

work to make healthcare more affordable.

I see my friend from Wisconsin. I want to thank her for her outstanding leadership on this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE SECRETARY OF THE TREASURY, SECRETARY OF LABOR, AND SECRETARY OF HEALTH AND HUMAN SERVICES RELATING TO "SHORT-TERM, LIMITED DURATION INSURANCE"

Ms. BALDWIN. Mr. President, I move to proceed to Calendar No. 627, S.J. Res. 63.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The clerk will report the joint resolution by title.

The senior assistant legislative clerk read the joint resolution by title:

A joint resolution (S.J. Res. 63) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Secretary of the Treasury, Secretary of Labor, and Secretary of Health and Human Services relating to "Short-Term, Limited Duration Insurance."

The PRESIDING OFFICER. The Senator from Wisconsin.

Ms. BALDWIN. Mr. President, just over a year ago in this Chamber, three brave Republican colleagues—Senator John McCain, Senator SUSAN COLLINS, and Senator LISA MURKOWSKI—joined all Democrats in voting against healthcare repeal legislation. They listened to the families of their States.

I, too, voted against that repeal legislation because the people of Wisconsin did not send me to Washington to take away their healthcare. When congressional Republicans tried to pass repeal plans that would allow insurance companies to charge more for preexisting conditions, families across our country fought back.

When the Republican majority tried to charge older Americans an age tax and make people pay more for less care, people let their voices be heard and sent a loud message to Washington: Protect our care. They sent us all a clear message that they want us to work across party lines to protect the healthcare guarantees they depend on and to stand up for those with preexisting health conditions. Yet defeating the legislative efforts that would have made things worse for families didn't end the threat to the American people.

The Trump administration has been trying to do what congressional Republicans couldn't. They have been sabotaging our healthcare system and rewriting the rules on guaranteed health protections and access to affordable care that millions of Americans have

today. This sabotage has created instability in the healthcare market, contributing to widespread premium spikes in 2018.

This administration ended the critical cost-sharing reduction payments that made healthcare more affordable for almost 90,000 Wisconsinites. The Trump administration again slashed funding for outreach efforts to help people sign up for healthcare.

Trusted navigator programs like those in Wisconsin have had their funding cut by nearly 90 percent in the past 2 years. This will mean fewer people in rural Wisconsin will receive the support they need to obtain affordable coverage this year.

It doesn't stop there. The Trump administration has even joined Wisconsin's Governor and Wisconsin's attorney general and other States in going to court to support a lawsuit that would take away guaranteed protections for people with preexisting conditions. If they succeed, insurance companies will again be able to deny coverage or charge higher premiums for the more than 130 million Americans with a preexisting health condition. In fact, if the Affordable Care Act's protections for people with preexisting conditions are struck down in court, Wisconsin is among the States that has the most to lose.

According to the Kaiser Family Foundation, one out of every four Wisconsinites has some sort of preexisting health condition, and they simply cannot afford to have the healthcare they depend on threatened with higher costs or coverage denials.

The Trump administration has expanded junk insurance plans. These plans are cheap for a reason; they do not have to provide essential health benefits like hospitalization, prescription drugs, and maternity care.

According to the fine print of one of the plans sold in several States, including my home State of Wisconsin—marketed by the Golden Rule Company—the plan doesn't even have to cover hospital care on a Friday or Saturday. It will be just your bad luck if you happen to get sick and need healthcare on the weekend. The very first exclusion states that it provides no benefits for a preexisting health condition. The fine print also notes if you are pregnant, that will be considered a preexisting health condition.

These junk insurance plans can deny healthcare coverage to people with preexisting conditions when they need it the most, and that is why I am leading this effort in the U.S. Senate to take action and stop this sabotage.

This is personal to me. When I was 9 years old, I got sick. I was really sick. I was in the hospital for 3 months. I eventually recovered. When it came to health insurance, it was as if I had some sort of scarlet letter. My grandparents, who raised me, couldn't find a policy at any price that would cover me—not from any insurer—all because I was a childhood branded with those words: "preexisting condition."

This is also personal for Chelsey from Seymour, WI, whose daughter was born with a congenital heart defect. Right now, Zoe is guaranteed access to coverage without being denied or charged more because of her preexisting condition.

Chelsey wrote me during that debate last year: "I'm pleading to you as a mother to fight for the kids in Wisconsin with pre-existing conditions that are counting on you to protect that right."

No parent or grandparent should have to lie awake at night wondering if the healthcare they have today for themselves and their families will be there tomorrow. With the expansion of these junk plans, that fear could become a new reality for far too many families as healthy people leave the market, increasing premiums for everyone.

Children like Zoe may not be able to find any plan that her parents can afford or that will cover the care she needs. No family should be forced to choose between helping a loved one get better or going bankrupt.

Before the Affordable Care Act, too many families had to make that choice. Before the healthcare law, I heard from Sue from Beloit, WI. Sue's husband was diagnosed with lung cancer. They quickly found out their insurance plan had a \$13,000 limit on radiation and chemotherapy. That covered about one round of chemotherapy. When they needed to continue treatment, Sue and her family used all of their savings, and then they maxed out all of their credit cards. When they were facing insurmountable credit card debt, she told me: "I had no choice but to file bankruptcy." Sue's husband later died.

We can't go back to the days when insurance companies wrote the rules, just as we cannot allow the Trump administration to rewrite the rules on guaranteed healthcare protections that millions of Americans depend on.

More than 20 of the leading healthcare organizations in America, representing our Nation's physicians, patients, medical students, and other health experts, are supporting this resolution to overturn the Trump administration's expansion of junk insurance plans. They are doing so because these junk plans will reduce access to quality coverage for millions and increase costs.

These junk plans will charge people more for coverage based on their preexisting conditions or deny them coverage outright. These junk plans will leave cancer patients and survivors with higher premiums and fewer insurance options. These junk plans will force premium increases on older Americans.

I have heard my colleagues on the other side of the aisle say that they are committed to protecting people with preexisting conditions. Now is your chance to prove it. Anyone who says they support coverage for people with

preexisting conditions should support this resolution to overturn the Trump administration's expansion of these junk insurance plans.

This is an opportunity for Democrats and Republicans to come together to protect people's access to quality, affordable healthcare when they need it the most. Let us join in seizing the opportunity to do what is right by the American people.

I yield.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, the resolution by the distinguished Senator from Wisconsin is a resolution to say to the plumber who is making \$60,000 a year in Wisconsin or Tennessee: We want to keep your insurance prices high. We don't want to reduce them by 70 percent, and we want to keep 1.7 million people, according to the Urban Institute, uninsured.

Let me say that again. If this resolution passes—if you vote yes—you are saying to the plumber who makes \$60,000 a year, who can't afford to buy ObamaCare because his insurance premium is \$20,000: We are going to do everything we can to keep your insurance costs so high that you can't afford it, and we are going to do everything we can to keep 1.7 million Americans, according to the Urban Institute, from having the option this short-term rule allows.

Let's see what we are talking about. We just heard eloquent comments about preexisting conditions. This resolution has nothing to do with preexisting conditions. It doesn't change one single word in the Affordable Care Act, which guarantees that if you have a preexisting condition, you have a right to buy ObamaCare, and you can't be charged more because of it.

Let me say that again. This rule, which the Senator from Wisconsin seeks to overturn, not only keeps you from lowering your cost 70 percent, but it has nothing to do with preexisting conditions because it doesn't change one single word of the Affordable Care Act guarantee that if you have a preexisting condition you can buy insurance and you can't be charged more. A rule can't change a law. It couldn't if it tried. That is one thing.

The second thing is that the rule that the Senator from Wisconsin seeks to overturn is the same rule that was in effect during all of President Obama's term. President Obama's administration allowed 1 year of short-term plans for people who couldn't afford insurance, couldn't find it anywhere else, or who might be between jobs. Even after the Affordable Care Act passed in 2010, President Obama and the Democratic Congress thought it was a good enough idea to allow these short-term plans to continue that they kept them in the law. The law supporting these plans has nothing to do with the Affordable Care Act. It was passed in the 1990s for the purpose of giving people who need a short-term option, which might cost

less because it has less coverage, the chance to buy insurance.

States can regulate these plans. States may decide what protections they should have. States may decide what the price should be, but, typically, in 2016, the difference between the cost of an ObamaCare plan was \$393 a month for an unsubsidized ObamaCare plan and for a short-term plan it was \$124. In other words, the short-term plan, which the Democrats and the Senator from Wisconsin seek to overturn, which was in existence all during the Obama administration and was authorized in the 1990s, would cut the plumber's insurance cost by 70 percent.

