expansion.

There is now a segment of our population that is falling through the cracks when it comes to health reform. They make too much money to qualify for aid or subsidies and end up paying the full cost of increasing individual coverage premiums. These working families are being faced with sky-rocketing premiums, copays, and deductibles. Talk to any health care



center. Talk to the hospitals. This rising amount of deductibles is influencing their bottom line because they are not chasing the uninsured. They are chasing now people's deductibles. In my State and across this country, we have little, if any, choice in insurers.

I know we have all heard that often-repeated phrase, and I will say it again. It is the claim that if you like your doctor, you can keep your doctor. This has been pure fiction. The provider and hospital networks have shrunk and insurers have shifted away from options to give patients the choice they were promised and that they counted on, and they are now being pushed into much more restrictive plans.

One of our local papers recently ran a story about a West Virginian in just this situation, a small business person who labeled this plan accurately, calling it the "Un-Affordable Care Act."

Since ObamaCare, my premiums have increased at least \$450 per month in the last couple of years. The plan I had was canceled. . . .

So if you like your health care, you can keep it. His was canceled—false statement. He had to enroll in a new plan. His premiums are currently over \$1,350 a month. Between the high deductible and meeting the out-of-pocket maximum, this West Virginian has to pay 20 percent—all out-of-pocket—and the situation is likely to get worse.

In West Virginia, we, like many other States, are currently waiting to see what our premium increase is going to be for 2017. It hasn't been approved yet by the State insurance commission. The question is not whether there will be an increase; that is a given. The question is, How enormous will it be?

If nearby States are any indication, there is much to be concerned about. In the State of Tennessee, the State insurance commissioner recently sounded the alarm saying that the ObamaCare exchange in Tennessee is very near collapse. Rates there are skyrocketing to between a 44- and 62-percent increase. Sadly, the story is the same whether one is in Arizona, New Hampshire, Iowa, Nebraska, or West Virginia. All too often, these rate increases are coming with much less coverage as well.

I recently spoke with a West Virginia small business person who has absorbed the cost of increased premiums for their employees, realizing they can't afford it but, at the same time, that employees are getting much less coverage, higher deductibles, and higher copays. Attempting to switch to a lower cost plan comes with its own perils. The average bronze plan deductible in 2016 was \$5,700. This is assuming you have choices.

A recent analysis by the Kaiser Family Foundation found that one-third of all counties in the United States will only have one ObamaCare insurer next year. This is up dramatically from the 7 percent of counties in 2016, and it is largely the result of major insurance

companies scaling back or withdrawing their participation on the marketplaces. Unfortunately, there is nothing that indicates that this trend will not continue. Many counties are becoming ObamaCare ghost towns.

In Pinal County, AZ, 10,000 people bought exchange coverage this year, but no insurers are planning to offer plans on the exchange next year. What are they supposed to do? I fear this scenario could all too easily play out in West Virginia. Traditionally, over the course of ObamaCare, we have only had one insurer for the entire 55 counties. This year we happen to have 1 insurer for 45 of the 55 counties.

This lack of competition in the marketplace is not new for our State. This has been the reality for the vast majority of our residents, and now we are seeing it just expanding all across the country. This lack of choice, along with unaffordable premiums, copays, and high deductibles, has prompted most Americans to reject ObamaCare plans and not even join.

Nationwide enrollment in ObamaCare exchanges is only half what was originally planned. We owe it to those we represent to do better. We have heard Senator CASSIDY talk about his ideas. We have great ideas on this side of the aisle to improve it, and we have asked and voted many times to throw out ObamaCare and start over. I think that is the direction we need to go, because Americans deserve a health care system that works for them, every day, from year to year. It is becoming clearer and clearer that ObamaCare is not that plan.

Thank you, Mr. President.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Nebraska.

Mrs. FISCHER. Mr. President, I wish to thank my colleague from West Virginia for her comments on this health care law, as well as my colleague from Louisiana.

I have just returned, as we all have, from our time in our State and traveling in our State. I know my colleague from West Virginia heard the same stories that I heard in Nebraska. People are worried. They are afraid. They are very concerned about their futures and what they are going to see this fall with regard to this health care law. So I thank my colleagues for their comments that they have given today on this very important issue.

I, too, rise to address the stark reality of President Obama's failed health care law. The evidence of its failure continues. The latest example is the relentless increase in premium rates across our country. In Nebraska, health care plans under ObamaCare will see premium rates rise more than 30 percent. Nearly every week, I hear new stories of the pain caused by this law. It breaks my heart because it has led hard-working people to the brink of despair. We have sunk to the point where some Nebraskans, like many Americans across our country, are now asking themselves: Why bother?

Karen in central Nebraska shared that most of her paycheck goes to her plan's premium and deductible costs. She is faced with two terrible options: quit her job to qualify for more government subsidies or opt out of insurance coverage and then pay the penalty.

Meanwhile, Peter, a small business owner in western Nebraska, faces the gut-wrenching decision of raising prices to offset the rising premiums and other unaffordable costs of his ObamaCare plan.

Stephen in eastern Nebraska, another small business owner, bluntly told me: "Enough is enough." For Stephen, it made more sense to pay the penalty than to budget for his ObamaCare plan. If that wasn't enough, Stephen's longtime family doctor, the medical professional who he trusts, is no longer in his network. So now Stephen has to travel just to see an in-network provider.

Because of a law forced upon them, Americans are left with difficult choices. Mothers and fathers are being forced to choose between what is in the best interest of their families and what health insurance costs they are going to be able to afford.

