

Also, the Navy has to lay out a clear top-level plan on how these ships will be used in response to reasonably foreseeable, relevant threats around the world. In other words, it needs to decide the concept of operation—or CONOPS—that this ship class will support. According to a declassified internal Navy report released last Tuesday, “There are two options: Building a CONOPS”—that means concept of operations—“to match LCS’ current capabilities or modifying the ship to better meet the needs of the Theater Commanders.”

The report goes on to say: “The ship’s current characteristics limit operations to a greater extent than envisioned by the CONOPS. . . .” The second option is to “modify the ship to support the warfighting requirements. Our review identified opportunities to modify several of the ships’ characteristics to more closely align with the intent of the original CONOPS.”

Right now, it seems as though whatever combat capability LCS can muster is driving its mission, not the other way around, as in most ships. In other words, the Littoral Combat Ship appears to be a ship looking for a mission. But just to perform its three currently intended primary missions, the Navy is looking at significant design changes and increasing Littoral Combat Ships’ crew size, even though it has already bought about 30 percent of all of the LCS ships it intends to buy. That could increase its procurement and life cycle operation and support costs well beyond current estimates and strain its affordability. Given how many frigates, minesweepers, and patrol crafts the Navy currently plans to retire over the next 5 years in favor of Littoral Combat Ships, this is particularly troubling.

Notably, the Government Accountability Office also reports: “Current LCS weapon systems are underperforming and offer little chance of survival in a combat scenario.”

In this regard, the Government Accountability Office appears to agree with the Pentagon’s chief independent weapons tester. As this top Pentagon official has noted, before proceeding beyond early production, this program should complete initial operational testing and evaluation to determine that it is effective, suitable, and survivable. But LCS is not doing so. Why not? We need an answer to that. If, for whatever reason, the Navy believes it must deviate from that practice, what plan will it put in place to mitigate the resulting concurrency risk?

Let me be clear. To justify the purchase of the remaining 32 ships in the program, the Navy must first provide credible evidence based on rigorous, operationally relevant and realistic testing and evaluation, that this ship will in fact be able to adequately perform its primary stated missions and meet combatant commander requirements. Congress must, at a minimum, thoroughly review this program before

authorizing funding in fiscal year 2015 to buy the next four LCS’s and require the Secretary of the Navy to certify, on the basis of sound written justification arising from sufficient initial operational testing and evaluation, that the LCS ships will be able to adequately perform their intended missions and provide our operational commanders with the combat capability they need.

The American people are—quite rightly—tired of seeing their taxpayer dollars wasted on disastrous defense programs such as the Air Force’s failed ECSS Program or the Army’s Future Combat System Program or the Navy’s VH-71 Presidential Helicopter Replacement Program. LCS must not be allowed to become yet another failed program in an already unacceptably long list of amorphous acronyms that—after squandering literally billions of taxpayer dollars—have long since lost meaning.

On the LCS program, the Navy must right its course—today.

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

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

#### RECESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate recess until 2:15 p.m. to allow for the weekly caucus meetings and that the time during the recess be counted postcloture, with the time charged equally to both sides.

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

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. BALDWIN).

#### NOMINATION OF KENT YOSHIHI HIROZAWA TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD—Continued

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. ISAKSON. Madam President, I would like to be recognized for the purpose of making brief remarks.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

#### WORKFORCE INVESTMENT ACT

Mr. ISAKSON. Madam President, I am pleased to come to the floor—and I will be joined shortly by Senator MURRAY from the State of Washington—to announce that tomorrow in the HELP Committee—the Health, Education, Labor & Pensions Committee—we will be introducing the reauthorization of the Workforce Investment Act.

Quite honestly, the Workforce Investment Act was passed in 1998 and has not been reauthorized in the last 15 years. During that period of time, our country—particularly in the last 6 years—has gone through a sustained period of high unemployment. We also have periods where employers cannot find the match of workers who are actually trained for the jobs they have.

Workforce investment and training is important for those with disabilities, those without jobs, those with skill sets that need to be improved, and this bill addresses all of those areas.

Senator MURRAY has been a tireless Senator in working to find common ground on issues that have been critical to both the Democratic Party and the Republican Party but, more important, to the workers of the United States of America.

I wish to pay tribute to her staff who has worked tirelessly with my staff, and I wish to thank Tommy Nguyen on my staff, in particular, for his dedication and hard work.

This bill represents a real step forward, and I am pleased that this morning the Business Roundtable issued a release of their endorsement of the base bill we are putting forward tomorrow in the committee. Hopefully, it will be on the floor this fall when we return from the summer recess and we can move forward on job training, job opportunity, and lowering the unemployment rate in the United States of America.

In particular, I am very pleased this bill provides flexibility to our Governors in terms of transferability of funds. It provides for business majorities on the board and a business member to be a board chairman and the State chairman could also be a businessperson, which means those who are doing the employing will be those who will be guiding the Workforce Investment Act in their State.

I am also particularly proud of the fact that we focus on a regional approach to workforce investment. So often times, you get so many workforce investment boards in one metropolitan area that you have a very individualized focus and not a regional focus. A regional focus is important for workers. It is important for all of us.

So I am pleased to announce today on my behalf—Senator ISAKSON on the HELP Committee—that along with Senator MURRAY, today we are introducing and tomorrow we will mark up in committee the reauthorization of the Workforce Investment Act.

I look forward to the support of all Members of the Senate to help us do a better job providing jobs for working Americans.

I yield back my time and—no, I do not yield back my time. I can brag about Senator MURRAY while she is here now because I have been saying nice things while she was on her way.

I thank Senator MURRAY for her cooperation, the spirit of cooperation she has given us, and the fact that we are

finally reaching an agreement between ourselves and our staffs. I met with my side this morning. I know the Senator has done the same. We have a good platform to move forward on the first reauthorization of the Workforce Investment Act since 1998.

I defer to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I thank the Senator. Senator ISAKSON has been absolutely great to work with. We have been spending a lot of time on this.

Let me make a few remarks.

Over the past several weeks and months, we have spent a lot of time in the Senate debating everything from the Federal budget to separate spending bills, and throughout those debates Members of both parties have agreed it is absolutely critical that we are working to write laws and policies that put hardworking Americans back to work, help our businesses grow and invest, and position our economy to compete and win in the 21st century.

We have had some disagreement on how to achieve those goals, but as our Nation now recovers from the recession, our first priority has to be getting Americans back on the job. So I wish to join with Senator ISAKSON to talk about the tremendous progress we have made in the HELP Committee; that is, the work to reauthorize the Workforce Investment Act—and to do just that: put Americans back to work.

Before I get to the importance of the bill itself, I do wish to take some time to talk about the bipartisan process we have had at the committee level to move this forward.

From the very beginning of this process I have worked very closely with my Republican cosponsor Senator ISAKSON, whom you just heard from, and though I know we represent very different States with different industries and different issues, we have each remained very committed to writing a bill that works for all American businesses and workers.

This process has never been about scoring political points or pitting interests against each other. I think it has been a rare and needed example of true bipartisan legislating, and I thank my friend Senator ISAKSON, again, for his hard work and commitment throughout this process.