Now, why should we put up with that? Why should we put up with that? The Urban Institute, not known as a conservative organization, has said that up to 1.7 million Americans will take advantage of President Trump's short-term plan, which was the same as the Obama short-term plan, except that under the Trump rule, you may do it for as much as 3 years instead of just 1 year. It says that 1.7 million Americans will take advantage of that. That is a lot of people.

Eighty-three percent of Americans who buy ObamaCare have a subsidy to help them pay for it. It is the 17 percent who don't have a subsidy who are most likely to be helped by this. Many simply can't afford a \$20,000 health insurance plan if they don't qualify for a subsidy, and this says: We understand that. You can buy a different sort of plan if your State permits it. You can pay less with less coverage and at least you will have some insurance. At least you will have some insurance.

But our Democratic friends say: Oh, no, we don't want to do anything that would lower the cost of health insurance.

Sometimes I think our Democratic friends have elevated to the level of the status of the 67th book of the Bible the Affordable Care Act, or ObamaCare. They will not even change parts of it that they agree with.

Earlier this year, Senator MURRAY and I, and then Senator NELSON and Senator COLLINS, all worked together with many Senators in a great bipartisan way to come up with a piece of legislation that would temporarily help with the high prices of health insurance. Make no mistake about it. In Tennessee, health insurance has gone up about 170 percent since ObamaCare was passed. That means the plumber or the farmer or the person making 50, 60, or \$70,000 a year can't afford to pay the \$20,000 premium they might be required to pay.

So we had this temporary Alexander-Murray-Collins-Nelson proposal. I can still see Senator COLLINS standing on the floor offering it saying, as she said: Oliver Wyman—the respected Oliver Wyman agency—says this will lower insurance premiums by 40 percent over 3 years for people in the individual market—people who don't get a sub-

sidy, hardworking people who can't afford health insurance.

What happened? Even though the Democratic leader said it contained provisions that every single Democrat could support, the Democrats pulled the rug out from under it at the last minute by insisting on a radical version of abortion funding that they had not required since 1976, except in the ObamaCare law.

In other words, they deliberately kept health insurance prices 40 percent higher than they otherwise would have been. Was it to have an issue in the Presidential election or in the election this year? I have no idea, but I could think of no reason why not to do that.

Then, there is another example. Secretary of Labor Acosta has come up with another very good idea that has been talked about a lot within this body before: Why not give employees of smaller companies the right to buy the same kind of insurance that employees of IBM or big companies buy?

About half of all of us who have insurance get it on the job. We are pretty happy with it. It has a lot of protections in it—not as many as ObamaCare but, apparently, Democrats thought those protections were sufficiently strong, including preexisting condition, and sufficiently strong not to tamper with it. So the idea was this: Let's let the people who work in the company with 10 or 15 or 20 employees in Alaska, Tennessee, or Wisconsin have the same opportunity to buy insurance as the employee of a big company has.

Democrats said absolutely not.

So we don't want to lower rates by 40 percent by a temporary proposal supported by President Trump, Speaker RYAN, Senator MCCONNELL, and let the Democratic leaders say all Democrats could vote for that policy. We don't want to let employees of smaller companies have the same options that employees of big companies have that would lower their insurance and give them more choices. And now we are being asked to say you can't have a 70-percent reduction in your health insurance—the same kind of proposal you had all during the Obama years. Let me say that again. President Obama thought it was just fine to have short-term healthcare plans for up to 1 year during the entire Obama administration. They changed the rules 22 days before the end of his term and reduced it to 3 months that you could buy these plans, but that wasn't enforced until April.

So let's keep it simple. If you needed insurance, if you lost your job, if you couldn't afford insurance during the Obama years, if ObamaCare got too expensive for you during the Obama years, you could buy short-term insurance for up to 1 year if your State allowed it.

What the Democrats are saying is this: No, we are not even going to do what President Obama would do. So we are going to keep your insurance high today with a yes vote. We are going to

say to 1.7 million people who are uninsured: No, you can't buy this insurance because we know more than you do.

Some people who might know more than we do is the National Association of Insurance Commissioners. Senate Democrats wrote to them asking them about these short-term plans and raising questions about them.

Here is what the National Association of Insurance Commissioners, a bipartisan organization, wrote back:

Short-term, limited duration insurance meets the needs of consumers for whom other types of coverage may not be appropriate, affordable, or available.

State Insurance Commissioners say short-term limited duration insurance, the type that a "yes" vote today would ban—those are my words—meets the needs of consumers for whom other types of coverage may not be appropriate, affordable, or available.

I hope that across this country, as Americans look at this today, you would ask the Senator from Wisconsin and her Democratic colleagues: Why do you want to kill a rule that President Obama favored, that existed all during ObamaCare while he was there, that gave people who might lose their jobs or couldn't afford ObamaCare a chance to buy insurance that might be 70-percent cheaper? Why would you want to keep 1.7 million Americans who don't have insurance, according to the Urban Institute, from being able to afford this short-term rule? What do you have against lower cost insurance that doesn't change one word of the Affordable Care Act's protection guarantee of preexisting conditions?

In other words, with this rule, if you still want to buy ObamaCare and need preexisting insurance protection, you have it. This could not possibly change that because it is a rule, not a law.

I hope today that we vote no and that we affirm the Trump rule, which is the Obama rule, which is the rule that supports the Wisconsin, Oklahoma, and Alaska plumber who makes \$60,000 a year, can't afford \$20,000-a-year ObamaCare, gets no government subsidy, and needs this in order to insure his family.

I yield the floor.

Ms. BALDWIN. Mr. President, I ask unanimous consent that the following documents concerning the rule submitted by the Secretary of the Treasury, Secretary of Labor, and Secretary of Health and Human Services relating to short-term, limited duration insurance be entered into the RECORD: a letter to Congress from 113 health organizations expressing concerns with the rule, a letter from the National Association of Insurance Commissioners requesting a delay in implementation of the rule, a short-term medical plan brochure from the Golden Rule Insurance Company outlining the policy's coverage exclusions, and a news article from 2014 illustrating the lack of consumer protections in short-term limited duration plans.

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

APRIL 17, 2018.

DEAR SPEAKER RYAN, LEADER MCCONNELL, LEADER MCCARTHY, LEADER SCHUMER AND LEADER PELOSI: Our 113 organizations represent millions of people with serious, acute, and chronic diseases and disabilities, as well as their caregivers. These individuals, and all Americans, need access to comprehensive, affordable health coverage in order to meet their medical needs.

We write to express our concerns about the impact the proposed rule regarding short-term limited duration plans (STLDs) (CMS-9924-P) will have both on the health insurance marketplaces and the individuals we represent. While short term plans can offer less expensive coverage, they are not required to adhere to important standards, including the ten essential health benefit categories, guaranteed issue, out-of-pocket maximums, age-rating protections, and many other critical consumer protections. These policies are also allowed to charge much higher premiums, deny coverage altogether for consumers who cannot meet medical underwriting standards, and impose lifetime and annual limits on services. If the proposed rule put forward by the Administration is finalized in its current form, it will limit access to quality and affordable health insurance coverage for all Americans, and disproportionately harm individuals with pre-existing conditions and people with disabilities.

Expanding access to these policies will likely cause premiums in the individual insurance marketplace to increase dramatically, as younger and healthier individuals choose to enroll in cheap short-term plans. Allowing STLDs to proliferate would force individuals, including those with serious or chronic diseases and disabilities, into a smaller, sicker market to obtain the coverage they need to manage their health. Premiums for comprehensive plans that meet federal standards would likely skyrocket, and plans would likely exit the market. This will make insurance either unavailable or unaffordable for those who rely on the marketplace to get coverage.

Our organizations are dedicated to identifying and promoting improvements to our health insurance markets that control costs, stabilize the market, and positively impact coverage and care for millions of Americans. Expanding access to STLDs will move us away from—not towards—achieving these goals. As advocates for our communities, we implore you to protect patients and consumers, including individuals with pre-existing conditions and persons with disabilities, by asking the Administration to withdraw this proposed rule until it adequately protects patients and consumers, as well as any rules that do not increase stability, improve affordability, and secure access to quality coverage in our insurance markets.

Sincerely,

AARP, Adrenal Insufficiency United, Adult Congenital Heart Association, Adult Polyglucan Body Disease Research Foundation, Advocacy & Awareness for Immune Disorders Association (AIDA), Alliance for Aging Research, Alpha-1 Foundation, American Association of People with Disabilities, American Association on Health & Disability, American Cancer Society Cancer Action Network, American Diabetes Association, American Heart Association, American Kidney Fund, American Liver Foundation, American Lung Association, American Multiple Endocrine Neoplasia Support, American Physical Therapy Association, American Therapeutic Recreation Association, Amyloidosis Support Groups.