Hard-working Americans are keeping less of their paychecks. They are spending more on these uncontrollable health care costs. They can no longer afford and, in many cases, they no longer even have the option to see the doctor they trust. They are not saving money, and they are not better off. They are living a real American nightmare.

Nebraskans are all too familiar with the failures of ObamaCare. The co-op established for Nebraska and Iowa was one of the first ones to fail, and that was in December of 2014. In my letter at the time to then CMS Administrator Tavenner, I sought answers. I received an answer much later from Acting Administrator Slavitt. His response was disappointing, and it clearly demonstrated what we have known for a long time now: The government is incapable of successfully administering health care coverage. These Nebraskans were left with few options and very little support because of the government's shortsightedness in continuing a doomed co-op.

We have witnessed similar disasters with other ObamaCare co-ops across the country. They keep failing. They include Colorado, Connecticut, Illinois, Michigan, New York, and Oregon, to name a few. At a cost to taxpayers of more than \$1.7 billion of the original 23 co-ops, only 7 now survive. That is a failure rate, people, of more than 60 percent. The surviving seven are now being evaluated for their financial health, but one thing is clear: To prop them up through the next enrollment period only to delay their really inevitable failure would be incredibly dishonest to the American people.

Nebraskans are a trusting people. We like to give people the benefit of the doubt, but there is no doubt any

longer. ObamaCare was built on certain promises and those promises have been broken.

It is time for the government to be honest with the American people. It is time to come clean, face up, and act responsibly. We have already taken some positive steps to get our people out of this mess—steps which the vast majority of the Members of this Senate have approved. The medical device tax and the Cadillac tax are clear examples. The majority of this Chamber agreed on a bipartisan basis that delaying these taxes was a necessary step to alleviate some of the harm that has been caused by this health care law. In voting to delay these taxes, the Senate chose the American people over a failed law. That was a good day, and that was a good vote. We must take more actions like that in the future—action, not just talk—actions that will help the American people lighten this law's heavy load and bring families back from that brink. We must keep doing this until Americans like Karen, Peter, and Stephen are no longer forced to make those unreasonable choices.

At the same time, I want solutions for those Nebraska families still struggling to find quality and affordable health care. But let's be honest. These solutions are not more bailouts and tax subsidies. No more one-size-fits-all Federal mandates. We must all conclude that ObamaCare is a clear failure. We must, once and for all, scrap it and then replace it with patient-centered solutions. I want to have that conversation, and I am ready and willing to do so.

Thank you, 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.

Mr. CARDIN. 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.

#### ELLICOTT CITY, MARYLAND, FLOOD

Mr. CARDIN. Mr. President, the first order of business in this return to session is for us to pass an appropriations bill to keep the government open on October 1. I know that people are physically at work in order to make that a reality.

I was on the floor yesterday talking about the need to fund Zika. To me, that is urgent. We have to get that done now. I explained then that there are real risks to the general population of Maryland and Colorado and every State in this country from the Zika virus.

Today I am going to talk about two episodes—two disasters—that occurred in Maryland during the recess. I mention that in this context because we need our Federal agencies fully functioning and fully funded in order to deal with the things that just happen in America.

In my own State we had two horrible disasters during the recess, and I would like to talk a little bit about that.

Marylanders are heartbroken by the devastation that has hit our community in Ellicott City. My condolences go out to the family and friends who lost loved ones in the tragedy.

I want to especially thank the first responders who worked tirelessly to save lives and property after the historic flooding in Ellicott City.

Ellicott City is a historic Maryland treasure, founded in 1772 and known for its vibrant business community and its culture of kindness and resilience. It suffered significant flooding throughout the intense rainfall on the evening of July 30, 2016. The National Weather Service predicts that a rainfall of this magnitude should statistically occur once in every 1,000 years. Six inches of rain poured down on Ellicott City—an amount of rain that normally falls over the course of one month—in the period of only 90 minutes.

Shortly after the storm hit, I toured Ellicott City with Howard County Executive Allan Kittleman, officials from the Maryland Emergency Management Agency, MEMA, and other Federal, State, and local officials. The devastation is truly frightening in terms of damage to property, businesses, homes, vehicles, and infrastructure in Ellicott City.

As the Baltimore Sun reported, Saturday, July 30, began unremarkably for a summer day in the mid-Atlantic, with thunderstorms expected. Joseph Anthony Blevins was out on a date night with his girlfriend Heather Owens, and he suggested they stop at Main Street in Ellicott City. They had just left a matinee at a movie theater in Laurel and were heading home to Windsor Mill. With a roll of her eyes, she agreed to stop in the city's historic district.

Let me continue with the Baltimore Sun's reporting of this story:

It was raining when [Heather Owens and Joe Blevins] pulled into a parking lot off Main Street around 7:30 p.m., and they sat in the car to wait out what they expected to be a short downpour. They didn't know that the weather service had issued a flash flood warning for much of central Maryland about 12 minutes earlier. When they realized the rain was not going to let up, they decided to go home. They pulled back on to Main Street, but within five minutes, their car began floating. The car struck a guardrail and plunged into the swollen Patapsco River.

Owens was able to get out of the passenger side window, and thinks she grabbed something, perhaps a branch of a tree on the river bank, as the current pulled her downstream.

She looked for Blevins and saw him in the river, gasping for air and reaching in vain for something to hold on to. She scrambled up the rocky bank onto nearby railroad tracks, heading toward houses on higher ground to get help. The rushing waters had torn her pants and shoes off, but she survived with a fractured jaw. . . . Residents and first responders later looked unsuccessfully for Blevins. Blevins, 38, died during the flooding, leaving behind Owens and his three children.