I also wish to thank our committee chairman and ranking member—Senator HARKIN and Senator ALEXANDER—who have both worked extensively on this legislation and have now signed on as cosponsors as well.

It has been 15 years since we first passed the Workforce Investment Act or WIA. But perhaps more important, it has been a full decade since the legislation was due to be reauthorized. So this law—which was first written in the late 1990s—was designed to be changed and updated back in 2003. Since then, as we all know, our country and our economy have changed a lot.

In the late 1990s, the Internet was changing the way we do business and driving our economy, and the housing sector was as strong as ever. But as we all know, unfortunately, both of these industries went bust.

But back then, we in Congress were willing to take the long view and make meaningful commitments to and investments in our workforce development systems. So back in 1998, we wrote and passed the Workforce Investment Act to help our workers and educators and businesses respond to an economy that was changing faster than ever before.

Lately, we have not done much of that, but I am very optimistic that by improving and reauthorizing WIA, we can get back on track. This is the very law that was written to help us respond to a changing economy and provide the framework for our Nation's workforce development system. But it is still written to address the issues we faced more than 10 years ago.

So working with Senators from both sides of the aisle and the business, labor, and education communities, we are bringing to our committee tomorrow a very strong reauthorization bill that brings WIA into the 21st century.

This bill puts more than a decade of experience and data to use by doing a few things. It requires a single unified workforce plan in each State and replaces all the overlap and confusion between separate State agencies.

It recognizes that we need data and analysis to understand which workforce programs are working well, what makes them work well and how to improve them and, just as important, which programs are underperforming, why, and how to fix them. It makes changes to align our workforce systems with regional economic development and labor markets.

This bill is focused on using real-world data to measure the returns we get on our workforce investments, and getting good return on the Federal dollars we invest is exactly what Americans are calling for today.

So while we are making important changes to the existing version of WIA, I wish to finish my remarks with an example of the incredible success this law has already had in helping our economy.

Last year, the WIA adult and dislocated worker programs produced some remarkable statistics. Over 1 million adults and dislocated workers were placed in jobs. Those workers earned more than \$12 billion over just the first 6 months of their employment. In that same period, WIA funds spent on those programs came to about \$2 billion.

Let me say that again. In just 6 months, an investment of \$2 billion yielded a return of more than \$12 billion. So the investments we make through WIA programs are having an incredible impact on our economy. The important point is we can do more.

That is why a lot of organizations across the country have called for a

modernized 21st century version of the Workforce Investment Act—organizations such as the National Business Roundtable, the National Metropolitan Business Alliance, labor and education leaders, and the Greater Seattle Chamber of Commerce in my home State. All of these organizations are supporting the efforts we have put together.

We are here today to announce to our colleagues that tomorrow we are going to begin marking up our reauthorization bill in committee, and I look forward to continuing working with my colleagues from both sides of the aisle.

In a time when bipartisan legislation has become difficult to achieve, I hope we can set an example of what we are still capable of doing together to strengthen our country and our economy.

I again want to thank Senator ISAKSON and all those who have worked very hard to put this bill together. I am proud of what we have accomplished and look forward to working with him as we move through this process.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### THE AFFORDABLE CARE ACT

Mr. HATCH. Madam President, I rise today to talk about an epidemic in the American workforce that has wreaked havoc on our labor markets and caused undue hardship for millions of our Nation's workers. I am talking, of course, about the eradication of the 40-hour workweek wrought by the so-called "Affordable Care Act."

As a result of this poorly named law, businesses around the country are instituting hiring freezes, downsizing their workforces or reducing worker hours. The President's health law requires employers with 50 or more full-time employees to offer health coverage of a minimum value or pay a penalty. One of the unintended but not unforeseen consequences of the law is that a number of employers are opting to unilaterally limit the number of full-time employees in order to escape this burdensome mandate.

The Affordable Care Act defines "full-time employees" as those working at least 30 hours a week. As a result of this odd definition, not every employer seeking to avoid paying penalties is laying off workers. Instead, an increasing number of businesses have opted to simply cap workers' hours. This is happening everywhere. For example, a recent Reuters survey of 52 Walmart stores found that half of the stores were only hiring temporary

workers—something the stores typically only do during the holiday shopping season. According to a recent article in the *Washington Times*, Walmart has overall increased the share of its temporary staff from between 1 and 2 percent last year to 10 percent this year. Keep in mind that Walmart is our Nation's largest employer. Although the company has denied that this change in policy is as a result of ObamaCare, it is hard to believe this is all just a coincidence.

Small businesses are also being impacted. For instance, there is the example cited recently in the *Wall Street Journal* where Rod Carstensen, an owner of several Del Taco restaurants in the Denver area, was forced to shift the majority of his workforce from full time to part time as a result of ObamaCare. Mr. Carstensen previously had 180 full-time employees and only 40 part-time workers. But providing benefits for those workers would have imposed as much as \$400,000 a year in additional costs. As a result, he is now in the process of switching to 80 full-time and 320 part-time workers, none of whom will work more than 28 hours per week.

As I said, this is happening everywhere. It is stupid. According to a survey conducted by the U.S. Chamber of Commerce, 71 percent of small businesses say the President's health law makes it harder to hire new employees. Among small businesses that would be impacted by ObamaCare's employer mandate, 50 percent say they will either have to cut the hours of workers currently employed full time or replace their full-time employees with part-timers in order to avoid this vicious mandate.

But it is not just happening in the private sector. Public schools, States, and municipalities are also limiting employees to part-time work in order to avoid paying costly benefits. For example, the second largest school district in my home State of Utah recently implemented a policy limiting part-timers to 29 hours a week. According to the *Washington Post*, this impacted roughly 1,200 employees—mostly substitute teachers. That is 1,200 employees in a single school district who will see their hours and their wages capped as a result of ObamaCare. Likewise, the State of Virginia recently enacted a policy reducing the hours for as many as 10,000—10,000—part-time employees who until recently worked more than 30 hours a week. Offering coverage to these workers would have cost the State as much as \$110 million a year. Understandably, rather than paying those crippling costs, Virginia was forced to reduce workers' hours and therefore their pay thanks to the demands and the viciousness of ObamaCare.

As I stated, this is reaching epidemic levels. It makes you wonder what is in the brains of those who support ObamaCare.

Nationwide, employers have added far more part-time employees in 2013—

averaging 93,000 a month—than full-time workers, which have averaged 22,000. Last year the reverse was true.

It is not just businesses that are noticing this epidemic. Labor unions—some of the largest supporters of the law when it was originally drafted—have also weighed in on the matter. As was widely reported earlier this month, the leaders of three prominent labor unions sent a letter to the Democratic leaders in both the House and the Senate expressing their concerns about some of the unintended consequences of the "Affordable Care Act." One of their major concerns was that, in their own words:

The law creates an incentive for employers to keep employees' hours below 30 hours a week. Numerous employers have begun to cut workers' hours to avoid this obligation, and many of them are doing so openly. The impact is two-fold: fewer hours means less pay while also losing our current health benefits.

