

busy. It has never been more important to choose a Solicitor General who displays independent judgment and who is willing to say no if the views the President wants to execute are improper or unlawful. In my questions to him, I repeatedly gave Mr. Francisco the opportunity to display that independent judgment, but he did not do so, and what I have seen in his speeches and his advocacy concerns me.

In short, I do not believe Mr. Francisco has demonstrated that he can be the Solicitor General that our Nation needs. I will oppose his nomination.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### HEALTHCARE

Mr. MARKEY. Mr. President, in July, millions of Americans awoke from a months-long nightmare, as the Senate did the right thing and voted down multiple Republican proposals to repeal the Affordable Care Act. The American people breathed a sigh of relief when the future of their healthcare and of their children's healthcare was safe for the time being.

Unfortunately, Republicans want us to go back to that nightmarish time by reigniting their proposal to threaten healthcare coverage for millions of Americans. While the bill the Republicans are supporting today may have a new name, it contains the same mean, devastating policies. It is a zombie bill that despite best efforts and against the will of the American people, will not die.

Like its TrumpCare predecessors, the Graham-Cassidy bill will result in less coverage and increased costs. It eliminates the built-in protections for Americans with preexisting conditions, causing many of them to see their premiums skyrocket just because of a diagnosis. Some experts estimated that an individual with diabetes could face a premium surcharge of \$5,600 under Graham-Cassidy.

Graham-Cassidy will also allow States to decide what insurers have to cover and what they don't; meaning, once again, your ability to have comprehensive healthcare coverage would depend upon where you live.

This is not the type of healthcare reform people in this country want or need, and it is certainly not the type of reform to help us overcome our Nation's opioid use disorder epidemic.

With 91 Americans dying every day from an opioid overdose, we are clearly in the midst of our Nation's preeminent public health crisis. Over these last few months, we have heard time and time again that access to substance use disorder care is the lynchpin to stemming the continually rising

tide of opioid overdoses. Unfortunately, it appears our Republican colleagues have not been listening.

To be fair, access to treatment today is still a challenge. Only 1 in 10 people with substance use disorders receive treatment. Right now, an estimated 2 million people with an opioid addiction are not receiving any treatment for their disorder.

Yet the solution is not to block-grant funds which would otherwise be used to help people get care for their substance use disorders. The answer is also not kicking people off their insurance, but that is what my Republican colleagues are yet again proposing to do.

As with the previous versions of TrumpCare, Graham-Cassidy would threaten insurance coverage for 2.8 million Americans with a substance use disorder. It would end Medicaid expansion and cap the program, slashing its funding and decapitating access to lifesaving care. This bill would simply take a machete to Medicaid—the leading payer of behavioral healthcare services, including substance abuse treatment.

Also, in the same vein as earlier proposals, Graham-Cassidy would allow States to waive the essential health benefits the Patients' Bill of Rights put in place under the Affordable Care Act that ensures that every plan provides comprehensive coverage. Because covering mental health and substance use disorder treatment is expensive, this would likely be one of the first benefits to be cut. As a result, someone struggling with opioid use disorder would have to pay thousands of dollars in out-of-pocket costs, likely forcing many to forgo lifesaving substance use disorder care.

This epidemic of opioid abuse and overdose deaths will only get worse as long as we have a system that makes it easier to abuse drugs than to get help for substance use disorders. Graham-Cassidy would only exacerbate this already dire problem in our country.

Just last week, a leading sponsor of the bill said: "We recognize there are circumstances where states that expanded Medicaid will have to really ratchet down their coverage." "Ratchet down," that is not improving healthcare. That is ripping insurance coverage away from the one in three Americans struggling with opioid use disorder who relies on Medicaid. That is gutting billions of dollars in addiction care and treatment.

Graham-Cassidy isn't a new block grant program, it is a chopping block program—for Medicaid, for coverage, for access to critical substance use disorder services.

I believe past is prologue here. Just as Americans rejected the inhumane and immoral TrumpCare of months past, they are already seeing this new attempt is more of the same and, in some cases, worse. Many patient, provider, and other healthcare groups have already come out against Graham-Cassidy, citing the bill's inability

to maintain the healthcare coverage and consumer protections currently provided in the Affordable Care Act. It is *deja vu*.

Enough is enough. Republicans newest shortsighted stunt is detracting attention from bipartisan efforts to stabilize the individual insurance market and to help decrease costs. Let's end this partisan gambit to repeal and replace the Affordable Care Act and start focusing on ways to make the healthcare system in our country better, not worse.