A confluence of meteorological and geographical factors turned this hard

summer rain into a destructive torrent. In less than 2 hours the river rose 14 feet above its normal flow. Shops and restaurants that line Main Street were swamped and flooded as water rushed down the street and rose underneath it. The Tiber, usually just an inch or two of water running through a reinforced channel below some of the buildings, swelled during the storm.

You can see a little bit here of the damage that we are talking about in this photograph. I had a chance to see this firsthand, and it was incredible that buildings had been completely washed away. The river normally flowed underneath that and has for a long time, but because of construction and because of the amount of water that fell, the water was funneled into Main Street, and it became a force of itself going down Main Street, as well as the river rising below it, causing major destruction.

Jessica Lynn Watsula also died in the flood. Again, as the Baltimore Sun reports, she was a 35-year-old mother who lived in Lebanon, PA, and had gone to Portalli's in Ellicott City that night with three women for a girls' night out.

Watsula dropped off her 10-year-old daughter at her brother's home and drove two hours from Pennsylvania for dinner and painting Saturday in Ellicott City—a chance to share an evening with her sister-in-law and two other relatives.

As the four women left Portalli's Italian restaurant on Main Street in the historic district, a wave of flood water began to sweep their car away. They got out and clung to a telephone pole as waist-high water rushed over them.

Watsula was swept away and died in the flood.

As we mourn the loss of Joseph Blevins and Jessica Watsula, let me thank the citizens of Ellicott City who undoubtedly saved many lives with their heroic actions during this historic and deadly flood.

I am pleased that our congressional delegation has moved quickly to facilitate the emergency help for families, communities, homeowners, and small businesses to recover from this disaster.

I want to recognize and praise the Federal agencies who stepped up to the plate and worked hand-in-hand with our State and local officials.

Let me start by thanking the Small Business Administration and specifically SBA Administrator Maria Contreras-Sweet for her tremendous help to the people of Ellicott City. The SBA's survey of Ellicott City found more than the 25 structures—with 40 percent or more of uninsured damage—required to recommend an SBA physical declaration. At least 60 homeowners, renters, and businesses in Ellicott City and surrounding areas sustained major damage or were destroyed. More than 80 structures sustained minor damage as well.

In this case, the Federal disaster declaration from the SBA was necessary to ensure Howard County business owners got the physical disaster loan assistance and economic injury disaster

loan assistance they need to repair or replace real estate, personal property, equipment, or inventory damaged or destroyed in the disturbance. I know many of these shopowners. These are not chains; these are small business people who have set up their own unique businesses providing retail services in a way that reminds us of how retail used to be in this country. Main Street in Ellicott City is Main Street America. These people are very resilient, but when you have this type of damage and you know how long it is going to be before you can return the structure to its use, it requires a helping hand.

I was pleased that the SBA came through for the citizens of Ellicott City by approving a formal disaster declaration which will allow the homeowners, businesses, and nonprofit organizations impacted by this epic storm and resultant floodwaters to apply for economic injury disaster loans, which provide low-interest assistance to help businesses meet their financial obligations and pay ordinary and necessary operating expenses.

The SBA has repeatedly proven its willingness and ability to help Marylanders struck by crisis. I express my sincere thanks to the SBA for the assistance extended to our neighbors in need, and I will continue to work with Team Maryland, including Senator MIKULSKI and Congressman CUMMINGS, to identify additional resources to aid Ellicott City. The Maryland delegation has come together to support the State's request for a Federal disaster declaration for Howard County after the deadly and devastating flood in Ellicott City.

Given the massive impact this flooding had on our State and our local resources, I have joined my colleagues in the Maryland delegation in writing a letter to the President urging him to approve the Federal disaster declaration at the request of our Governor, Larry Hogan.

I also acknowledge the extraordinary help from officials from Region III of the Federal Emergency Management Agency and in particular MaryAnn Tierney. Region III offices are headquartered in Philadelphia but include the State of Maryland. So I appreciate Administrator Tierney coming down for a site visit to oversee the joint preliminary assessment. She was there immediately. I met with her. She understood the urgency and the importance of being on the ground. I was pleased to have the opportunity to meet with her and others during her site visit to Ellicott City. I thank her for her coordination with State and local officials in responding to this disaster.

FLOWER BRANCH APARTMENTS EXPLOSION AND  
FIRE IN SILVER SPRING, MARYLAND

Mr. President, I also want to share with my colleagues another major disaster that occurred in Maryland over the Senate recess. On August 10, a massive explosion and fire took place at

the Flower Branch Apartments in Silver Spring, MD. Seven individuals died in the catastrophe, which caused dozens of injuries and displaced over 100 residents.

I was at this scene also. We lost life. People lost their lives, and I am going to mention their names. I was surprised to find that there were survivors when I took a look at the amount of damage that was done by this explosion. The first responders showed me parts of the building that were found hundreds of yards away, mangled by the force of the explosion. There was immediately a fire that consumed the rest of the premises. As the Washington Post reported, the destruction was so devastating that authorities were unable to immediately determine how many people died. There was difficulty in making identifications.

Among the victims were two little boys, Deibi Morales and Fernando Hernandez, who had become friends as their mothers undertook new lives in the United States; a couple, Augusto Jimenez and Maria Castellon, who built a house-cleaning business; and a retired painter, Saul Paniagua, who doted on his grandchildren. We mourn all their lives, and we extend our deepest condolences to their families.

I toured this site recently with Montgomery County Executive Ike Leggett and other Federal, State, and local officials, including officials from the Montgomery County, MD, Fire and Rescue Service. Our hearts go out to the families who have been impacted by this horrible tragedy in Montgomery County.