According to these union leaders, ObamaCare threatens to "destroy the foundation of the 40-hour work week that is the back bone of the American middle class." I could not agree more with that.

President Obama is apparently starting to feel some of this pressure. Indeed, despite his recent efforts to paint a rosy picture of the impact of the health care law, I think President Obama knows full well that the "Affordable Care Act" is not living up to its name. Why else would he decide to delay the implementation of the employer mandate, as he did earlier this month? Obviously, there are political considerations. The recently announced 1-year delay on the employer mandate conveniently puts the implementation of the mandate past the 2014 midterm elections, so from that perspective I guess it makes perfect sense.

Setting aside the politics, this delay also makes some sense in terms of policy. The epidemic of employers reducing workers' hours is taking a huge toll on the American workforce. Indeed, the policies established under the health law are killing jobs, reducing wages, and stagnating growth. That being the case, the bigger question is, Why is the President only delaying the employer mandate for a single year? Does he really believe these problems will simply go away if businesses have 1 additional year to prepare or is he just thinking to get to the next election and getting his people through who have voted for this?

Regardless of when this mandate goes into effect, it is going to send shock waves throughout the business community. It is going to eliminate jobs. It is going to weaken our recovery—weak though it is today. That is why, despite the announcement of the 1-year delay, employers throughout the country are refusing to reverse course when it comes to downsizing their workforces and limiting employees' hours. Most news reports surrounding this issue are showing that this is pre-

cisely the case. That is likely the case for the State of Virginia. It is definitely the case for my home State of Utah and Utah's Granite School District, just to mention one aspect of our problems in Utah.

If the President is serious about getting our economy back on track, he should work with Congress to ensure that this mandate never goes into effect. While we are at it, we should also permanently delay the individual mandate. For the life of me, I cannot see why President Obama would extend his limited lifeline to the business community and at the same time leave individuals and their families out in the cold. This is from a President who claims he is for the families and for the individuals and for the poor and for those who are middle class. They are being left out in the cold.

If businesses are currently facing enough difficulties to necessitate delaying the employer mandate, shouldn't we assume individuals are going to face similar difficulties complying with the individual mandate? Isn't it only fair that we extend the same benefits to individuals and families that are being offered to businesses and employers? Why not get that beyond the next year's election too? Not according to the Obama administration. As it stands today, American businesses will get a 1-year reprieve from the job-killing employer mandate—American businesses. But the American people are still squarely in the sights of ObamaCare, as the individual mandate for them remains in place. This is the height of unfairness. It needs to be rectified.

The House of Representatives for its part has acted responsibly. Two weeks ago the House passed two pieces of legislation—two pieces relating to ObamaCare. The first bill would simply codify President Obama's 1-year delay of the employer mandate. The second would provide similar relief to individuals and families struggling to comply with the individual mandate. Not surprisingly, President Obama has threatened to veto both bills—even the one that would simply put his own administration's policy into statutory form.

Still, that should not stop us in the Senate. If we are serious about helping the business community as well as individuals and families, we should work to delay permanently this catastrophic law. If President Obama wants to officially deny the American people the same type of relief he has given to the business community by not working with Congress, then so be it. The Senate needs to act responsibly. If the President is refusing to do the same, we ought to at least act responsibly.

Make no mistake—I do not think a 1-year delay on the employer and individual mandates is enough. We ought to get rid of them both. I am the author of two Senate bills that would repeal both of these egregious provisions of ObamaCare. In light of the President's recent recognition that the employer mandate should be delayed, I

have publicly called for a permanent delay of the implementation of the entire law.

Given what we know about the problems associated with ObamaCare and, quite frankly, given what we do not know, the sensible approach is to delay it permanently and to work together on reform that will actually lower health care costs—not just promise to do it but actually do it. I believe we can fix these problems for everyone, for employers and for individuals alike, but only if the law is permanently delayed to give us a chance to do so. It would give us a chance to be bipartisan for a change around here and work together for the good of this country. That is what makes sense. That is what fairness dictates. If we are serious about avoiding what even some of my Democratic colleagues have called a train wreck, that is the least we can do.

I am really concerned about our country. We have increased taxes \$1 trillion in ObamaCare. We have increased taxes \$600 billion in the fiscal cliff legislation. Last week the majority leader and others—the President, Senator SCHUMER, and others—called for almost \$1 trillion more in tax increases. It would be one thing if all of that money would go to reduce spending or if all of that money would go to balance our budget. But no, they are going to spend every dime of it. Here we are, headed toward problems that we have plenty of illustrative information on, problems like Greece has gone through and is going through and other countries as well that just are profligate when it comes to their economic wherewithal.

I like the President personally, but for the life of me, as bright as he is, I do not see why he does not see all of this.

I don't see why my colleagues on the other side don't see it—or should I say they ought to see it. They ought to know this is not what the American people want. They would like to have health care, there is no question, but this is going to diminish health care all over the country. We can see the high percentage of doctors who are giving up on Medicaid patients. They will not take them anymore. Only this week a high percentage of doctors are giving up on Medicare patients. They don't wish to take them anymore.

What is the administration's answer to all of these spending programs? They are going to cut the providers. Already the providers—the doctors, the hospitals, and the health care providers—are complaining they can't deliver the services that ObamaCare requires at the low-level costs that ObamaCare gives.

We have to come up with a better system. We have to work together. We can't keep going down this pathway.

I hope my friends on the other side will wake up and realize: Hey, this game is over.

We have to find some way to solve these problems because they are just

too large. They are going to wreck our country if we don't.

What is worse, they are going to hurt the health care of millions and millions of people who will not be able to afford it.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Republican whip.

Mr. CORNYN. Madam President, sitting here listening to the distinguished senior Senator from Utah Mr. HATCH, who in many ways I consider my mentor in the Senate, I couldn't help but reflect on what we were all doing on Christmas Eve at 7 o'clock in the morning of 2009.

We were on the floor of the Senate casting a historic vote on the President's Affordable Care Act, or ObamaCare. Sadly, that piece of legislation became a partisan exercise in power. All the Democrats voted for it and all the Republicans voted against it. It was an inauspicious way to start such an important part of reform of our health care system.

The President pretty well got what he wanted. The 2,700-page piece of legislation was made into law with \$1 trillion-plus tax increases, with promises that if you like what you have, you can keep it, and he promised that even families of four could see a reduction in their health care costs of roughly \$2,500 a year.

Whether you were against ObamaCare from the beginning, as I was, because you never believed it would actually work, or you were for it and you actually believed that it would perform as advertised and as promised, I think everyone has to now acknowledge it has not turned out the way that even some of its most ardent supporters had hoped it would.

The first indication, perhaps, was when the Secretary of Health and Human Services began to issue waivers, in excess of 1,000 waivers, from having to comply with the law itself. There were many questions about the basis upon which these waivers were issued. Were they given to friends of the administration and denied to adversaries of the administration?

This is what happens when you pass a sweeping piece of legislation such as this and then cherry-pick who it applies to and who it does not apply to. This started with the granting of waivers.