Arthritis Foundation, Association of Oncology Social Work, Autism Society, Autism Speaks, Autistic Self Advocacy Network, Bazelon Center for Mental Health Law, Benign Essential Blepharospasm Research Foundation, Brain Injury Association of America, CancerCare, Caregiver Action Network, Celiac Disease Foundation, Children's PKU Network, Consortium of MS Centers, Crohn's & Colitis Foundation, Cutaneous Lymphoma Foundation, Cystic Fibrosis Foundation, Disability Rights Legal Center, Dystonia Advocacy Network, Dystonia Medical Research Foundation, Easterseals.

Epilepsy Foundation, Family Voices, Fibrolamellar Cancer Foundation, Fight Colorectal Cancer, FORCE: Facing Our Risk of Cancer Empowered, GBS/CIDP Foundation International, Global Colon Cancer Alliance, Hemophilia Federation of America, Hyper IgM Foundation, Immune Deficiency Foundation, Indian Organization for Rare Diseases, International Myeloma Foundation, International Pemphigus and Pemphigoid Foundation, International Waldenström's, Macroglobulinemia Foundation, Interstitial Cystitis Association, Jack McGovern Coats' Disease Foundation, Justice in Aging, LAL Solace, Leukemia & Lymphoma Society.

Lung Transplant Foundation, Lupus Foundation of America, Lutheran Services in America, Lymphangiomatosis & Gorham's Disease Alliance, Lymphatic Education & Research Network, M-CM Network, Malecare Cancer Support, March of Dimes, Mended Little Hearts, Mental Health America, METAvivor, Muscular Dystrophy Association, National Alliance on Mental Illness, National Alopecia Areata Foundation, National Association for Hearing and Speech Action, National Association of Councils on Developmental Disabilities, National Association of State Head Injury Administrators, National Comprehensive Cancer Network, National Consumers League.

National Eosinophilia Myalgia Syndrome Network, National Health Council, National Hemophilia Foundation, National LGBT Cancer Project, National Multiple Sclerosis Society, National Organization for Rare Disorders (NORD), National Patient Advocate Foundation, National PKU Alliance, Inc., National Spasmodic Dysphonia Association, NBIA Disorders Association, NephCure Kidney International, Oncology Nursing Society, Paralyzed Veterans of America, Parent Project Muscular Dystrophy (PPMD), PKD Foundation, Platelet Disorder Support Association, Prevent Cancer Foundation, PRP (Pityriasis Rubra Pilaris) Alliance, Pulmonary Hypertension Association, Rare and Undiagnosed Network (RUN).

Restless Legs Syndrome Foundation, Scleroderma Foundation, Susan G. Komen, Tarlov Cyst Disease Foundation, TASH, The American Liver Foundation, The APS Type 1 Foundation, Inc., The Desmoid Tumor Research Foundation, The Global Foundation for Peroxisomal Disorders, The Guthy-Jackson Charitable Foundation, The Lymphatic Malformation Institute, The Marfan Foundation, United Ostomy Associations of America, US Hereditary Angioedema Association, Vasculitis Foundation, Worldwide Syringomyelia & Chiari Task Force.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS & THE CENTER FOR INSURANCE POLICY AND RESEARCH,

Washington, DC, April 23, 2018.

Re Short-Term, Limited-Duration Insurance CMS-9924-P.

CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Attention: CMS-9924-P,

Baltimore, MD.

To WHOM IT MAY CONCERN: Thank you for the opportunity to comment on the proposed regulations on Short-Term, Limited Duration Insurance published in the Federal Register on February 21, 2018. These comments are submitted on behalf of the members of the National Association of Insurance Commissioners (NAIC), which represents the chief insurance regulators in the 50 states, the District of Columbia, and the 5 United States territories.

As state insurance regulators we have the primary responsibility of regulating our insurance markets and ensuring consumers are protected and the markets are competitive. As we stated in our comments on the current short-term, limited duration regulation, "Federal interference can, and often does, have unintended consequences and may not be effective in addressing the underlying issues." We argued that the arbitrary 3-month limitation set by the Federal government could harm some consumers and limit choices. Returning the Federal definition to "less than 12 months," as proposed, is consistent not only with longstanding federal law but also with how this term has been long defined by most states.

In the analysis of Economic Impact and Paperwork Burden related to federalism, the proposed rule states:

Federal officials have discussed the issue of the term length of short-term, limited duration insurance with State regulatory officials. This proposed rule has no federalism implications to the extent that current State law requirements for short-term, limited duration insurance are the same as or more restrictive than the Federal standard proposed in this proposed rule. States may continue to apply such State law requirements.

Consistent with this statement, any further requirements, including but not limited to restrictions related to the sale, design, rating or duration of these plans, must be left to the States, which have the primary authority under our federal system to regulate the business of insurance, so that they can address the unique conditions and needs of their respective insurance markets. It is critical that state regulators maintain the flexibility to determine whether, and under what conditions, these plans are appropriate for their state. We urge continued state flexibility on this issue.

We also agree that educating consumers and ensuring that they are aware of the limitations of these plans is paramount. Some of these plans may provide significantly less coverage and consumer protections than comprehensive plans. We supported the disclosure requirements in the current regulations and support the expansions in this proposed rule.

States have received several consumer complaints about confusion and misinformation regarding their short-term or excepted benefit plans. Because of the real risk that consumers may confuse short-term policies with comprehensive health insurance that complies with the Affordable Care Act (ACA), it is important that they be made aware of any limitations to these policies during the sales process. We are pleased that

the proposed rule retains these important disclosure requirements and adds valuable additional disclosures.

As drafted, this rulemaking does not address the impact of Section 1557 of the ACA on the issuance of short-term, limited duration plans. Specifically, it is unclear whether or not these plans will be considered to be a "health program or activity" under 45 C.F.R. §92.4 This distinction is critical.

If these plans are not exempt from the definition of "health plan or activity," the implication would be that carriers could not offer these plans and also participate on the Marketplace, Medicare, or Medicaid. In many states throughout the country, carriers are deciding whether or not to participate in the ACA-compliant marketplace, and if clarifying language is not included carriers will be forced to choose either to offer short-term, limited duration plans or participate in the Exchange. We would ask for clarification on this issue, and specifically advise that CMS include language in the proposed definition of "short-term, limited duration insurance" providing that such insurance is "not a health program or activity as defined in 45 C.F.R. §92.4."

As to the issue of renewability, the members of the NAIC concur that any decision over whether and when these plans should be renewable should be left up to the States, not dictated by the Federal government.

Finally, states are concerned about the timing of this rule, and some states may want to modify existing laws and regulations to protect consumers and state markets. Therefore, we recommend that the final regulation allow states, if they so choose, to begin enforcing the new rules in 2020, thus giving them time to review their rules and seek statutory or regulatory changes to facilitate a smooth transition.

Thank you for this opportunity to comment. We are available to discuss these or other issues as the Short-Term, Limited Duration Proposed Rule is finalized.

Sincerely,

JULIE MIX MCPHEAK,  
NAIC President, Commissioner,  
Tennessee Department of Commerce & Insurance.

RAYMOND G. FARMER,  
NAIC Vice President,  
Director, South Carolina Department of Insurance.

ERIC A. CIOPPA,  
NAIC President-Elect,  
Superintendent,  
Maine Bureau of Insurance.

GORDON I. ITO,  
NAIC Secretary-Treasurer, Commissioner,  
Insurance Division,  
Hawaii Department of Commerce and Consumer Affairs.

UNITEDHEALTHCARE, GOLDEN RULE  
INSURANCE COMPANY

SHORT TERM MEDICAL PLANS

STATES: AZ, FL, IA, IL, IN, MI, MS, NE, PA, TN,  
TX, WI, WV

This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Affordable Care Act. Be sure to check your certificate carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder

services). Your certificate might also have lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage. Also, this coverage is not "minimum essential coverage." If you don't have minimum essential coverage for any month in 2018, you may have to make a payment when you file your tax return unless you qualify for an exemption from the requirement that you have health coverage for that month.

#### WHAT'S NOT COVERED (ALL PLANS)

This is only a general outline of the coverage provisions and exclusions. It is not an insurance contract, nor part of the insurance policy/certificate. You will find complete coverage details in the policy/certificate. Also see state variations on pages 10-13.

#### GENERAL EXCLUSIONS

Benefits will not be paid for services or supplies that are not administered or ordered by a doctor and medically necessary to the diagnosis or treatment of an illness or injury, as defined in the policy.

*No benefits are payable for expenses:*

For non-emergency services or supplies received from a provider who is not a network provider, except as specifically provided for by the policy.