I want to thank the first responders, State and local officials, as well as a wide range of nonprofit, faith-based and community groups who have answered the call to help victims, families, and loved ones begin to put their pieces back together as best they can. It was heartwarming to see the community outpouring to help those who were homeless immediately as a result of this disaster and to provide whatever they could.

They provided help to the first responders. The temperature was over 100 degrees during the period of time this occurred. There were oppressive temperatures and very difficult working conditions. The community came together to help the first responders. We had a team come in from out of town who is expert in this type of accident to help us in dealing with this tragedy.

I thank everybody for their help in trying to do what we could to help those who are fighting and helping to locate the survivors and to those who were victimized by this explosion.

At the Federal level, I commend the work of the Bureau of Alcohol, Tobacco, Firearms and Explosives in helping with the investigation of this massive explosion and fire.

I am pleased that the National Transportation Safety Board has launched a formal investigation into this incident, and that is because there

is an expected gas line issue involved in the explosion. I am hopeful that the National Transportation Safety Board investigation will uncover the causes of the explosion and fire and hold individuals accountable for any wrongdoing, as well as lead to additional safety recommendations as to how to help prevent these types of devastating explosions in the future.

We should also examine our outreach and education efforts to the immigrant community to make sure that all residents are aware of the rights and government services available to them. This community is an immigrant community. For many, English is not their first language. It was an additional challenge to make sure they understood that we were there to help and that we wanted to make sure we did everything we could to make sure they were properly taken care of.

Again, I thank the Federal, State, and local government agencies that helped the citizens of Ellicott City and Silver Spring respond to these terrible disasters. Working with our nonprofits and faith-based communities, we can recover and rebuild from these tragedies.

As I said in the beginning, this is just another example of why it is critically important that we do our job here and that we pass the necessary appropriations bills so that our Federal partners can help our State and local governments help those who are victimized by these types of disasters, that they knew they have the Federal agencies fully tooled, fully budgeted to help them respond to these tragedies.

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.

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

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

ENDING U.S. AID USED FOR PALESTINIAN ACTS  
OF TERRORISM

Mr. COATS. Mr. President, in June I spoke on the floor about the appalling practice of the Palestinian Authority to reward terrorists and encourage more terrorism against Israeli citizens and Americans. My purpose then was to draw attention to these payments and especially the fact that U.S. taxpayer money was being used in this disgusting way. I had hoped that others would share my outrage. Unfortunately, that has not yet occurred, although I think it will.

Already, the country of Norway has raised this issue through its Foreign Minister. Just recently, a German parliamentarian of the Green Party raised this issue. Countries are becoming aware of the fact that they are subsidizing terrorist acts by Palestinians against Jews and against Americans in Israel and that aid money which is going to that country from our countries—from a number of foreign countries—is being used for that purpose.

Let me give some of the facts regarding that. I want to repeat these. Some of this is a repeat of what I said in June, but I think this is so unconscionable, such inhumane behavior that we are subsidizing, that we need to understand what it is and we need to take action to make sure this does not continue.

Since 1998, the Palestinian Authority, which I will refer to as the PA, has been honoring and supporting Palestinian terrorists serving criminal sentences in Israeli prisons and rewarding the families of those terrorists, those who have committed these criminal acts, rewarding their families with financial support based on the severity of the crime.

As we have learned through some documentation obtained, this system has now been formalized and expanded by President Abbas's Presidential directives. Palestinian terrorist prisoners are regarded by the PA as patriotic fighters, as heroes, and actually as employees of the government of the Palestinian Authority. While in prison, they and their families are paid premium salaries and given extra benefits as rewards for their terrorist actions. When they are released from custody, the terrorists then become civil service employees. Shockingly, monthly salaries for both incarcerated and released prisoners are on a sliding scale, depending on the severity of the crime and the length of the prison sentence. Thus, the more heinous the crime, the longer the sentence, and a longer sentence entitles the criminal and his family to a much higher premium salary. For example, a Palestinian prisoner with a 5-year sentence because they committed a criminal act against an Israeli or an American citizen or someone who is not a Palestinian receives about \$500 per month, whereas a more serious criminal, say serving a 25-year sentence, perhaps for murder, receives \$2,500 a month. It is an incentive to do an evermore criminal, heinous act against a human being. They are paid on a sliding scale basis. That, by the way, is six times the average income of a Palestinian worker. Where else in the world does a prisoner receive such benefits that actually increase with the severity and violence of the crime? U.S. Federal prisoners, for instance, earn between 35 cents and \$1.15 per hour and certainly not on a sliding scale and certainly not to that level.

In May of 2014, Palestinian President Mahmoud Abbas issued a Presidential decree that moved this payment system from the PA to the PLO, the Palestinian Liberation Organization. The openly acknowledged reason for this shift was to sidestep the increasingly critical scrutiny of this payment system by foreign governments—including us, the United States—that are contributing so much of the money that keeps the PA afloat. So they were receiving criticism, and there were inquiries by countries providing aid, in-

cluding ours, including our State Department, and including some legislation that was enacted by the Congress. They created a shell game. They simply took the money that was given to the Palestinian Authority, and because there was criticism of their use of it as to these payments, they shifted it to the PLO through a shell game process that they thought we would not discover, and we did. Fortunately, we did.

Unfortunately, given these facts, given the fact that we now know what is happening with American taxpayer dollars and some of our allies' taxpayer dollars, there should not be any question in terms of what is happening and what we ought to do, but apparently many of our leaders have been intentionally turning a blind eye to this practice in the hopes that we will ignore what is going on.