We found that most recently even the President of the United States has determined the employer mandate—the mandate on employers with more than 50 employees, that they provide this government-designed insurance policy or else they get fined—that even the President has acknowledged by his action that delaying the implementation of the employer mandate for a year is having a devastating effect on unemployment in America. The reason we know this is because many employers are simply shedding jobs so they can get beneath the 50-person threshold for the employer mandate or they are tak-

ing full-time jobs and making them into part-time jobs. This is causing a lot of people who wish to work and want to provide for their families—it is creating an inability for them to do so according to their needs.

We know the individual mandate—the House of Representatives has passed a piece of legislation that says: If you are going to delay the employer mandate for businesses, shouldn't you show the same consideration for individual Americans who, unless they buy this government-approved insurance, will have to pay a penalty? The President hasn't accepted that delay in the implementation of the law.

There is another important piece of legislation that I filed in the Senate that the House is also considering this week; that is, given the scandals associated with the Internal Revenue Service, the fact that clearly the IRS has more on its plate than it is capable of adequately performing, we ought to get the Internal Revenue Service out of the implementation of ObamaCare.

With everything else it has to do, especially given the scandals that are currently under investigation in both Houses of Congress, we ought to be delaying the implementation of that individual mandate. We ought to be delaying the implementation of the employer mandate. We ought to be cutting the IRS out of the implementation process for ObamaCare.

I confess, I voted against ObamaCare from the very beginning. I voted to repeal it every chance we could possibly have, and I voted to cosponsor legislation that would defund it.

I wish to echo some of the words of the distinguished senior Senator from Utah. At some point those of us who were against it from the very beginning, who would like to repeal it and defund it, have to work together with our colleagues—who perhaps hoped that it would actually work as advertised—realizing now that even organized labor is writing letters to us saying: Please protect us from the provisions of this law because it is hurting our jobs. It is making it impossible for to us keep the insurance we have.

We need to work together to try to come up with a solution at some point. As the distinguished ranking member and the distinguished Finance Committee chairman said: The implementation of ObamaCare is clearly becoming a train wreck. We don't want to visit the pain of that train wreck and that failure on the American people but provide them a reasonable alternative which will provide people access to high-quality care at a lower cost. There are plenty of great ideas out there.

#### THUD APPROPRIATIONS

I wish to turn to the appropriations bill that is pending before us. Last week, in one of the President's much publicized pivots, the President turned his attention back to the economy. Of course, most Americans don't have the luxury of pivoting to or from this sluggish economy, which is growing at the

most sluggish rate in the history of the American economy since the last depression, the Great Depression. The American people don't have a luxury of pivots. They have to live with this sluggish economy and high unemployment day after day.

We should welcome the President back to this conversation. He has talked a lot about middle-class families, who, as we all would agree, are the backbone of our country and a source of immeasurable strength. That said, the President hasn't been a member of the middle class for some time, and I think he, along with some of our colleagues, could use a refresher.

American families set their budgets, and they have to stick with them. In lean times they trim their budgets, and in times of plenty they set money aside for the future should they need it. Astonishingly, this basic principle seems to have been lost on both the President and the author of this legislation.

This bill, this underlying appropriations bill, takes the first step toward violating the Budget Control Act, which President Obama himself signed into law in 2011. That law sets very clear limits on spending levels, which the Democratic majority, by bringing this bill to the floor, has chosen to ignore.

They ignored it when they wrote their budget earlier this year, and they are ignoring it today with this proposed appropriations bill, which is 11 percent above the Budget Control Act numbers and 4 percent above the President's own proposed budget itself. That is \$54 billion. That is how much this bill would appropriate in discretionary spending and is more than \$5 billion above the current level of spending for this particular appropriations bill.

As I said, it is more than the President himself has requested. It is more than \$10 billion above the House bill which, unlike this bill, was written in accordance with the existing law.

I understand, as a negotiating tactic, why our Democratic friends might think highballing the House bill is a good negotiating tactic, but it is a total charade. It violates the Budget Control Act, and the American people simply will not go along with it.

The American people can't understand why Congress and the Federal Government are having such a difficult time doing with 2.4 percent less than we spent before the Budget Control Act went into place—2.4 percent. Yet here inside the beltway you will hear people talk about the so-called sequester and the Budget Control Act as if it were the end of the world.

It is not. It is called living within your means, and that is what we tried to do when the law was passed and when President Obama signed it. I think it is also telling that the majority leader, who basically controls the agenda on the Senate floor, chose to bring this particular bill to the floor before the August recess. We could have passed any one of a number of

other appropriations bills to fund our veterans hospitals or to pay our Border Patrol agents.

The House and Senate aren't very far apart on the appropriations bills that would do that. Conceivably, we could have had them on the President's desk by the end of this week. Instead, the majority leader would rather leave them in limbo while attempting to pass this bloated bill which has zero chance of becoming law.

My hope is that as we proceed through this next round of fiscal debate, our friends on the other side of the aisle would demonstrate a willingness to operate within the law and the Budget Control Act. Unfortunately, they are not off to a very good start with this particular appropriations bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. 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. DURBIN. I ask unanimous consent to speak as if in morning business.

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

#### FOR-PROFIT COLLEGES

Mr. DURBIN. Mr. President, Jennifer Kerr was a single mom who wanted to improve her family's future. In 2009, she signed up at Vatterott College. She thought that was the best way to improve her skills and training and do a better job for her family.

She went to the local campus. She told the admissions representative that she wanted to study to become a nurse. The admissions official told her that although the school did not offer a nursing degree, it did offer a medical assistant's degree that would allow her to earn \$15 to \$17 an hour and put her on a fast track to becoming a nurse.

After securing more than \$27,000 in loans and being in the program for more than a year, Jennifer Kerr learned she wasn't even enrolled in the medical assistant's program—she was in the preliminary medical office assistant's program. If she wanted to continue and pursue the medical assistant's degree, she would need another 30 weeks of study and another \$10,000 to be paid in tuition.

In a gutsy move, Jennifer Kerr sued Vatterott Education Centers for misleading her, even though there was a clause in her contract with the school that said if she ever sued the school and lost, she would be responsible for Vatterott's legal costs.

A jury in Missouri decided the school did deceive Jennifer Kerr and ordered the company to pay back the \$27,000 she borrowed for tuition and fees. The jury then ordered the company to pay Kerr an additional \$13 million in punitive damages. The punitive amount the

jury awarded far exceeded the maximum under Missouri law, but it showed the sympathy of the jury for situations like Jennifer Kerr's. She borrowed tens of thousands of dollars to earn a certificate—not even a degree—at a for-profit school that turned out to be virtually worthless.

After she left Vatterott, she tried for 6 months to find full-time employment. Earning her medical office assistant's diploma not only put her in debt, but it couldn't land her a job anywhere.

Taking away the court victory, Jennifer Kerr's story is common to an industry—the for-profit school industry—that frequently uses unscrupulous tactics to deceive people who are trying to get an education.