For a preexisting condition—A condition:

(1) for which medical advice, diagnosis, care, or treatment was recommended or received within the 24 months immediately preceding the date the covered person became insured under the policy/certificate; or (2) that had manifested itself in such a manner that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment within the 12 months immediately preceding the date the covered person became insured under the policy/certificate.

A pregnancy existing on the effective date of coverage will also be considered a preexisting condition.

Note: Even if you have had prior Golden Rule coverage and your preexisting conditions were covered under that plan, they will not be covered under this plan.

That would not have been charged if you did not have insurance.

Incurred while your coverage is not in force.

Imposed on you by a provider (including a hospital) that are actually the responsibility of the provider to pay.

For services performed by an immediate family member.

That are not identified and included as covered expenses under the policy/certificate or are in excess of the eligible expenses.

For services that are not covered expenses.

For services or supplies that are provided prior to the effective date or after the termination date of the coverage.

For weight modification or surgical treatment of obesity, including wiring of the teeth and all forms of intestinal bypass surgery.

For breast reduction or augmentation.

For drugs, treatment, or procedures that promote conception.

For sterilization or reversals of sterilization.

For fetal reduction surgery or abortion (unless life of mother would be endangered).

For treatment of malocclusions, disorders of the temporomandibular Joint (TMJ) or craniomandibular disorders.

For modification of the physical body in order to improve psychological, mental, or emotional well-being, such as sex-change surgery.

Not specifically provided for in the policy, including telephone consultations, failure to keep an appointment, television expenses, or telephone expenses.

For marriage, family, or child counseling.

For standby availability of a medical practitioner when no treatment is rendered.

For hospital room and board and nursing services if admitted on a Friday or Saturday, unless for an emergency, or for medically necessary surgery that is scheduled for the next day.

For dental expenses, including braces and oral surgery, except as provided for in the policy/certificate.

For cosmetic treatment.

For reconstructive surgery unless incidental to or following surgery or for a covered injury, or to correct a birth defect in a child who has been a covered person since childbirth until the surgery.

For diagnosis or treatment of learning disabilities, attitudinal disorders, or disciplinary problems.

For diagnosis or treatment of nicotine addiction.

For charges related to, or in preparation for, tissue or organ transplants, except as expressly provided for under Transplant Services.

For high-dose chemotherapy prior to, in conjunction with, or supported by ABMT/BMT, except as specifically provided under the Transplant Expense Benefits provision.

For eye refractive surgery, when the primary purpose is to correct nearsightedness, farsightedness, or astigmatism.

While confined for rehabilitation, custodial care, educational care, nursing services, or while at a residential treatment facility, except as provided for in the policy/certificate.

For eyeglasses, contact lenses, hearing aids, eye refraction, visual therapy, or any exam or fitting related to these devices, except as provided for in the policy/certificate.

Due to pregnancy (except complications), except as provided in the policy/certificate.

For diagnostic testing while confined primarily for well-baby care, except as provided in the policy/certificate.

For treatment of mental disorders or substance abuse including court-ordered treatment for programs, except as provided in the policy/certificate.

For preventive care or prophylactic care, including routine physical examinations, premarital examinations, and educational programs, except as provided in the policy/certificate.

Incurred outside of the U.S., except for emergency treatment.

Resulting from declared or undeclared war, intentionally self-inflicted bodily harm (whether sane or insane); or participation in a riot or felony (whether or not charged).

For or related to durable medical equipment or for its fitting, implantation, adjustment or removal or for complications therefrom, except as provided for in the policy/certificate.

For outpatient prescription drugs, except as provided for in the policy/certificate.

For surrogate parenting.

For treatments of hyperhidrosis (excessive sweating).

For alternative treatments, except as specifically covered by the policy/certificate, including: acupressure, acupuncture, aromatherapy, hypnosis, massage therapy, rolfing, and other alternative treatments defined by the Office of Alternative Medicine of the National Institutes of Health.

Resulting from or during employment for wage or profit, if covered or required to be covered by workers' compensation insurance under state or federal law. If you entered into a settlement that waives your right to recover future medical benefits under a

workers' compensation law or insurance plan, this exclusion will still apply.

Resulting from intoxication, as defined by state law where the illness or injury occurred, or while under the influence of illegal narcotics or controlled substances, unless administered or prescribed by a doctor.

For joint replacement, unless related to an injury covered by the policy/certificate.

For non-emergency treatment of tonsils, adenoids, hemorrhoids or hernia.

For injuries sustained during or due to participating, instructing, demonstrating, guiding, or accompanying others in any of the following: sports (professional, or semi-professional, or intercollegiate except for intramural), parachute jumping, hang-gliding, racing or speed testing any motorized vehicle or conveyance, scuba/skin diving (when diving 60 or more feet in depth), skydiving, bungee jumping, or rodeo sports.

For injuries sustained during or due to participating, instructing, demonstrating, guiding, or accompanying others in any of the following if the covered person is paid to participate or to instruct: operating or riding on a motorcycle, racing or speed testing any non-motorized vehicle or conveyance, horseback riding, rock or mountain climbing, or skiing.

For injuries sustained while performing the duties of an aircraft crew member, including giving or receiving training on an aircraft.

For vocational or recreational therapy, vocational rehabilitation, or occupational therapy, except as provided for in the policy/certificate.

Resulting from experimental or investigational treatments, or unproven services.

[From Bloomberg Businessweek, 2014-01-10]

#### THE TROUBLE WITH SHORT-TERM HEALTH PLANS IN THE AGE OF OBAMACARE

(By John Tozzi)

If you're shopping for health insurance, you may get a pitch for something called a short-term medical plan. These policies have been around forever and are aimed at recent college grads, people between jobs, and new employees waiting for group benefits to kick in. They're marketed by major insurers including UnitedHealthcare Services, Humana, some Blue Cross and Blue Shield carriers, and many smaller companies.

Short-term plans have become more visible as some insurers and brokers take advantage of the hoopla surrounding the Affordable Care Act to market them as alternatives to the policies available on the state and federal exchanges. Although the plans look a little like those approved under Obamacare, they provide less coverage and don't have to adhere to the same rules. The companies are allowed to turn away patients who are sick and refuse to cover preexisting conditions. They don't have to pay for preventative care and aren't required to renew a policy if a patient needs a lot of medical care. "If you get sick, it's not going to take care of you," says Karen Pollitz, a senior fellow at the Kaiser Family Foundation, a health researcher.

The short-term plans also don't satisfy the Obamacare requirement that people have adequate coverage, so people who buy them face the same tax penalties as the uninsured. Twenty percent of short-term policyholders believed, wrongly, that their coverage would be adequate under the ACA, according to a survey published in September by EHealth, an online brokerage that sells conventional and short-term policies. An additional 64 percent said they weren't sure.

There's plenty of cause for the confusion. Assurant, one of the larger sellers of the temporary medical plans, says on its website that "these plans do not meet minimum es-

sential coverage requirements" and customers may face tax penalties. But insurance agency Liberty Medicare in Wynnewood, Pa., called short-term plans "a viable alternative to Obamacare plans" in a recent blog post, although the company also noted that "their benefits are not as broad as Obamacare benefits." Even if the policies exclude preexisting conditions, says president Gregory Lazarev, for "healthy people who are not entitled to subsidies, it makes perfect sense to go and buy a short-term plan."

20 Percent of short-term policy holders wrongly believe their plan meets Obamacare standards.

"There definitely are some companies out there that are aggressively marketing these and [similar] policies," Pollitz says. One making expansive claims is Health Insurance Innovations, which connects consumers with short-term policies from third-party insurers. The Tampa company, which raised \$65 million in an initial offering about a year ago, is expecting a boost from the ACA, even though its plans don't meet the law's requirements for adequate coverage. "We want to be ready to take full advantage of this unprecedented degree of market expansion," Chief Executive Officer Michael Kosloske said in a November earnings call. In an interview, Kosloske says: "Our benefits are the same or better than what you're going to find, for example, on the exchanges."

A sample policy sold by Kosloske's company suggests otherwise. Unlike ACA plans, it doesn't cover immunizations and routine physicals, outpatient prescription drugs, pre-existing conditions, pregnancy or childbirth, sports injuries, substance abuse treatment, allergies, or kidney disease. It also comes with a \$2 million lifetime limit on benefits, a provision banned under Obamacare rules.

Buying the stripped-down, short-term policy could save a 30-year-old Florida man \$1,123 in premiums over a year, compared with a typical bronze-level HMO plan from Humana. If he earns \$46,000 a year, he'd have to pay about 41 percent of the savings in tax penalties for not having coverage authorized by the ACA. The penalty rate will double in 2015. If the hypothetical consumer earns \$23,000 or less, federal subsidies would make up the difference between the price of the bronze plan and the short-term policy.