This nefarious scheme has been going on now for 18 years and almost no one has been saying anything about it. That is why I am on the floor today, that is why I was on the floor in June, and that is why I will be on the floor again to continue to bring these facts to light so we can take action to prevent this from happening.

Where is the outrage—outrage over the fact that a government is deliberately encouraging and financially rewarding its citizens to engage in a criminal act.

This administration has explicitly avoided criticism of the PA on this matter, and it is ignoring the misuse of taxpayer money and helping the PA reward its terrorists to honor its martyrs. It is time they stood up, acknowledged the facts, and put an end to this. How can this silence be consistent with our antiterrorist efforts and counterterrorist efforts? How can this silence be ignored?

One answer is that the administration has ignored the misuse of taxpayer dollars simply because it doesn't want to stir the pot. There are problems in the Middle East. We are dealing with a number of them. I am just speculating, but maybe the conclusion is let's not raise another issue that could cause further conflict in the Middle East.

Yet there are worse things here than just silence because not only does the State Department decline to actively oppose these terrorist payments, they even offer false excuses for the outrage, excuses no rational person would believe. For instance, the Department of State's Bureau of Counterterrorism said in a recent report that this payment system was "an effort to reintegrate [released prisoners] into society and prevent recruitment by hostile political factions." This is simply an absurd interpretation of the terrorist rewards programs, and its far more sinister motives are obvious to anyone who is paying attention.

At the same time, we must admit that this payment scheme has gotten little or no attention in the Senate. For 18 years, the PA has been using American taxpayer money to reward

terrorists. Yet until I spoke about it in June, I am not aware this subject has even come up on the Senate floor in any of the recent years. We should be holding hearings on this issue in appropriate Senate committees, as there have been recently in the House of Representatives, and thank goodness for that. More of my colleagues should be demanding that we stop financing such a scheme and we should enact legislation to impose that solution, if necessary.

I can only speculate why outside groups that support Israel are also hesitant to press Congress to take action. Some may be reluctant to impose more pressure on a financially weak and dependent PA, believing that it would deprive Abbas of what little remains of his authority and status as a negotiating partner, thus making a negotiated settlement even less likely.

Even some Israeli officials may share this view and have worked for years to act as a brake on efforts by Congress to cut off aid, presumably to preserve the PA's stability as a West Bank security provider. Well, we have seen where that has gone—nowhere.

Despite possible consequences, we simply cannot give the PA a pass to support, to condone, and even reward terrorism, no matter what the consequences might be. The Palestinian Authority does not deserve immunity just because of its fragility. These payments provide rewards and motivations for brutal terrorists, plain and simple. To provide U.S. taxpayer money to Abbas and his government so they can treat terrorists as heroes or glorious martyrs is morally unacceptable.

To tolerate such an outrage because of concern for Abbas's political future or preserving the PA's security role amounts to self-imposed extortion. If the PA's fragile financial condition requires U.S. assistance, then it is their policy—not our policy—that needs to change.

We need an immediate response to this outrage.

First, I am working with my colleagues to end American financial support for incarcerated terrorists or the families of these so-called martyrs. We will identify the amount of money that flows from the PA to the PLO for this purpose and cut U.S. assistance by that amount, at the very least.

Legislation to that effect is now in both the House and the Senate versions of appropriations bills, and we must work together to ensure that this language survives any future omnibus or continuing resolutions and is repeated in future appropriations bills.

If this partial cutoff of U.S. aid is not sufficient to motivate the Palestinian Authority to end this immoral system of payments to terrorists, we should propose a complete suspension of financial assistance until they change their policy.

I am aware that suspending assistance to the Palestinians will have other consequences that we and Israel

will have to address, but I believe the pressure that we and other like-minded governments could apply to this matter will bring President Abbas and other Palestinian officials to their senses.

In any case—whether it does that or not—the moral imperative is clear: Payments that reward and encourage terrorism must be stopped and must be stopped now.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

#### PRESCRIPTION DRUG PRICES

Ms. KLOBUCHAR. Mr. President, I rise to bring attention to an urgent issue affecting all Americans. Actually, the No. 1 issue I heard about when I was home—and especially at our State fair, which, by the way, is the biggest State fair in the country because we don't count Texas because they are open for a month. But there were 2 million people, a record crowd, 1.9 million to be exact.

I went out there most of the days, and I was able to talk to folks right where they were. The issue they are talking about is the high cost of prescription drugs in our country. The price of insulin has tripled in the last decade. The price of the infectious disease drug Daraprim has increased 5,000 percent overnight. The antibiotic Doxycycline went from \$20 a bottle to nearly \$2,000 a bottle in just 6 months. Of course, the price for an EpiPen—which received so much attention over the last few weeks, which is used to treat life-threatening allergies, my daughter carries one wherever she goes—shot up nearly 500 percent since 2007.

It seems every week we hear another disturbing report of drug companies focused on profits. According to a 2016 Reuters report, prices for 4 of the Nation's top 10 drugs increased more than 100 percent since 2011. The report also shows that sales for those 10 drugs went up 44 percent between 2011 and 2014, even though they were prescribed 22 percent less.

I continue to hear from people across my State and the Nation about the burdensome cost of prescription drugs. There are heartbreaking stories about huge pricetags that are stretching families' budgets to a breaking point. This is just an example. I brought these examples home with me from the State fair and then brought them to Washington. These are from just a few days at our State fair booth, where people came up and filled out cards about their stories of increasing drug prices. These are just a few of the emails we have received since August 25 and calls we have received in our office every single day.