Some trade schools provide quality training for reasonable prices. I acknowledge that. But throughout the for-profit college industry, abuses are well documented. Admissions offices at for-profit schools are often a guise for aggressive sales operations targeting students from low-income families. They end up enrolling, with inflated expectations for their employment and salary prospects upon graduating from for-profit colleges.

Because 96 percent of the students who enroll in for-profit colleges take Federal student loans, nearly all the students who leave these for-profit schools have student debt even when they don't have a degree or a diploma that can lead to a job. Most for-profit colleges charge significantly more in tuition and expenses than similar programs at community colleges or even State universities.

In 2008 and 2009, more than 1 million students started at schools owned by for-profit companies that were examined in an investigation by Senator TOM HARKIN in the Senate HELP Committee. By mid-2010, 54 percent of those students who started at these for-profit schools had left school, without a degree or a certificate. Among associate degree students, 63 percent dropped out without a degree.

Vatterott made national news itself in 2009 and early 2010 when three of the top employees of this for-profit school in the Midwest, including Kevin Earl Woods, the former director of the Kansas City campus, pleaded guilty to a conspiracy to fraudulently obtain Federal student grants and loans for students who were ineligible for these loans.

The Senate HELP Committee looked at Vatterott in the course of Chairman HARKIN's investigation of the for-profit industry. What they found was discouraging. In 2009, 88 percent of the revenue going to this for-profit school was Federal money. Of the money it took in, Vatterott spent 12.5 percent on advertising and marketing and took out 19 percent of this Federal money in profit.

Here is another way to look at it: Vatterott, a for-profit school, spent \$2,400 per student on instruction in 2009, but it spent \$1,343 on marketing, and \$2,000 it took out in profit for each student.

In contrast, public and nonprofit schools generally spend a higher amount per student on actual instruction. By comparison, St. Louis Community College spent \$5,000 per student on instruction; Vatterott, \$2,400.

Jennifer attended the Vatterott campus in Independence, MO, which is now closed, but the company continues to operate a Kansas City campus. The default rate on loan repayment for students who attended Vatterott in Kansas City is 25 percent. One out of four students who went to this for-profit school defaults on their student loans. The national average is 15 percent.

Jennifer Kerr fought back and won, but the for-profit college industry won't be cleaned up in the courtroom. Not every student with a bad experience has a strong legal case. Most are victims of a system that allows unscrupulous schools to collect Federal loan and grant money from students regardless of outcomes, heaping debt on these students. Many of those students will carry that debt for a lifetime.

When the programs and the schools don't deliver and jobs don't materialize, the student gets the debt, the Federal Government bears the risk, and the school takes the money and runs. The for-profit sector took in \$31 billion in U.S. Department of Education money in 2011. About one-fourth of all the Federal aid went to these for-profit schools, even though they only enroll 12 percent of all the students coming out of high school.

I might add one other statistic. The for-profit schools account for 47 percent of all the student loan defaults in America—12 percent of the students, 25 percent of the Federal aid to education, 47 percent of the student loan defaults.

Federal U.S. Department of Education regulations state that schools that engage in substantial misrepresentation about a program, its fees, or its job placements can be denied Federal money, and yet Vatterott is not the first or the only school to substantially mislead these students.

Abuses in the for-profit college industry will continue until Congress steps up and does something. It is about time for us to establish some standards of accreditation that apply to all schools across the board. How can you expect a student or a student's family to know whether this school that is advertising on the Internet or in the buses or on the billboards is a real school or a phony operation to lure kids into debt, have them drop out or end up with a worthless diploma?

I have worked with my colleagues who feel as I do on this issue. Senators TOM HARKIN and JACK REED, among others, will continue to tell these stories here on the floor of the Senate in the hopes that when the Senate has its higher ed reauthorization bill we will finally tackle this for-profit school industry.

Last Congress, Senator TOM HARKIN joined me in introducing a bill that would include military education bene-

fits in the calculation that limits how much of a school's revenue is derived from Federal funding. Today I announced the VA and Defense appropriations bill for the next fiscal year. It was reported out of my subcommittee of the Senate Appropriations Committee. We called in the representatives of the major services and asked them what is going on with the training of our active servicemembers and their families. What they told us is more than half of those active servicemembers and their families are going to these same for-profit schools. Some are good. Most are awful.

These military men and women and their families are not only wasting their time, they are wasting a once-in-a-lifetime opportunity we give them for the proper training and education to prepare them to be even better in the military or to have success in civilian life. Because they are lured into these for-profit schools, they end up wasting their time, wasting their money, many of them deeply in debt.

Senator HAGAN of North Carolina has proposed banning schools for using Federal education dollars for marketing. She is right. Many for-profit schools literally take the Federal money to bombard students with messages that entice them to enroll, bringing the schools more Federal money.

I also want to take a look at the system of accreditation. Our current system provides a seal of approval for too many schools, many of them for-profit colleges, that is little more than a license to rake in the Federal dollars as opposed to truly educating and training students. I hope Jennifer Kerr's court victory can serve as a wake-up call to Congress so we can work together to correct the worst abuses of this system. On behalf of the taxpayers, we need to be better stewards of Federal education money. On behalf of the students, we have to improve a system that may or may not prepare them for a career and may or may not lead to a degree, but almost in every case leads to debt.

#### DIETARY SUPPLEMENTS

Mr. President, last week USA Today published an article that highlights the stories of people and families hurt by taking a dietary supplement containing the chemical DNP. It is a hazardous pesticide that was used as a weight-loss drug before 1938. Then the FDA declared it to be toxic for humans—in 1938, 75 years ago.

The article in USA Today featured Matt Cahill, a dietary supplement manufacturer with a high school education and no chemistry training, who illegally added this toxic pesticide, DNP, to exercise and weight-loss supplements. Some people who used his product suffered liver failure; some died. Cahill was arrested, criminally prosecuted, and served time in prison, but he is back selling dietary supplements that raise more health concerns.

The article in USA Today raises serious questions about whether we can do

better to protect the American public. Dietary supplements have become a common health aid in medicine cabinets. More than half of Americans use dietary supplements, and you may be one of them. Most supplement makers are ethical and responsible. I take a multivitamin every day and believe it is safe. But most people assume that supplements on the shelves in stores have been tested by the Federal Government. How could they get on the shelf without a test? Most people think, like drugs that are prescribed, these supplements are tested for safety and effectiveness. That is not true.

Unlike more traditional supplements such as calcium and vitamin C, there are now many new and complex supplements on the market promising to help people lose weight, find energy, bulk up, prevent disease—you name it. Consumers need to be careful. If a product is promising something too good to be true, they need to make sure the product and its ingredients are safe. We need to know the information on the label is not misleading. The FDA, the Federal Drug Administration, needs to know more about these products.

This week Senator RICHARD BLUMENTHAL of Connecticut and I are reintroducing the Dietary Supplement Labeling Act. Listen to what this bill would require. This bill would require more information on labels of dietary supplements and it would help ensure that the FDA has the information it needs if it turns out any of these products are dangerous.