Kosloske points out that the bronze plan has exclusions, too, and a limited network—it doesn't pay anything if you see a doctor outside the plan. In the plan his company sells, "covered benefits are paid the same way whether in or outside the broad and highly accessible provider network," he says. Pollitz advises consumers to stay away from short-term plans. "It may cover your claims until your term of coverage runs out," she says. But for anyone who gets sick and hopes to renew, "it's junk."

The bottom line: Consumers buying cheaper, short-term health plans get limited benefits and still have to pay Obamacare penalties.

**THE PRESIDING OFFICER (Mr. SULIVAN).** The time of the majority has expired.

**Mr. INHOFE.** Mr. President, I ask unanimous consent that I be acknowledged to speak for 10 minutes.

**THE PRESIDING OFFICER.** Is there objection?

Without objection, it is so ordered.

S. 3021

**Mr. INHOFE.** Mr. President, I don't think that is necessary because I think I was scheduled to do that anyway.

What we are going to be addressing here in just a few minutes is a very significant piece of legislation. We do a



lot of things around here that some people think are important, but this is something that really is important. It is something that has a long history behind it.

America's water infrastructure bill, known as the WRDA bill, was started about 20 years ago, and we made a commitment at that time that we would actually have a WRDA bill every 2 years. We didn't do that up until 2014. In 2014, we had gone since 2014 since we had had one, and this needs to be done to keep our water infrastructure going and the things that we are supposed to be doing. So we did it in 2014 and 2016, and now we will do the 2018 bill. That is what we are supposed to be doing.

It is a great way to keep up the productive momentum that we have seen in Congress leading up to the midterm election and delivering on President Trump's promises.

The WRDA bill is another great example of what can happen when we work with our friends across the aisle on issues that affect every State of our Nation.

I was privileged to chair the Environment and Public Works Committee during that timeframe, when we went back to every other year, and it is something that has worked very well. People can depend on the resources being there when the time comes. So I think right now it is a bill that is sponsored by ourselves, along with the ranking members and the Senators of that committee, the EPW Committee, and the Transportation Subcommittee.

I want to take a moment to thank the members I just mentioned and their staffs. The staffs are the ones who do the heavy lifting because without our willingness to work together on this legislation, we wouldn't be able to discuss it here on the floor today, and I appreciate that dedication. It is going to happen today.

There are a lot of provisions in the bill that advance our Nation's infrastructure priorities. In addition, the State of Oklahoma would benefit in many ways as well.

One of the big secrets around the world and around America is that Oklahoma is actually navigable. We have a navigation way that goes from the Mississippi River all the way up to my hometown of Tulsa, with the Port of Catoosa.

I can remember many years ago, when I was in the State legislature, and some people came to me who were World War II veterans—one of the groups that was doing a very good job—and they said: We would like to be able to show and to demonstrate that we are navigable in Oklahoma. If you will get us a submarine, we will take it all the way up to Oklahoma.

So I went down to Orange, TX, and found the USS *Batfish*. This is a World War II submarine. They were able to do it without any help at all—without any help from government. They had to get on there, and they had to reduce it to get under bridges and lift it up in shal-

low places. All of my adversaries were saying: We will sink INHOFE and his submarine. But we did it, and it is there today.

So we do have the McClellan-Kerr Arkansas River Navigation System. We have some items in there under this to protect that resource from what they call the Three Rivers report, which provides a permanent solution for the situation we are experiencing near the mouth of the system, where the White River and the Arkansas River are trying to merge. If left alone, they would merge. That would destroy everything that goes up from that area in Arkansas. It includes language for Bartlesville to navigate the murky waters of water supply contracts and to change those contracts with everyone to get away from the idea that the Army Corps of Engineers is going to be able to do something that would be prohibitive cost-wise to the communities like Bartlesville, OK.

We support our Nation's economic competitiveness by increasing access to water storage and supply, providing protection from dangerous flood waters, deepening the nationally significant ports, and maintaining navigability in the inland waterways.

Since hurricane season is upon us, we have recently seen the cruel aftermath of these storms and the flooding that followed Hurricane Harvey, Irma, Florence, and now Michael. Right now they are preparing down there to evacuate as we speak. It could become a mandatory evacuation. This is something that is happening. Events like this show why it is utterly critical to maintain flood control and be able to protect against the floodwaters as much as possible.

That is what this bill we will be considering in a few minutes is all about. It will also further address the need for repairing our aging drinking water, wastewater and irrigation systems, improving conditions all across the United States in homes, farms, and businesses.

We have reauthorized WIFIA and authorized a new tool by including Senator BOOZMAN's SRF WIN Act, of which I am a very proud cosponsor. These provisions, along with technical assistance for our small and rural systems, will provide more help to our communities struggling to finance and upgrade our hidden infrastructure needs.

Maintaining critical infrastructure is one of the most important constitutionally required duties we have as Members of Congress. I sometimes have to remind people who often disregard a document called the Constitution that this is what we are supposed to be doing and what we are carrying out with the bill we are about to pass in the next few minutes.

I look forward to passing this legislation and sending it to the President to sign into law. It is another win for America.

I have to say, the committee has done so well. People are criticizing the

Senate all the time, saying nothing is being done. Our Environment and Public Works Committee gets things done—the FAST Act, the chemical act, the last WRDA bill, and now the 2018 WRDA bill. It is what we are supposed to be doing here, and it is a very significant vote.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

S.J. RES. 63

Mrs. MURRAY. Mr. President, I come to the floor to support Senator BALDWIN's resolution to overturn President Trump's junk plans rule.

Since day one, President Trump has been relentless in his efforts to sabotage healthcare for people in our Nation. He has worked to drive up the costs, given power back to big insurance companies, and despite his recent campaign promise to fight for people with preexisting conditions, almost every single step he has taken has been in the opposite direction.

President Trump's awful junk plan rule, which went into effect last week, is the latest example. His decision to expand junk insurance plans actually gives insurance companies more power to sell plans that ignore protections for people with preexisting conditions. It gives insurance companies more power to discriminate based on age or on sex. It gives insurance companies even more power to avoid covering important medical needs like emergency care, mental health care, prescription drugs, or even maternity care. This rule also lets insurance companies spend less money on patients directly and more money on excessive administrative costs and executive bonuses. This new rule shows how empty President Trump's promises are when it comes to preexisting conditions.

It is not just President Trump. A lot of Republicans are claiming to stand for protections for preexisting conditions. However, when you compare how Democrats are fighting for these protections and how some Republicans are undermining them, the difference is as clear as night and day.

When President Trump tried to pass his TrumpCare bill and undermine preexisting condition protection, Democrats stood with families across the country and fought tirelessly to stop that awful bill. However, most of our Republican colleagues championed it. When President Trump's Justice Department chose to abandon these protections in court against the Republican-led lawsuit to strike them down, Democrats rallied around the bill to let the Senate join the lawsuit and defend protections for preexisting conditions. Not a single Republican joined in that

effort. Now President Trump is undermining these protections through the junk plan rule, and Democrats are again on the floor leading the charge against him with the resolution that is before us today.

Where are those Republican colleagues who have claimed to care so much about this issue but have done so little to fight for it? So far they have offered empty promises and even gimmicks, like a bill they claim protects people with preexisting conditions but actually allows insurance companies to discriminate based on age and sex.

If Republicans are serious about standing up for people with preexisting conditions, they will join us to pass this bill and fight for them. I am not holding my breath, but I am not giving up. Democrats are going to keep fighting for people across the country, for people with preexisting conditions. We are going to keep fighting for cancer patients and survivors, people living with diabetes and arthritis and other chronic diseases, and we are going to keep fighting for women who are pregnant or seniors who are facing the challenges of old age and for so many other families who might not be able to get the care they need without these important protections for people with preexisting conditions.

Finally, I thank Ms. BALDWIN for her leadership on this very important effort. I know this fight is personal for her, like it is for so many families across the country. I am grateful for her leading the charge.

Thank you.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise today in support of S.J. Res. 63, a resolution of disapproval on the Trump administration's final rule allowing the expansion of short-term junk health insurance plans.

My home State of California recently passed a law prohibiting these short-term plans to protect consumers because these plans do not offer real coverage and are allowed to only take healthy consumers.

One hundred thirty million non-elderly Americans have a preexisting condition, including 16 million in California. Among the most important provisions in the Affordable Care Act are the consumer protection requirements for health insurance plans that ensure preexisting conditions no longer dictate access to health coverage and essential benefits that ensure coverage is meaningful and comprehensive.