For example, take the Dwyer family from Cambridge, MN. At 11 years old, Abby was diagnosed with a rare form of leukemia. A few years later, her older brother Aaron was diagnosed with stage III lymphoma. Thankfully, both Abby and Aaron are doing much better,

but the family faced astronomical out-of-pocket expenses during their treatment. Abby is on a drug with an average wholesale price in the United States of \$367 per day, which is double the average price in other countries.

Another example is a family from Elk River, MN. Due to their son's allergies, they must buy four EpiPens a year—two for home, one for school, and one for daycare. That is not overdoing it. I can tell you, having had a child with allergies since she was 4 years old, you don't just buy one. You have to buy one for school, then you also have to maybe buy one for grandma's house, and then one gets lost—so you end up not buying just one EpiPen. In reality, most families are buying four to six, which are two packs, three packs, sometimes even four packs. This family from Elk River, MN, buys four EpiPens a year: two for home, one for school, and one for daycare.

This year the family paid \$533 for a two-pack, even after using Mylan's coupon. They shouldn't be forced to spend over \$1,000 each year just to make sure their son is safe every single day.

I recently heard from a family in Lakeville, MN, whose daughter was diagnosed with type 1 diabetes. She needs insulin on a daily basis. This means paying \$100 a month for Humalog, which is a fast-acting form of insulin. This significant financial burden is on top of all the other costs they pay for their daughter's diabetes, including test strips, an insulin pump, and a glucose monitor.

Unfortunately, these families are not alone. A recent study showed that one out of four Americans whose prescription drug costs went up said they were unable to pay their bills. One out of five were forced to skip doses of their medication. Seven percent of people even missed a mortgage payment due to rising prescription drug costs. That is just not right, and our country must do better.

I think one of the most frustrating things about it, having heard about the EpiPen—all because of my role with this all during the last few weeks—is that I got screen shots of photos of this exact same product in Australia for \$150 from someone who saw it online.

In Great Britain, I was on a show broadcast out of Europe, and there the host had it right there on the screen at 150 bucks. In fact, the Canadian prices—Minnesota being so close to Canada—are, on average, 50 percent of American drugs across the board.

Of course, the burden extends beyond patients, the States, and the Federal Government. Programs such as Medicare, Medicaid, and the State Children's Health Insurance Program, or SCHIP, paid roughly 41 percent of the Nation's prescription drug costs. When drug prices increase with abandon, American taxpayers are left footing the bill. So people who think, well, I don't need one of those EpiPens, they are paying for it because Medicaid is

buying them because SCHIP is buying them and because Medicare is buying them.

Just last week, we learned that the company that manufacturers EpiPen and perhaps other companies have found ways to make taxpayers pay even more. Mylan marketed EpiPen like a brand-name drug, right? We heard about it this week because they just—and we will appreciate that—introduced a generic version. However, their other version, their marketing version, controlled at least 85 percent of the market. They would claim they were having some innovations, and that is how they justified that enormous price increase from \$100 to about \$600 from 2009 to the present.

However, through the Medicaid Program—so, remember, they are marketing it not as a generic. Everyone knew that because they just introduced a generic. Well, in the Medicaid Drug Rebate Program they wrongly classified—we found out this week, when I sent a letter with Senator GRASSLEY and Senator BLUMENTHAL, that they wrongly classified EpiPen as a generic drug to the government. To the government, they claimed it was a generic drug. This classification means that Mylan has been paying lower rebates to Medicaid, increasing the burden on taxpayers.

So you think, OK, misclassification, what does that mean? Well, I can tell you what that means.

In Minnesota alone—because I specifically asked about Minnesota—in 1 year, my State overpaid an estimated \$4.3 million. Why don't we multiply that out by all the States in the Union and all the years it has been happening? At this point, we do not know the total amount taxpayers have overpaid on EpiPen or how many other drugs from other companies are misclassified. That is why I have called on the Department of Health and Human Services to conduct a nationwide investigation to determine how much the misclassification of, first, EpiPen has cost States and the Federal Government, and, two, to identify other misclassified drugs from other companies.

Take these examples from the Canadian International Pharmacy Association. In the United States, a 90-day supply of ABILIFY, a drug used to treat depression and other mental health disorders, costs \$2,621. In Canada, a 90-day supply of the exact same drug is only \$467, which is over 80 percent cheaper.

So you see these examples of these high-priced drugs. I think one of the things we need to do—and I don't know how those are classified—is to see how these are being classified for Medicaid purposes.

Working with the Department of Justice, HHS should use all the tools it has to recover any overpayments. We have asked specifically about EpiPen. Well, Mylan paid almost \$120 million—I don't think this has been that well

known—back in 2009 to correct a misclassification of drugs. That was in 2009. Now we find out with EpiPen, which is about 10 percent of their profits, that this has been misclassified for years and years and years.

Misclassification is just one way the government and, as a result, taxpayers are paying more than necessary for prescription drugs. One thing is absolutely clear: We must act now to make the cost of prescription drugs more affordable for all Americans. There is not one silver bullet that will fix the problem across the board, but there are some commonsense solutions to address the problem. Today I am going to offer four such solutions, any one of which would provide real relief, but the best way is to do all of them.

The first is this. I mentioned Canada a few times. In fact, I just mentioned some of the Canadian prices for the drugs. In Minnesota we can see Canada from our porch. They spend a lot less money than we do on prescription drugs. As I mentioned, last year average prescription drug prices in Canada were less than half as expensive as they were in the United States—a price gap that has expanded significantly over the last 10 years. I mentioned a few of them—Abilify. There is Celebrex, an anti-inflammatory drug, which costs \$884 in the United States for a 90-day supply. In Canada it is \$180. That is nearly 80 percent less. I mentioned EpiPen, at \$623. Of course, now we are going to get the rebate and the generic introduced after a public outcry, which is not the way it should be working. A two-pack in Canada costs 62 percent less, at \$237.