We need all of you, in every corner of the country, to once again stand up and fight against these mean attempts to harm the health of our family members, our friends, and our neighbors. We need your energy, your commitment, and your passion to do what you did a few months back to help make sure our better angels once again will prevail. You have done it before, and I know you can do it again.

My Democratic colleagues and I will be fighting right here with you to finally put this zombie healthcare bill to rest.

This is the time. This Chamber will be the place where we have this debate within the next week on whether there is going to be a destruction of the Affordable Care Act, a destruction of the promise of access to healthcare for every American. The Republicans are coming back, once again, to try to destroy that promise.

The Republicans harbor an ancient animosity toward the goal of ensuring that there is, in fact, universal coverage for every single American; that it is a right and not a privilege. What they want to do is to leave these programs as debt-soaked relics of the promises that have been made to ensure that there is, in fact, coverage for every American.

So this is going to be the debate. Daniel Patrick Moynihan, the great Senator from New York, used to say that when you do not want to help a program or to hurt a program, you engage in benign neglect—benign neglect. What the Republicans are doing is engaging in a program of designed neglect—of ensuring, after this designed program is put in place, that there is a reduction in coverage, that there are fewer people who get the help they need, that older people have to pay more, that fewer people get access, and that Planned Parenthood is defunded. It is all part of a program of designed neglect of the healthcare of all Americans.

This is a historic battle. It was not completed in July. Now, in the next 10 days, we must complete this fight and make sure they are not successful.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

**MS. KLOBUCHAR.** Mr. President, I rise to join my colleagues on the floor to share concerns I have been hearing from people in my State about the latest healthcare repeal bill.

Minnesotans and patient groups, such as AARP, oppose this bill because eliminating the Medicaid expansion and the Affordable Care Act's help for millions of people means they would lose coverage, and it would increase their out-of-pocket costs.

People in my State are concerned about this bill's impact on rural hospitals, especially—as are the rural hospitals—because it makes deep cuts to Medicaid, and the new block grant in the bill would end completely by 2027.

I am very concerned that this bill would reverse the progress we are making in addressing the opioid epidemic by putting a cap on Medicaid, a program that has been critical for substance abuse treatment for people struggling with this addiction.

A few months ago, I pointed out that we were on plan F in the Senate. Plans A and B were the two House versions of a repeal; plans C and D were the two Senate versions of the repeal; plan E was the repeal bill without a replacement plan; and then we were presented with plan F. That, of course, went down after the Senate Democrats were joined by three Republican Senators in voting it down. I actually thought we couldn't get lower than F, but apparently we can because now we are here.

Many of the Minnesotans I have talked to don't like A, B, C, D, E, F, or the plan we are discussing that has been proposed. I have heard from people all over my State. At the Minnesota State Fair, I heard from Democrats, Republicans, and Independents. I heard from people from our cities and people from our rural areas. There are a lot of people—nearly 2 million people—at the Minnesota State Fair, which is the biggest State fair in the country. A lot of people stopped by my booth. I heard from the old and the young, from men and women, cancer survivors, people with disabilities, and many more. None of them wanted us to keep going down a partisan path when it comes to healthcare.

That is why I was so happy to tell them over the recess that new work—bipartisan work—was being done with Senator ALEXANDER and Senator MURRAY, two Senators who proved that they could work across the aisle on the education bill, which they did last year. They are the leaders on the Health, Education, Labor, and Pensions Committee, and they have been moving forward together with truly bipartisan hearings and discussions. I have attended a number of them with Governors and with experts on this issue to figure out the best ways to strengthen the individual markets and to reduce costs. That is something we have done successfully in our State with an all-Republican legislature and

a Democratic Governor. We worked on it in our State, so I figured we could maybe bring this out on the national level. But it isn't enough that the work that is going on with Senator ALEXANDER and Senator MURRAY on a bipartisan basis could be imploded in favor of another version of a repeal bill that hasn't even gone to a hearing before the HELP Committee in regular order, as we would expect—the regular order Senator MCCAIN spoke up for in the incredible speech he gave when he came back to the Senate. If that isn't enough, we heard yesterday that we will not even be able to get a full Congressional Budget Office analysis of this bill this month. Why would we rush to take a vote before we have that critical information?

I have repeatedly heard my colleagues criticize moving forward with bills when we don't know their impact. Our constituents are owed this. This is the entire healthcare system of America. Why would we be taking a vote on a bill when we don't even know the full impact—when we do not have a full score of the bill—either financially or, most honestly, the impact it would have on people's healthcare? Our constituents are owed this. It is their healthcare and their money we are messing around with.