Many people would be surprised to learn that the FDA does not know—does not even know—how many dietary supplements are being sold in this country. The USA Today article clearly states that when this Cahill character first sold his harmful dietary supplement tainted with DNP, he sold it on line. The FDA had no idea it was even on the market.

How does FDA learn when a product is on the market? People get sick and they die.

Another example is kava, a root whose extract people take to alleviate anxiety. But now that we know that kava is associated with severe liver damage and death, it would be useful for the FDA to have information readily available about the products on the market in America today containing kava. Our bill would require dietary supplement makers to give the FDA the name of each supplement they produce, along with a description of the product, a list of ingredients, and a copy of the label. Is that too much to ask? If you are going to sell this dietary supplement in stores across America, shouldn't the Food and Drug Administration at least have a copy of the label and ingredients? With this information, the FDA would know what products are on the market, what ingredients are in them, and be able to work with supplement manufacturers to address any problems.

This is a commonsense provision. It is supported by the Consumers Union



and already practiced by many responsible supplement makers. Let's ask all the companies to provide FDA this basic information.

In addition to asking manufacturers to tell the FDA when a product goes on the market, this bill would require more information on the label of these products. Some ingredients may be safe for the general population but not for kids or pregnant women or perhaps those who have a compromised health condition.

St. John's wort is used safely by many people, but it can cause serious side effects in people who have ADHD or people who are bipolar, or people who are undergoing surgery. Information like that should be clearly listed on the label. This bill would help to ensure the information necessary to make an informed decision by consumers.

We have all seen claims in supplement stores. I was in Olney train station Saturday night with my wife and went into one of these dietary supplement stores and the shelves were packed with all of these products claiming all of these things. Some of them promised they will boost your immunity, enhance your athletic performance or make you a better husband. This bill would give the FDA the authority to require the manufacturer to provide upon request the evidence to support claims such as "promotes weight loss."

Consumers should be skeptical of any product making big claims and they should take the time to learn if the product is safe and effective. But we need to give the FDA the authority to request evidence to support any claims made on these labels.

The bill would also help curb the growing practice of foods and beverages with potentially unsafe ingredients masquerading as dietary supplements by directing the FDA to establish a definition for "conventional foods."

I will challenge you, whether it is West Virginia or Illinois or Washington, DC, or your home State, go to the cash register at a gas station. What is the first thing you see next to the cash register? Energy supplements, those little red bottles. They are everywhere. Products such as energy drinks, the huge one in 24- and 32-ounce cans, and baked goods, such as Mellow Munchies brownies, that contain unapproved food additive melatonin are marketed as dietary supplements that are safe ways to get a boost of energy or to relax. In reality, they are foods and beverages taking advantage of the more relaxed regulatory standard for dietary supplements.

Here is a quiz. Did you know the Federal Drug Administration regulates a food product known as cola? You pick it, Pepsi, Coca-Cola, you name it. Did you know the Food and Drug Administration, in regulating that product, regulates how much caffeine they can put in each bottle? They do. But when it comes to the monster energy drinks.

And you ask what are the limitations on caffeine in monster energy drinks? None, nada.

A sad case here, recently, in Virginia, a girl, 15 or 16 years old, two 24-ounce high-powered energy drinks in a 24-hour period of time, and she died. She died from two energy drinks. Way too much caffeine for a person her age and her size.

I am working with Senator BLUMENTHAL to try to get the FDA to establish some standards here. These are not benign products. They are certainly not benign products for young people. If they are consumed in quantity, they are dangerous. People get sick and people die. I have had press conferences in Chicago with emergency room physicians. You would be shocked to know how many people show up having taken these energy drinks, consumed too much caffeine, and are worried they are about to die. That is a reality. It is time for us to establish some standards to protect consumers and families.

Most dietary supplements available today are safe and are used by millions of Americans as part of a healthy lifestyle. As I said, and will repeatedly, I take my fish oil, I take my multivitamin. I do not believe I should have to get a prescription to buy them. But we also need to recognize how the regulation of supplements can be improved to protect the public in America. In the USA article, a representative from the U.S. Antidoping Agency, a nonprofit designated by Congress to oversee testing of those who participate in the Olympics, said that companies like Matt Cahill's "... are not fringe players. These are mainstream dietary supplement companies and products that are in your mainstream health and nutrition stores. ... It's not there are a few bad actors. There are a lot of bad actors."

Ensuring the health of consumers from these bad actors will take cooperation from the responsible people in the dietary supplement industry, the Federal Drug Administration, and Congress in both political parties.

Senator BLUMENTHAL and I have put in a bill which includes commonsense steps to make sure risks for supplements are on the label, products are registered with the FDA, and manufacturers can be forced to back up their big claims. I look forward to working with my colleagues to enact that legislation.

I yield the floor and suggest the absence much a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

I also ask unanimous consent to speak as if in morning business and to be permitted to engage in a colloquy with my Republican colleagues.

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

The Senator from Oklahoma.

Mr. COBURN. Mr. President, reserving the right to object, and I don't intend to object, I would like to modify his unanimous consent request and ask that I be permitted to speak for 15 minutes after his colloquy.

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

OBAMACARE

Mr. LEE. Mr. President, I rise in support of parents, families, students, employees, taxpayers, and other hard-working Americans, who, as of January 1, 2014, will find themselves unfairly impacted by ObamaCare. ObamaCare is an ill-conceived, poorly crafted, and economically damaging piece of legislation.

We have known for some time now that ObamaCare would create a set of circumstances that would make health care unaffordable. It is unaffordable from several standpoints: No. 1, for the country and for the U.S. Government. The Congressional Budget Office, a nonpartisan entity, recently reported that this law is likely to cost the U.S. Government about \$1.8 trillion over the next 10 years. That is significantly more—some would say roughly double—than the initial estimates given to Congress when this law was passed.

This is an enormous amount of money. It is an especially enormous amount of money for a government that is now \$17 trillion in debt and is adding to that debt at a rate of about \$1 trillion every single year. It is not as though we have an overabundance of money within the Federal Government. It is not as though we can afford to take on newer, more expensive programs, such as this one, especially when they run pricetags that are substantially above and beyond what was presented to us.

It is also proving to be unaffordable for American families. There are a number of studies that have been conducted in recent months which tell us that premiums are going to become more expensive. The name of the law, of course, was the Patient Protection and Affordable Care Act. This implies, of course, this would protect patients and make health care more affordable, not less. What we found is that this is a misnomer. What we have found through the studies that have been released recently is that it is going to make health care less affordable for American families, not more affordable.

The interesting thing about these studies is that they are all over the map. We don't know exactly how much health care is going to cost us. We don't know exactly how much less affordable health care will become under the Affordable Care Act because there are so many uncertainties created by this law. The 2,700-page bill that became ObamaCare has been modified and will continue to be modified by countless pages—tens of thousands of pages of regulations.

This act has also been modified in significant ways on a couple of occasions, which we will get to in a minute. All of these modifications have created additional uncertainty that is a source of a lot of concern to a lot of Americans. What we do know is that it is likely to result in premium increases.