These staggering differences are why I introduced bipartisan legislation with Republican Senator JOHN MCCAIN to allow Americans to safely import prescription drugs from Canada. The Safe and Affordable Drugs from Canada Act would require the FDA to establish a personal importation program that would allow Americans to import a 90-day supply of prescription drugs from an approved Canadian pharmacy.

Now, there may be other safe drug suppliers in other countries. I think we know that. But we thought, in order to get the noise down, let's focus on one country, our neighbor and one of our best trading partners, and why not just go with the friendly people of Canada for an experiment to see how this works to allow some competition by allowing these drugs in from Canada.

To provide needed safeguards, the FDA would publish an online list of approved Canadian pharmacies so people know where they can purchase safe drugs. These approved pharmacies would need to have both a brick-and-mortar and an online presence, and they must have been in business for at least 5 years. Also, these pharmacies would not be permitted to resell products purchased outside of Canada. The drugs from Canada would need to be dispensed by a licensed pharmacist and be required to have the same active in-

redient, route of administration, and dosage form and strength as an FDA-approved drug.

There would also be safeguards to ensure that the personal importation program is not subject to abuse. Patients must have a valid prescription from a doctor. Certain types of drugs, including controlled substances, would not be permitted.

This is a safe and commonsense step that would save families real money and inject greater competition. We are about competition in this country. That is how we bring prices down. We have a friendly neighbor to the north that clearly has lower priced drugs than ours, and that is why Senator MCCAIN and I have joined, along with Senators SUSAN COLLINS and ANGUS KING of Maine and many others, to say: Let's do this. That is one solution.

A second solution is this: Pay for delay. This is one of those things that, when I told our citizens in Minnesota about this at our State fair, they could not believe it. Beyond the drug importation legislation, we can crack down on illegal pay-for-delay deals that prevent less expensive generic drugs from entering the market.

Pay-for-delay agreements occur when a brand-name drug company—a pharmaceutical company—pays a generic drug competitor—a potential competitor—not to sell its products. This is going on in the United States of America.

My booth at the State fair is next to Bob's Snake Zoo, and sometimes people come out yelling and screaming because they get a little scared from the snakes, but this is scarier than that. In fact, pharma companies are paying generic companies to keep their products out of the marketplace.

That is why I have introduced the Preserve Access to Affordable Generics Act with Republican Senator CHUCK GRASSLEY of Iowa. This gives the Federal Trade Commission greater ability to block these anti-competitive agreements.

By allowing generic drugs to enter the market more quickly, the government would save money through the purchase of lower cost generic substitutes. That is why it is estimated that limiting these sweetheart deals would generate over \$2.9 billion in budget savings over 10 years and save American consumers billions on their prescription drug costs.

Who can be against this? You literally have two competitors, one accepting money and one paying them off to keep their products off the market. The Supreme Court heard a case which made some difference. The SEC has a bunch of open cases, but it has been agreed at hearing after hearing that Senator GRASSLEY and I have held that this would be a smart thing to do. Remember, it would save the government \$2.9 billion, but it would also save the consumers.

The third good idea is allowing Medicare to negotiate prices. This is an-

other thing where Minnesotans and Americans cannot believe this is the case, but in fact the combined incredible market power of the seniors of America has not been unleashed in terms of getting good deals for the seniors of America.

Under current law, prescription drugs for Medicare beneficiaries are provided through private prescription drug plans. The plans are responsible for crafting benefit packages and negotiating with pharmaceutical companies for prices and discounts. The Department of Veterans Affairs and Medicaid can currently negotiate drug prices with pharmaceutical companies, but the law bans Medicare from doing so. This makes no sense, and it is a bad deal not just for our seniors but for all taxpayers.

That is why I introduced the Medicare Prescription Drug Price Negotiation Act. This legislation would allow Medicare to directly negotiate with drug companies for price discounts. The Federal Government would leverage its large market share to negotiate better prices for more than 30 million seniors—that is market power—covered under Medicare Part D.

Last and finally, there is the CREATES Act. I worked on this bill with Senator PATRICK LEAHY, Senator GRASSLEY, and Senator MIKE LEE to introduce the bipartisan Creating and Restoring Equal Access to Equivalent Samples Act. That is a mouthful, but what it would do is to put an end to strategies that delay generic competition and cost American consumers billions of dollars.

To receive approval from the Food and Drug Administration, a generic must test its products against the brand name product to establish equivalence. You would want that. Without access to brand name samples, there can be no generic product.

For a long time, generic companies would simply buy these samples from a wholesaler. Now, some brand name companies prevent generic companies from obtaining samples, or the brand name company simply refuses to negotiate safety protocols with the generic company. In either case, the longer the brand name company can delay the generic company's approval, the longer the brand name maintains its monopoly.

The CREATES Act would allow a generic drug manufacturer facing one of these delay tactics to bring an action in Federal court in order to obtain the needed samples or stop a branded company from dragging its heels on negotiating safety protocols. The bill would also allow a Federal judge to award damages in order to deter future delaying conduct.

The Congressional Budget Office estimates that this bill would save the government \$2.9 billion over 10 years. The savings to consumers and private insurance companies would likely be far greater.

So let's review this, as my colleagues come to the floor. Solution No. 1 is to



allow for safe drugs from Canada. It would bring down the prices and would bring in competition. This is a bipartisan bill—Democrats and Republicans—that I have with Senator JOHN MCCAIN.