It does a cancer patient little good to have health insurance that doesn't cover chemotherapy, just as coverage without maternal care is meaningless to an expectant mother. In fact, before the Affordable Care Act was passed, three out of four plans on the individual market did not cover labor and delivery.

An analysis by Kaiser Family Foundation just this last April found that of the more than 600 short-term plans offered through two major insurance

websites, eHealth and Agile Health Insurance, across 45 States, none included maternity care. It gets worse: 71 percent offered no prescription drug coverage, and 43 percent of these plans didn't cover mental healthcare services.

To be frank, these plans are junk insurance. The major protections in the Affordable Care Act are basically tossed out the window, and we are reminded of why health reform was needed so badly in the first place. These plans can include annual and lifetime limits on care, meaning that, if you need an expensive medical treatment, you may be out of luck, even after paying your premiums. Women can once again be charged more than men for the same plan.

Insurance companies don't have to comply with medical loss ratio rules that limit administrative costs. In fact, short-term plans covering 80 percent of the market in 2016 only spent half of premium dollars on actual medical care.

Short-term plans have traditionally been used by some consumers for what the name implies, to bridge short gaps between long-term coverage for a matter of months. The final rule changes this to years. Given the severe shortfalls these plans have and significant consumer risk, they are simply not meant to be a substitute for real health insurance.

I urge my colleagues to support this resolution to protect consumers and look forward to working together to improve health coverage, not make it worse.

Mr. CARDIN. Mr. President, today I wish to discuss American's access to healthcare and the patient protections that are currently being threatened by the Trump administration, specifically expanding the availability of junk health insurance, also known as short-term limited duration plans.

Short-term limited duration insurance is a type of health insurance that was designed to fill temporary gaps in coverage, such as when an individual is transitioning from one plan or coverage to another plan or coverage.

The Obama administration limited these plans to 3 months to ensure they would be used only as a backstop for those who truly need temporary, limited duration coverage.

A major flaw of this insurance is that it is exempt from certain consumer protections provided through the Affordable Care Act.

Because of the Affordable Care Act, health insurance companies are required to offer essential health benefits such as emergency services, maternity care, mental health and substance use disorder services, and preventative services. Additionally, insurance companies are no longer allowed to place annual or lifetime dollar limits on coverage and cannot refuse to cover someone or charge someone more just because they have a preexisting condition.

Among the most common preexisting conditions are high blood pressure, behavioral health disorders, high cholesterol, asthma/chronic lung disease, heart conditions, diabetes, and cancer.

In 2017, HHS released a report stating that as many as 133 million non-elderly Americans have a preexisting condition. The Maryland Health Benefit Exchange estimates that there are approximately 2.5 million non-elderly Marylanders with a preexisting condition, 320,000 of which are children.

Expanding access to short-term limited duration plans is another in a long line of GOP healthcare sabotage efforts since President Trump took office. Short-term plans are allowed to have annual or lifetime dollar limits on coverage, and do not have to provide coverage of essential health benefits or provide coverage to those with preexisting conditions. These plans will lead to increased health insurance premiums for people buying insurance on the ACA marketplace. Healthy individuals may be deceived to leave the marketplace and buy these junk plans instead.

Short-term plans will impose an "age tax" on seniors because they are allowed to charge seniors more for coverage. Currently, the ACA limits how much more plans are allowed to charge seniors.

Short-term plans are junk insurance, plain and simple. People believe they have coverage, but when they get sick and need medical care, they suddenly realize the plan that they paid for won't allow them to receive the care they require.

These actions by the Trump administration to expand access to short-term plans is wrong. Not only do these actions directly threaten the 133 million Americans with preexisting conditions, but also any American who wishes to have strong, affordable, and comprehensive coverage.

S. 3021

Mrs. FEINSTEIN. Mr. President, I rise today to speak in support of the pending bill, America's Water Infrastructure Act.

I congratulate Chairman BARRASSO and Ranking Member CARPER of the Environment and Public Works Committee for completing this vitally important bill on time. It is critical that we reauthorize Army Corps projects and other water financing authorities every 2 years, as they have done.

The bill before us authorizes construction of 12 new water resource development projects and 65 studies.

America's Water Infrastructure Act also includes a number of provisions that will benefit California.

The bill includes a provision I authored that will require EPA and the Bureau of Reclamation to enter into an agreement within a year. The agreement must specify how the two agencies will jointly administer a Treasury-rate loan program for storage, water recycling, groundwater recharge, and other water supply projects.

This provision builds off EPA's success using Treasury-rate loans to fund projects under the Water Infrastructure Finance and Innovation Act, WIFIA. The idea is to extend these Treasury-rate loans to water supply projects.

There are three significant ways WIFIA loans will lower costs for local agencies wanting to build storage, water recycling, groundwater recharge, or other water supply projects:

No. 1, they will pay only 3.2 percent interest rate on their loans based on today's rates, versus 4 percent or greater rates for municipal bond financing;

No. 2, the districts would not need to start paying interest until 5 years after substantial completion of the project; and No. 3, loans are for 35 rather than 30 years, lowering annual debt service costs.

The combination of these benefits could reduce the costs of building a project by as much as 25 percent. For example, if a consortium of water districts takes out a loan to build Sites Reservoir, they would pay only \$512/acre-foot instead of \$682/acre-foot, a 25 percent saving.

These water district savings of up to 25 percent are a highly cost-effective use of taxpayer dollars because they can be obtained by appropriations of only 1-1.5 percent of the cost of the loan, as validated by OMB.

OMB has approved loans of \$5 billion backed only by appropriations of only 1 percent of that amount, or \$50 million for WIFIA, because there is a virtually nonexistent default rate for water projects.

Only four in a thousand water infrastructure projects default, based on a study conducted by Fitch credit rating agency.

Moreover, WIFIA loans include substantial taxpayer protections. Private sector loans have to cover at least 51 percent of the project cost, and the Federal loans would have senior status in the event of any default. These provisions protect the taxpayer in the event of any default.

The provision in the bill before us is a compromise, different in some significant ways from the provision I included in the Senate bill. Like the Senate bill, the bill before us requires EPA and the Bureau of Reclamation to enter into an agreement within a year on how they would jointly administer a Treasury-rate loan program for water supply projects.

However, the House was unwilling to allow the Bureau of Reclamation to recommend water supply projects for loans within EPA's existing WIFIA authority. As a result, additional legislation will be needed to authorize Reclamation loans for water supply projects once EPA and Reclamation reach their agreement.

While further legislation will be needed, the legislation before us today provides an important step forward. EPA has developed expertise in processing and administering water supply

loans, so it is more efficient if Reclamation can recommend the loans and EPA can administer them. Without the legislation before us, EPA and Reclamation would not reach an agreement on how they would jointly administer these water supply loans.

Now that we know that Reclamation and EPA will reach this agreement within a year, Congress can shortly thereafter move legislation with both agencies' support to extend the successful and cost-effective WIFIA loan program to water supply projects. I look forward to working with my colleagues on this additional legislation.

I am also pleased that this bill authorizes construction and studies and provides other needed modifications for many important water infrastructure projects in California.

One such project that received a construction authorization is the Lower San Joaquin River project, which provides critical flood control to the Stockton metropolitan area.

Additionally, this bill doubles Federal funding for the Harbor South Bay water recycling project, authorizing up to \$70 million in Federal funds.

This increase in Federal funding will meaningfully expand this project's capability to provide recycled water to surrounding communities. I am pleased to see Army Corps funding utilized for water recycling, which is truly a key for sustainability and water security in drought-prone California.

Other key California projects in this bill include authorization for a flood risk management, navigation, and ecosystem restoration project in the San Diego River and directing the Army Corps to expedite flood risk management, water conservation and ecosystem restoration studies at the Coyote Valley Dam, Lower Cache Creek, Lower San Joaquin River, South San Francisco, Tijuana River, Westminster-East Garden Grove, and San Luis Rey River.

Lastly, I would like to mention the two other very important provisions for California as well as the Nation that I strongly support.

This bill increases funding for the Army Corps' dam rehabilitation program for structures built before 1940 from \$10 million to \$40 million until fiscal year 2026. The United States is facing many challenges due to aging infrastructure, and in California, we saw the serious ramifications of that with the Oroville Dam disaster.

Additionally, this legislation reauthorizes and expands the Drinking Water State Revolving Loan Fund for the first time in 22 years to address aging or damaged drinking water infrastructure in communities across the country.

For all these reasons, I support the America's Water Infrastructure Act before us today. Thank you.

Mrs. MURRAY. 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. CARPER. 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. CARPER. Mr. President, I don't know what it is like in Alaska, Wyoming, or Tennessee these days, but a lot of times, when I am going home or back and forth, people are saying to me: I wouldn't want your job for all the tea in China.