One study concluded that even on the low end, the increased premiums families would be paying in a small group premium context would go up between 13 and 23 percent, on average. Other studies—including one that was conducted in the State of Indiana—suggested that premiums would go up in that State by 72 percent for those with individual plans. I am told Maryland's biggest health insurance provider has proposed raising premiums for individual policies by an average of 25 percent next year.

In many instances, these numbers are even worse for young people. There are also numbers which suggest that there is a lot of uncertainty, and we truly don't know. It is almost impossible to know. An analysis of more than 30 studies has shown that premiums are likely to increase between 145 and 189 percent for young people seeking health insurance. In Utah, my State, there is a study suggesting that for young people seeking health insurance, their premiums are likely to increase between 56 and 90 percent with respect to individual policies.

This law is also bad for America's workers. Businesses are cutting hours, moving workers to part-time, and in many cases they are not hiring at all.

According to a recent U.S. Chamber of Commerce survey, 74 percent of businesses will fire employees or cut hours; 61 percent will not hire next year.

Daniel Kessler, who is a professor of law and business at Stanford University, has predicted that 30 to 40 million Americans will be directly harmed by ObamaCare through higher premiums, stiff penalties, cutbacks in hours, and job losses.

We have known for some time—as a result of these studies—that ObamaCare was going to make health care unaffordable. We now know it is also going to be fundamentally unfair. The President recently admitted the law is not ready for prime time. He admitted he is not ready to implement the law as it has been written. Because ObamaCare was so poorly crafted, he simply is not going to enforce it the way it was crafted. He is going to selectively enforce its provisions.

Most important, the President of the United States has said that while he is going to require hard-working Americans, individuals, to comply with the law's individual mandate. According to one recent study, only 12 percent of the American people actually support that provision today. However, he is going to implement and enforce that provision, but at least for the first year of the law's full effect next year, he will not be implementing or enforcing the employer mandate. So hard-working

Americans have to comply but big business does not have to comply.

This is significant because the law doesn't give the President of the United States the power to rewrite the law. The law sets forth a specific set of timelines, a specific set of deadlines that cause the law's various provisions to kick in. This did not give the President the authority or the discretion to decide which among the law's several provisions could be favored or disfavored by the President of the United States.

So we have hard-working Americans, individuals, and families on the hook, and we have big business being thrown a big bone. This is not fair. This is not something that is consistent with the rule of law. This is not something the American people ought to tolerate.

The Affordable Care Act, as it is called, will shatter not only our hard-earned health benefits, but in many instances it will destroy the foundation of the 40-hour workweek that has become the backbone of the American middle class. It will do all of this in a way that will contribute to or be part of a system of selective unfair enforcement.

The American people deserve better. The American people demand better. The American people deserve not to have this law implemented and enforced if, as the President of the United States has told us, it is not ready for prime time. Then it is not ready to be implemented.

I ask of my friend and colleague, the distinguished junior Senator from Florida, how he feels about this and how the people in the State of Florida feel about the selective implementation and enforcement of a law that Americans already knew would be unaffordable and a law they know will also be unfair.

The PRESIDING OFFICER. The Senator from Florida.

MR. RUBIO. Mr. President, I thank the Senator from Utah for organizing this effort.

Let me answer that question by coming up with a couple of things we can find consensus on. First of all, I think all of us agree the American middle class is one of the things that make us exceptional. All the countries in the world have rich people. Unfortunately, every country in the world has people who are struggling. But what has made America unique and different from all of these other countries is that we have a vibrant middle class. We have people who work hard, make enough money to own a home, take their kids on vacations, save for college expenses, and kind of fulfill many of their dreams.

I grew up in that environment. I tell people all the time I didn't have everything I wanted, but we always had everything we needed. Through hard work and sacrifice my parents became part of that great American middle class—working-class Americans who had the opportunity to give us the life they never had.

I think we can all agree the middle class is very important for America because it is one of the things that makes us exceptional, unique, and sets us apart from the rest of the world. Quite frankly, one of the reasons why people want to live here and love being in America is because it creates those opportunities.

What strengthens the middle class? We are having a debate about that in this country. Is it a bunch of government spending? Is it a bunch of government programs? Is it the Senators? Is it the President of the United States? The answer is no. What rationally makes the middle class possible and vibrant is jobs that pay middle-class salaries. What makes it possible is that we have jobs that pay that kind of money so people can join the middle class and give their kids a better life.

Where do those jobs come from? Do they come from the government? Do they come from the White House? Do they come from the Senate or from our laws? They don't. They come from a vibrant private economy that is creating those jobs. How those jobs are created is not that complicated. People have to start new businesses or grow a business that already exists. Those are the two primary ways in which middle-class jobs—in fact, most jobs—are created outside of government. That is the only place where we will find the kind of growth we need for a vibrant middle class. We should analyze every issue before this body through the lens of the middle class and through the lens of whether it makes it easier or harder for someone to start a business or grow an existing one.

Let's examine what the Senator from Utah just asked about ObamaCare in the context of what I just explained. The answer is that it is clear ObamaCare makes it harder for people to start a business or grow an existing business for a number of reasons the Senator has pointed out. No. 1, it has an incentive for businesses not to grow. It tells a business owner that if they have more than 50 full-time employees, they will have to meet a set of rules which will make it very expensive for them to start a business or grow an existing business.

The other thing it creates is a tremendous amount of uncertainty. It goes back to the point the Senator from Utah raised. These laws are being canceled on a whim. The President is deciding to enforce one part of it but not another part of it. That creates confusion.

Imagine if a person has a business and some money set aside to grow, that business owner doesn't know how much it is going to cost to grow. You know what they do? They don't grow the business. As a result, those jobs are not created.

How about the cost of that insurance, which is an issue the Senator from Utah talked about a moment ago. Yesterday in Florida the commissioner of insurance said that in the individual



marketplace in Florida next year—because of ObamaCare—rates are going up 30 to 40 percent. Ask yourself: Does that make it easier to start a new business or does it make it harder? Does it make it easier to grow an existing business or does it make it harder?

Think about the impact all of this uncertainty is going to have on middle-class workers. Add to that the following: Right now there is an incentive to have part-time workers. That is why we are reading everyday in the newspapers that company X is moving people from full-time to part-time. Companies are moving employees to less than 30 hours so they can avoid the penalties in this bill.

How about insurance? Let's say a person works somewhere that has insurance and they are happy with it. This law might require the employer to put that person on a new insurance or move that person to a government exchange, which means that doctor that worker has been dealing with for 10 years who knows their case history might not be their doctor next year because of ObamaCare. The result is we have a holding pattern.

Businesses in America, the people who create the middle-class jobs, are in a holding pattern and waiting to see which direction this goes, but they are all headed in a poor direction because of this.

So when the Senator from Utah talked about this and asked the question: What impact is the Senator hearing, that is what I am hearing. I am hearing that this law makes it harder for people to create jobs. This bill is going to make it harder on the middle-class jobs. It is going to make it harder for middle-class jobs to be created because it makes it harder to start a business and makes it harder to grow an existing business.