Solution No. 2 is to allow for more generic competition by passing the CREATES Act, which I just mentioned. That bill is with Senators LEAHY, GRASSLEY, LEE, and myself. That is a bipartisan bill that allows for samples to go quickly to the generic companies so they can actually create the drugs that will compete and bring the prices down.

Solution No. 3 is to stop those pay-for-delay deals that are unbelievable. That would bring in, according to CBO estimates, \$2.9 billion over 10 years, by saying to the generics and the pharma companies: You can't pay each other to stop competition. Competition helps consumers.

And here is the final idea, which I think is the biggest idea: negotiation under Medicare Part D. This would finally take the kind of negotiation we see at the Veterans Administration, which has brought down the prices for the veterans of America, and harness the bargaining power of 39 million seniors so that we get better prices.

These are four ideas, and three of them have Democratic and Republican sponsors. I want to vote on these proposals because I believe, based on what I saw at our State fair booth—again, with just a few days of the cards we received—that these anticompetitive practices have to stop and we need to bring down the prices of prescription drugs for the hardworking Americans in this country.

I yield the floor.

The PRESIDING OFFICER (Mr. LEE). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, being one of the managers of the bill, the WRDA bill that we are all anxious to consider, along with Senator BOXER—she and I as well as the leadership, are in agreement, that we should take this bill and consider it. I do have a talk I want to give concerning the bill but with the understanding that I have been asking for amendments to come forward from the Republicans primarily. She has done the same with Democrats. I believe there are a number of amendments that have come forward. However, the way we are going to run this is that any amendments that are going to be considered, No. 1, must be germane and, No. 2, have to be acceptable by both managers of the bill—Senator BOXER and myself.

With that, I ask that we move forward on this bill and yield to the leadership.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am in full agreement with the remarks of my chairman, Senator INHOFE. Once again, I think we have proven we can get this done. We can get infrastructure done. I think the way the agreement came to-

gether with the two leaders is excellent. We are going to go to the bill and any amendments have to be looked at by the two managers, and we have to agree before those amendments go into the managers' package.

With that, I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, we have given everyone our amendments. There are seven. I think that everything can be worked out on all of them. There is one that is relevant to the underlying legislation that is offered by the Senator from Connecticut, Mr. BLUMENTHAL. I am not sure that I want to go into this deal where both of you have to approve that amendment. I think he should at least be allowed to have a vote. We have agreed that a half-hour debate on it is plenty, at least on that one. If you can't work something out, I want to have a vote on Blumenthal. That doesn't sound unreasonable. On six of them, Senator BOXER can do what she thinks is appropriate. On Blumenthal, if you can't work something out to his satisfaction, I want a half-hour debate and a vote on it.

The PRESIDING OFFICER. The majority leader.

Mr. MCCONNELL. Mr. President, I think we have a broad bipartisan agreement here that we would like to pass the bill. Nobody wants to be unreasonable. We have heard from both the chairman and the ranking member that whatever interest there is in the bill is related to the bill. What I am going to propound here is an opportunity for us to get onto the bill and to move forward. I think this is as close to a good-faith situation as I can imagine, and I hope we trust each other enough to go forward and complete a bill that almost everybody seems to be in favor of. I don't know how to reassure my good friend, the Democratic leader, but I hope I have.

Mr. REID. Mr. President, I do not understand why we can't have the two managers agree that they will do their best to work out these amendments of ours and of theirs. But if we can't, I want to at least have a vote, and you can vote it down if you have to, but I want to make sure that Blumenthal is protected. If we can't work something out, then we have a vote on it—one vote.

Mr. MCCONNELL. All I would say is there may well be some votes. I would recommend people talk to the chairman and the ranking member, and let's process the bill.

Mr. REID. Why can't we have a vote on Blumenthal? That is all—one vote, 30 minutes. If you work it out to satisfaction, we don't need to have that vote. What could be more reasonable than that?

Mrs. BOXER. Mr. President, my understanding about this amendment is that it is a jurisdictional dispute between Democratic Senators. I think the best way to go is to see if we, Jim

and I, can do what we have done before when we have had conflict among our colleagues. We worked it out with Senators on the other side of the aisle last time we did WRDA. We should have a chance. I don't think that—

Mr. REID. If I can interrupt my friend from California—

Mrs. BOXER. I will stop.

Mr. REID. I don't object. Let's go ahead with the bill.

Mr. MCCONNELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The motion to proceed to S. 2848.

Mr. MCCONNELL. I know of no further debate on the motion to proceed.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the question is on agreeing to the motion to proceed.

The motion was agreed to.

## WATER RESOURCES DEVELOPMENT ACT OF 2016

The PRESIDING OFFICER. The clerk will report the bill.

The senior assistant legislative clerk read as follows:

A bill (S. 2848) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Thereupon, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendment, as follows:

(The parts of the bill intended to be stricken are shown in black brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 2848

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Water Resources Development Act of 2016”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Secretary.
- Sec. 3. Limitations.

### TITLE I—PROGRAM REFORMS

- Sec. 1001. Study of water resources development projects by non-Federal interests.
- Sec. 1002. Advanced funds for water resources development studies and projects.
- Sec. 1003. Authority to accept and use materials and services.
- Sec. 1004. Partnerships with non-Federal entities to protect the Federal investment.
- Sec. 1005. Non-Federal study and construction of projects.
- Sec. 1006. Munitions disposal.
- Sec. 1007. Challenge cost-sharing program for management of recreation facilities.