I say: Well, I actually feel lucky to do this job. They ask: What do you like about it? I say: I like helping people. They say: Really? And they ask for examples.

Today is a good example. One of the best ways to help people is to make sure they have a job. There are a lot of different ways we provide that nurturing environment for job creation and preservation, and one of those ways is in the area of infrastructure. Sometimes an overlooked part of our infrastructure is the one we address directly in the Water Resources Development Act before us today.

Our water infrastructure is actually the forgotten leg on the infrastructure stool. We rightly worry about the infrastructure we can see: our bridges, highways, airports, and railroads, but our Nation's water infrastructure: our pipes, shipping channels, flood control structures, and the infrastructure we don't see, as we have learned, is in desperate need of investment.

Our Nation's drinking water systems, dams, reservoirs, levees, shipping lanes, and ports support and promote economic growth and job creation. These systems provide water for everything from families to agriculture to small businesses. This is infrastructure that Americans rely on every day, and it keeps our economy moving.

America's Water Infrastructure Act of 2018, the legislation that we will soon be voting on, makes water a priority from coast to coast. As my good friend, the chairman of our committee, JOHN BARRASSO, has said, America needs comprehensive water infrastructure legislation that will create jobs, keep communities safe, and make the Army Corps of Engineers and the EPA more accessible to stakeholders.

The legislation before the Senate today has received endorsement from industry, from environmental protection groups, and from everything in between. The U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties say that this bill drives investment in navigation, flood protection, and ecosystem restoration in communities and that it protects public health and safety and our natural resources. It is critical in helping our communities to build, maintain, and improve this critical infrastructure while growing our national and local economies.



I am here to applaud and thank, once again, our chairman, our staffs, and everyone who has worked on this from Alaska to Wyoming.

Mr. President, I ask unanimous consent that a list of congressional staff who deserve recognition for their work on S. 3021 be printed in the RECORD.

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

Thanks to the staff who worked tirelessly on this bill throughout the year, including the staff of Chairman John Barrasso: Richard Russell, Brian Clifford, Elizabeth Olsen, Andy Harding, Pauline Thorndike, Craig Thomas; Ranking Member Tom Carper: Mary Frances Repko, John Kane, Christina Baysinger, Skylar Bayer, Ashley Morgan, Avery Mulligan, Andrew Rogers; Subcommittee Chairman Jim Inhofe: Jennie Wright; Subcommittee Ranking Member Benjamin L. Cardin: Mae Stevens; Chairman Bill Shuster: Ian Bennitt, Victor Sarmiento, Elizabeth Fox, Jon Pawlow, Geoff Gosselin, Peter Como, Chris Vieson; Ranking Member Peter A. DeFazio: Ryan Seiger, Michael Brain, Kathy Dedrick, David Napoliello; Chairman Greg Walden: Jerry Couri; and Ranking Member Frank Pallone: Jackie Cohen, Jean Fruci, Rick Kessler, Tuley Wright.

Mr. CARPER. I yield my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I ask unanimous consent to complete my brief statement before the rollcall is taken.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BARRASSO. Mr. President, it is time to vote on America's Water Infrastructure Act.

I thank my friend and colleague from Delaware, the senior Senator, Mr. CARPER, for his great contributions to this piece of legislation.

It is an important bill that has broad bipartisan, bicameral support. There are 95 groups that have endorsed it. They represent a broad cross-section of stakeholders from a wide variety of backgrounds. From the Sierra Club to the American Petroleum Institute to the U.S. Chamber of Commerce, they all agree that this important infrastructure legislation is good for our country, good for our communities, good for our economy, and good for our environment. The Wyoming Wool Growers Association, the Arkansas Rural Water Association, and the Milwaukee Metropolitan Sewerage District have all united in praise for a bill that will help all 50 States.

The water infrastructure bill passed our committee 21 to nothing, and it passed the House with a unanimous voice vote. It is time to send it to the President for his signature. I would just ask our Members to join us in supporting this important bipartisan infrastructure bill.

Mr. President, along with Ranking Member CARPER, I ask unanimous consent to have an explanatory statement to accompany S. 3021, America's Water Infrastructure Act, printed in the RECORD.

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

SENATE EXPLANATORY STATEMENT TO ACCOMPANY S. 3021, AMERICA'S WATER INFRASTRUCTURE ACT OF 2018

The following explanatory statement from the Senate supplements and provides additional views on the Managers' Joint Explanatory Statement accompanying S. 3021: America's Water Infrastructure Act of 2018 (AWIA), that was submitted as part of the Congressional Record during consideration in the House of Representatives on September 13, 2018.

#### SECTION 1144

Section 1144 on Levee Safety Initiative Reauthorization extends by five years the authorization of appropriations for the National Levee Safety Program, which includes the committee on levee safety, inventory and inspection of levees, and levee safety initiative. The Senate Managers urge the Army Corps of Engineers (the Corps) to improve the current levels of levee safety program transparency and local levee sponsor involvement.

By law and policy, local levee sponsors assure the day-to-day performance of levee systems. As such, local sponsors typically maintain abundant familiarity with localized flood and levee system conditions as well as local risk management and communication needs. For the levee safety program to be successful in achieving cost-beneficial flood damage reduction, the Corps must to the maximum extent practicable involve local sponsor expertise and rely on scientifically sound and technically rigorous analysis. The Senate Managers are aware of internal guidance drafted by the Corps to direct its district offices to engage public sponsors as participants in all levee safety program activities. The Corps is encouraged to execute this directive fully so that local sponsors and affected citizens derive maximum benefit from the levee safety program.

The Senate Managers are additionally concerned about the agency's decision to formulate and publicize Levee Safety Action Classification (LSAC) assignments for levee systems in the absence of site-specific solutions and corresponding cost estimates. It is difficult to perform effective risk characterization and communication about levee systems in the absence of identified corrective actions and their associated costs and benefits. The levee safety program must improve flood protection by driving requisite cooperation with local sponsors, transparency, objectivity, rigorous technical justification, and development of actual solutions that focus on the imperative of identifying cost-beneficial, engineered solutions. The Corps noted in a March 2018 Levee Portfolio Report that, "there may be reluctance to share risk information with the public when an immediate and viable risk management solution has not been identified." The Senate Managers urge the Corps to immediately rectify this shortfall by cooperating with local levee sponsors to produce viable levee system corrective actions and corresponding cost estimates along with LSAC assignments. Given the scope and potential impact of these levee system risk assessments, which could involve levee accreditation status by FEMA under the National Flood Insurance Program, the Corps should also seek out external peer review of the reliability and usefulness of the overall LSAC process.

#### SECTION 1170

Section 1170 contains a drafting error that was identified following the passage of S. 3021 as amended by the House of Representatives. The Senate Managers intend to ini-

tiate legislation to make a technical correction in the language of this section to replace the words "Arizona River Basin" with "Arkansas River Basin" to ensure the work is conducted in the Arkansas River Basin, located in Colorado and three other States. Further, the Senate Managers ask that the Corps prepare to implement this section as so modified pending the correction.

#### SECTION 1229

Section 1229 directs the Secretary to do a report on the status of a water supply contract for Wright Patman Lake, Texas. In addition to that provision, the Senate Managers believe that the Secretary should implement the Department of the Army, Civil Works Contract No. 29-68-A-0130, at Wright Patman Lake, Texas, in an expeditious manner and in accordance with all applicable Federal and State water laws. This includes the acceptance and expenditure of funds contributed by a non-Federal interest for any study required by law to implement the contract.

#### SECTION 1318

Section 1318 directs the Secretary of the Army to align the schedules of and ensure coordination between the Argentine, East Bottoms, Fairfax-Jersey Creek, and North Kansas Levees Units, Missouri River and Tributaries at Kansas Cities, Missouri and Kansas, project and the project for flood risk management in Armourdale and Central Industrial District Levee Units, Missouri River and Tributaries at Kansas Cities, Missouri arid Kansas. It is the Senate Managers' intent that these two flood control projects be considered to be a single project for budgeting purposes despite separate authorizations, and for the purposes of the Supplemental Appropriations in the Bipartisan Budget Act of 2018, P.L. 115-123, it is an ongoing construction project.

#### SECTION 2010

Section 2010 provides new authority to permit a State to require the owner or operator of certain public water systems to assess its options for consolidation, transfer of ownership, or other activities in order to get that system into compliance. The Senate Managers believe there is no requirement for systems to adhere to the results of these assessments.

#### SECTION 4103

Section 4103 provides technical assistance for treatment works in the Clean Water Act (CWA). It is the Senate Managers' view that, when determining which qualified and experienced nonprofit organizations will provide on-site training and technical assistance, the EPA should consult with the relevant State and the publicly owned treatment works to determine the forms of training and technical assistance they believe will be most effective and beneficial.