When I talk to my constituents, none of them ask me to do what we already know this bill does. It cuts Medicaid, eliminates the Medicaid expansion, threatens protections for people with preexisting conditions, and kicks people off their insurance coverage. Instead, they want us to work together on bipartisan solutions to fix what we have when it comes to healthcare: to strengthen the exchanges, support small businesses, reform delivery systems, and lower the cost of prescription drugs. I don't see anything in this bill that would lower the cost of prescription drugs—nothing.

I have heard the same message from senior groups and the Children's Hospital Association, which are strongly opposed to this bill. I have heard the same message from the American Heart Association, the American Diabetes Association, the American Cancer Society, and several other patient groups that have said this “proposal just repackages the problematic provisions” of the bills that were voted down earlier this summer.

This bill, the Graham-Cassidy bill, is not the only option. Instead of making these kinds of cuts and moving backward, Senator ALEXANDER and Senator MURRAY have invited all Senators, as I noted, to participate in their process. They have had dozens of Senators show up at early morning breakfasts or, as Senator ALEXANDER calls them, coffees, with 30, 40 Senators showing up. I know because I was there. Why do they show up? Because they know we must make changes to the Affordable Care Act. They also know, based on the work we have seen in Minnesota and other places, these changes can be made across the aisle.

In these hearings and discussions on bipartisan solutions, we have talked about the State-based reinsurance program passed in Minnesota. While we are still waiting for the Federal waiver—I will make a pitch for this at this moment—from the administration, even passing it alone helped us to bring promised rates down. I know Alaska has a State-based reinsurance program and recently got approval from the administration, and New Hampshire and other States are pursuing similar plans. That is why I support Senator Kaine and Senator CARPER's legislation, the Individual Health Insurance Marketplace Improvement Act, to reestablish a Federal reinsurance program. This bill would lower premiums by providing support for high-cost patients.

Another topic we have discussed frequently as part of the HELP Committee process over the past few weeks is the cost-sharing reduction payments. These are crucial to stabilizing the individual market and reducing uncertainty. That is why I support Senator SHAHEEN's Marketplace Certainty Act.

It is clear that this type of legislation could get support from both sides of the aisle to improve the system, but beyond these immediate fixes, it is long past time that we come together to pass legislation to address the skyrocketing costs of prescription drugs. I have a bill that would harness the negotiating power of 41 million seniors on Medicare to bring drug prices down. Right now, Medicare is actually banned by law from using their market power to negotiate for better prices. I would bet on 41 million seniors for getting better prices, but we are not giving them that chance.

Senator MCCAIN and I have a bill to allow Americans to bring in safe, less expensive drugs from Canada.

Senator LEE and I have a bill that would allow temporary importation of safe drugs that have been on the market in another country for at least 10 years when there isn't a healthy competition for that drug in this country. This would let patients access safe, less expensive drugs.

Senator GRASSLEY and I have a bill which would stop something called pay-for-delay, where big pharmaceutical companies actually pay off generic companies to keep less expensive drugs off the market. That bill would save taxpayers \$2.9 billion and a similar amount for individual consumers.

Are those bills in this latest proposal from our Republican colleagues? No, they are not. Instead, what does this bill do? While it devastates the Medicaid Program, it repeals big parts of the Affordable Care Act that help people afford insurance and, instead, puts in place an inadequate block grant which completely goes away in 10 years. This bill does the opposite of what the people came up to me and talked to me about in my State over the August break.

So before we rush through a vote on it, before we even know the impact of

it, before it has even gone through the committee process as it is supposed to do, before we even give an opportunity for Senator LAMAR ALEXANDER and Senator PATTY MURRAY—the two leaders on the committee that matters for healthcare—to come up with their plan, no, the proposal would be to rush the vote on this, and that is just wrong.

What is this in real terms? It is a woman from Pine Island, MN. Her husband has struggled with mental illness for years, but she told me she felt so fortunate that he was able to get mental health treatment through their insurance coverage. She is worried that if these types of repeal efforts succeed, people like her husband will go back to being desperate for help.

This debate is about people with pre-existing conditions who would see their costs skyrocket under this bill. Teri from my State has ovarian cancer. Unfortunately, it is not the first time she has had it. She said that when she was diagnosed back in 2010, she ended up declaring bankruptcy due to the cost of her treatment. Teri said bankruptcy was “just a reality for a lot of people with cancer.”

Luckily, under the Affordable Care Act, Teri can afford insurance and is currently responding well to treatment, which, by the way—I see Senator DURBIN here—is based on NIH-funded research. It is treatment based on that research, which, unfortunately, we cut back on in the bill, and Senator DURBIN will continue to fight to get that treatment through the Department of Defense included.

But the bill we are facing now, the Graham-Cassidy bill, would allow insurers to charge sick people or those with preexisting conditions much more than healthy people. Teri is worried that it would make it difficult, if not impossible, for people like her to afford health insurance.

This debate is about all the parents whom I have spoken to over the last few months who have children with disabilities. These parents would literally come up to me at parades over the summer, bring their kids over in the middle of the parade route, and introduce those children to me—kids in wheelchairs, kids with Down syndrome—and say: This is a preexisting condition. This is what a preexisting condition looks like. That is why they oppose repeal.

In Minnesota, one out of four children get their health coverage from Medicaid, and 39 percent of our children with disabilities or special healthcare rely on Medicaid or children’s health insurance. We should be spending our time this week reauthorizing the Children’s Health Insurance Program before States like mine run out of money at the end of the month, before debating another repeal bill for which we don’t even have a Congressional Budget Office score on the impact. That word “score” sounds technical, but it is about what the bill

would mean to people like those kids who came up to me in the parades with their parents and to people, like Teri, with ovarian cancer.

This debate is also about our seniors and our rural communities. Our hospitals are essential to rural communities. They don’t just provide health services; they employ thousands of doctors, nurses, pharmacists, and other healthcare workers. These rural hospitals often operate at margins of less than 1 percent. That is one reason Senator GRASSLEY and I introduced the Rural Emergency Acute Care Hospital Act a few months ago to help rural hospitals stay open. But cutting Medicaid by billions of dollars and repealing the Medicaid expansion would move us in the opposite direction.

In my State, Medicaid covers one out of five people living in rural areas. I know my colleagues, Senators COLLINS, CAPITO, and MURKOWSKI, have previously expressed real concerns about the impact of Medicaid cuts in their States, which also have big rural populations. Cutting Medicaid and eliminating the Medicaid expansion doesn’t just threaten healthcare coverage for these populations; it threatens the local communities where these hospitals are located.

These rural hospitals are on the frontlines of one important fight; that is, the fight against the opioid epidemic. We just found out that in our State last year, over 600 people died from opioid and other drug overdoses—over 600 people. That is about two per day. It is more people than we see die from car crashes in our State. It is more people than we see die from homicide. Deaths from prescription drugs now claim more lives than either of those two issues. This epidemic affects our seniors too. One in three Medicare part D beneficiaries received a prescription opioid last year.

While there is much more work to do to combat the epidemic, I want to recognize the progress we have made with the CARA Act and the Cures Act, with all the work that has been done, but making cuts to Medicaid will move us in the other direction.

We have all heard the voices, not just of those on the frontlines of the opioid crisis but from doctors and hospitals, patients, seniors, nursing homes, and schools saying that this bill is not the way forward. Instead, let’s do what we all heard people wanted us to do in August; that is, to work across the aisle on actual solutions that help people afford healthcare.

I yield the floor.

The PRESIDING OFFICER. Under the previous rule, all postcloture time has expired.

The question is, Will the Senate advise and consent to the Francisco nomination?

Mr. DURBIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Mississippi (Mr. COCHRAN) and the Senator from Kansas (Mr. MORAN).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. MENENDEZ) is necessarily absent.

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

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 201 Ex.]

YEAS—50

Alexander	Flake	Perdue
Barrasso	Gardner	Portman
Blunt	Graham	Risch
Boozman	Grassley	Roberts
Burr	Hatch	Rounds
Capito	Heller	Rubio
Cassidy	Hoover	Sasse
Collins	Inhofe	Scott
Corker	Isakson	Shelby
Cornyn	Johnson	Strange
Cotton	Kennedy	Sullivan
Crapo	Lankford	Thune
Cruz	Lee	Tillis
Daines	McCain	Toomey
Enzi	McConnell	Wicker
Ernst	Murkowski	Young
Fischer	Paul	

NAYS—47

Baldwin	Gillibrand	Nelson
Bennet	Harris	Peters
Blumenthal	Hassan	Reed
Booker	Heinrich	Sanders
Brown	Heitkamp	Schatz
Cantwell	Hirono	Schumer
Cardin	Kaine	Shaheen
Carper	King	Stabenow
Casey	Klobuchar	Tester
Coons	Leahy	Udall
Cortez Masto	Manchin	Van Hollen
Donnelly	Markley	Warner
Duckworth	McCaskill	Warren
Durbin	Merkley	Whitehouse
Feinstein	Murphy	Wyden
Franken	Murray	

NOT VOTING—3

Cochran	Menendez	Moran
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The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that with respect to the Francisco nomination, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate’s action.

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

#### EXECUTIVE CALENDAR

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate resume consideration of the Emanuel nomination.

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

The clerk will report the nomination.

The bill clerk read the nomination of William J. Emanuel, of California, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2021.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.