ADDITIONAL VIEWS OF THE SENATE MANAGERS ON WATER RESOURCE ISSUES AND THE DEVELOPMENT OF S. 3021

EPA's "Water Transfer Rule," 40 CFR §122.3(i), excludes discharges from "an activity that conveys or connects waters of the United States without subjecting the transferred water to intervening industrial, municipal, or commercial use" from the National Pollutant Discharge Elimination System (NPDES) wastewater permitting requirements of the Clean Water Act, 33 USC §1342. The Second Circuit Court of Appeals held that EPA's interpretation of CWA is reasonable and EPA is entitled to Chevron deference in Catskill Mountain Chapter of Trout Unlimited v. EPA, 846 F.3d 492 (2d Cir., 2017); cert denied, 138 S. CT. 1164-1165 (Feb. 26, 2018). The Supreme Court's denial of certiorari resolves the question of whether EPA's Rule complies with the CWA.

The Senate Managers encourage the Secretary to conduct a study on impediments to the U.S. Army Corps of Engineers' Water Infrastructure Finance and Innovation Act (33 U.S.C. 3901 et seq.) (WIFIA) program implementation. In the study, the Secretary should examine obstacles to the implementation of the Corps WIFIA program and to identify all projects that the Secretary determines are potentially viable to receive assistance. Additionally, the study should describe any amendments to the Act or other legislative or regulatory changes that would improve the Secretary's ability to implement the Corps' WIFIA program. The report should be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives no later than one year after enactment of AWIA 2018.

Water resources projects have historically not been able to be completed after construction commences due to the use of benefit-cost analyses in the budgeting of water resources development projects. During construction, costs accrue while benefits are not yet realized, which lowers the benefit-cost ratio stalling projects. The Senate Managers continue to be concerned with this matter, and ask that the Corps provide recommendations to Congress on how to address this concern within 180 days of enactment of this Act.

Several Chief's Reports were neither completed nor received by Congress before negotiations closed on AWIA, and the bill was passed by the United States House of Representatives. The final bill did not include these projects for that reason. The Senate Managers believe that the Corps should expedite the completion of these reports in an expedient manner so these projects can be included in the next Water Resources Development Act.

The Senate Managers believe that the Secretary should expedite the expected Chief's Report for the Souris River Basin, Minot, North Dakota, flood risk management project that was authorized by section 209 of the Flood Control Act of 1966 (80 Stat. 1423).

The Senate Managers believe that the Secretary should expedite the expected Chief's Report for the Delta Islands and Levees, California, ecosystem restoration project. It was authorized by a June 1, 1948, Committee on Public Works of the Senate resolution; the resolution adopted by the Committee on Public Works of the House of Representatives on May 8, 1948; and House Report 108–357 accompanying the Energy and Water Development Appropriations Act, 2004 (Public Law 108–137; 117 Stat. 1827).

The Senate Managers believe that the Secretary should expedite the expected Chief's Report for the Anacostia Watershed, Prince George's County, Maryland, for flood control, navigation, and ecosystem restoration. The project was authorized by a resolution adopted by the Committee on Public Works and Transportation of the House of Representatives on September 8, 1988.

The Senate Managers believe that the Secretary should expedite the expected Chiefs Report for the Hashamomuck Cove, New York, project for coastal storm risk management, which was authorized in title X of division A of the Disaster Relief Appropriations Act, 2013 (Public Law 113–2; 127 Stat. 23).

The Senate Managers encourage the Secretary to expedite the completion of the post authorization change report (PACR) for the Howard A. Hanson Dam, Washington project for water supply and ecosystem restoration. This project was authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 180) and modified by section 101(b)(15) of WRDA 1999.

The Senate Managers encourage the Secretary to expedite the completion of the PACR for the Port Pierce, Florida, shore protection and harbor mitigation project. The project was authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092), section 102 of the River and Harbor Act of 1968 (82 Stat. 732), and section 506(a)(2) of the Water Resources Development Act of 1996 (110 Stat. 3757), and modified by section 313 of the Water Resources Development Act of 1999 (113 Stat. 301).

The Senate Managers encourage the Secretary to expedite the completion of the PACR for the Port of Iberia navigation project, authorized by section 1001(25) of WRDA 2007 (121 Stat. 1053; 128 Stat. 1351).

The Senate Managers encourage the Secretary to expedite the completion of PACR for the Wrightsville Beach, North Carolina, hurricane and storm damage risk reduction project. It was authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1182) and section 501 of WRDA 1986 (100 Stat. 4135).

The Senate Managers also encourage the Secretary to expedite the completion of the PACR for the Carolina Beach, North Carolina, hurricane and storm damage risk reduction that was authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1182).

The Senate Managers note that a number of environmental infrastructure projects were unable to be included in the final text of AWIA due to the statutory requirements of the project vetting process established in WRDA 2014. As noted in the Joint Managers Statement on September 13, 2018, AWIA amends the WRDA 2014 project vetting process to allow for the consideration of environmental infrastructure projects prospectively. Although the requirements of WRDA 2014 limited the consideration of environmental infrastructure projects during the development of S. 3021, the Senate Managers encourage the Corps to vet such projects using the updated review process and resubmit them for inclusion in the next water resources authorization.

Though not authorized in S. 3021, the Senate Managers have also agreed to request and support a National Academies study on the Rio Grande River Basin. Such study should examine the Rio Grande River Basin as a holistic system to better understand how the Corps should manage this river system in the face of extreme weather events to better meet water needs of the region. The National Academies should conduct an evaluation of the capacity, operation and state of existing basin reservoirs; look for opportunities to promote water conservation through operation, regulation or physical improvements of the reservoirs; and examine the impacts of reservoir operation and management on species and habitats to the region. The study is expected to provide recommendations for future management scenarios and recommendations in accordance with the Rio Grande Compact to assist in establishing more flexible operation procedures to meet the water needs of the Rio Grande River Basin. The Corps is encouraged to initiate this study with the National Academies as soon as practicable.

Mr. BARRASSO. I yield the floor.

DESIGNATING THE UNITED STATES COURTHOUSE LOCATED AT 300 SOUTH FOURTH STREET IN MINNEAPOLIS, MINNESOTA, AS THE "DIANA E. MURPHY UNITED STATES COURTHOUSE"

The PRESIDING OFFICER. The clerk will report the unfinished business.

The bill clerk read as follows:

House message to accompany S. 3021, a bill to designate the United States courthouse located at 300 South Fourth Street in Minneapolis, Minnesota, as the "Diana E. Murphy United States Courthouse".

Pending:

McConnell motion to concur in the amendments of the House to the bill.

McConnell motion to concur in the amendment of the House to the bill, with McConnell Amendment No. 4048 (to the motion to concur in the amendment of the House to the bill), to change the enactment date.

McConnell Amendment No. 4049 (to Amendment No. 4048), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, all postcloture time on the motion to concur in the House amendments to S. 3021 has expired, and the motion to concur with further amendments is withdrawn.

The question occurs on agreeing to the motion to concur in the House amendments to S. 3021.

Mr. BARRASSO. 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.

The bill clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—99

Alexander	Gardner	Murray
Baldwin	Gillibrand	Nelson
Barrasso	Graham	Paul
Bennet	Grassley	Perdue
Blumenthal	Harris	Peters
Blunt	Hassan	Portman
Booker	Hatch	Reed
Boozman	Heinrich	Risch
Brown	Heitkamp	Roberts
Burr	Heller	Rounds
Cantwell	Hirono	Rubio
Capito	Hooven	Sanders
Cardin	Hyde-Smith	Sasse
Carper	Inhofe	Schatz
Casey	Isakson	Schumer
Cassidy	Johnson	Scott
Collins	Jones	Shaheen
Coons	Kaine	Shelby
Corker	Kennedy	Smith
Cornyn	King	Stabenow
Cortez Masto	Klobuchar	Sullivan
Cotton	Kyl	Tester
Crapo	Lankford	Thune
Cruz	Leahy	Tillis
Daines	Manchin	Toomey
Donnelly	Markey	Udall
Duckworth	McCaskill	Van Hollen
Durbin	McConnell	Warner
Enzi	Menendez	Warren
Ernst	Merkley	Whitehouse
Feinstein	Moran	Wicker
Fischer	Murkowski	Wyden
Flake	Murphy	Young

NAYS—1

Lee

The motion was agreed to.

VOTE ON S.J. RES. 63

The PRESIDING OFFICER (Mrs. ERNST). Under the previous order, all time on the joint resolution is considered expired.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.