I imagine the Senator from Utah has heard similar concerns in his own State. The Senator from Texas has joined us, and he is from a State even larger than mine. I am sure he will share his input on what he is hearing from his home State and from people across the country.

I say to my colleague that is what I have been hearing from my constituents everywhere I have been going in Florida for the last 6 months.

Mr. INHOFE. Will the Senator yield for a unanimous consent request? I understand the Senator has the floor until 4:30 p.m.

Mr. President, I ask unanimous consent that I be recognized at 4:30 p.m.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, reserving the right to object, I understand the leader is going to make a request.

I wonder if the Senator would withhold his request for a couple of minutes.

Mr. INHOFE. Mr. President, I withdraw my request. I am willing to use time perhaps tomorrow.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, I see we have been joined by my friend and colleague, the Senator from Texas. I wish to ask him if his observations from his interactions with his constituents in Texas have been similar to those that have been shared today by the junior Senator from Florida.

Mr. CRUZ. Mr. President, I wish to thank the Senator from Utah for his leadership on this issue.

I am proud to stand with Senator LEE, Senator RUBIO, and with so many others. I can tell my colleagues that in the State of Texas, Texans overwhelmingly understand that ObamaCare isn't working, that this legislation is failing and it is hurting the American people.

When we look at jobs, there is no legislation currently in effect that is damaging the economy more or damaging jobs more than ObamaCare. In direct response to the law, 41 percent of small business owners have held off plans to hire new employees. Thirty-eight percent said they pulled back on plans to grow their businesses. The U.S. Chamber of Commerce reports that 71 percent of small businesses say ObamaCare makes it harder to hire workers.

Beyond that, one of the most pernicious aspects of this law is that it is forcing more and more employees to be moved to part-time employment, to be moved to working 29 hours a week or less to get out of the ObamaCare 30-hour threshold.

In 2013, employers have added more part-time employees, averaging 93,000 a month, seasonally adjusted, than full-time workers. And it is important to understand who it is that is moved to part-time work, who it is that is hurt by ObamaCare. It is the most vulnerable among us. It is not the CEOs. It is not the wealthy. It is young people, Hispanics, African Americans, single moms. According to the most recent census data, in 2011 the poverty rate for those who worked full-time was only 2.8 percent. The poverty rate for those working less than full-time year-round was 16.3 percent.

I am reminded of earlier this year when we were debating the issue of ObamaCare and I read from a newspaper article out of the State of Oklahoma that quoted a single mom who is working in a fast food restaurant. She and all of her coworkers had their hours forcibly reduced to 29 hours a week or less. This single mom said: I have two little kids at home. I can't feed my kids on 29 hours a week, and neither can the other single moms who are struggling to make ends meet.

Beyond the impact on jobs, on the economy, and beyond those being forced into part-time work, we also have the compliance costs. According to Federal agency estimates, ObamaCare will add paperwork burdens totaling nearly 190 million hours or more every year. To put that in perspective, Mount Rushmore, which took

14 years to build, could be constructed 1,547 times with the paperwork ObamaCare requires in 1 year.

Not only do we see jobs being hurt, the economy being hurt, workers being hurt, hours being reduced, paperwork going up, but we are seeing premiums going up—premiums going up far too high—and it is hitting those who are suffering the most.

On Monday, Florida's insurance commissioner told the Palm Beach Post that insurance rates will rise by 5 to 20 percent in the small-group market and by 30 to 40 percent in the individual market. As those who are at home in Florida watching what is happening, as they are seeing their insurance rates go up—they are going up because of the impact of this failed law.

The Ohio Department of Insurance announced that ObamaCare in Ohio will increase the individual market health premiums by 88 percent. If a person in Ohio right now is seeing their premiums go up, they can thank the men and women of the U.S. Congress.

According to the Wyman Firm, looking at young people, young people in particular are hurt by ObamaCare. The Wyman Firm estimates that 80 percent of Americans age 21 to 29 earning more than \$16,000 will pay more out-of-pocket for coverage under ObamaCare than they pay today. If young people at home are watching this today and wondering how they are going to get a job, how they are going to climb the economic ladder, how they are going to achieve the American dream, ObamaCare is driving up their health care premiums right now.

We all know that at the time ObamaCare was being debated, the President promised the American people: If you like your health care plan, you can keep it. The facts have conclusively proven that wrong. According to a February 2013 report by the Congressional Budget Office, 7 million people will lose their employer-sponsored insurance. McKinsey & Company, a very well-regarded consulting firm, found that 30 percent of employers will definitely or probably stop offering health insurance in the years after 2014.

This bill isn't working, and I would note there is growing bipartisan consensus on that front. As the facts have come in, the American people have kept an open mind, have looked at this bill, and have seen that as it is being implemented, it is not working, it is hurting the economy, and it is hurting jobs. According to an ABC-Washington Post poll, in 2010, 74 percent of moderate conservative Democrats—there are a significant number of Democrats who describe themselves as moderate or conservative—in 2010, 70 percent of them supported ObamaCare. Yet, in July, just 46 percent supported ObamaCare.

Not only that, we have seen the lead Senate author of ObamaCare—a senior Democrat in this body—describe ObamaCare as headed toward a “huge train wreck.” We have seen unions—

which initially supported ObamaCare—over and over turning as they realize the consequences. In April the United Union of Roofers, Waterproofers and Allied Workers called for “repeal or complete reform of the Affordable Care Act to protect our employers, our industry, and our most important assets, our members and their families.” If we listen to the voices of unions, unions are saying ObamaCare is failing; it is not working. The International Brotherhood of Electrical Workers released a white paper in July explaining that ObamaCare “threatens to harm our members by dismantling multiemployer health plans.” And then—really quite striking—James Hoffa, Jr., the president of the Teamsters Union, wrote a letter to HARRY REID and NANCY PELOSI stating that ObamaCare “will destroy the very health and well-being of our members along with millions of other hard-working Americans.” Why? Well, Mr. Hoffa explained that ObamaCare is destroying the 40-hour workweek that has been the backbone of the American middle class.

If we trust the voices of unions, if we have a concern for the American middle class, then listen to the bipartisan voices that are rising up saying that ObamaCare isn’t working.

Most strikingly, we have President Obama himself, who just a few weeks ago was forced to unilaterally and without legal authority delay implementation of ObamaCare for large corporations, for companies with more than 50 employees—he unilaterally moved the employer mandate until after the next election. I would suggest there are at least two things we can derive from President Obama’s decision to do that:

No. 1, if ObamaCare were a good thing, if it were working, we can be sure President Obama would want it to go into full effect before the next election. He would want to take credit with the American people for the benefits of this signature bill. The fact that the President was forced to concede that the wheels are coming off and to move the employer mandate until after the next election I would suggest is highly revealing.

No. 2, it raises the obvious followup question: Why is President Obama willing to grant a waiver for giant corporations but not for hard-working American families, not for the men and women who are struggling to make ends meet, who are climbing the economic ladder, who want, like their parents and grandparents before them, to achieve the American dream? ObamaCare is standing in their way.

So what are we to do about it? Well, the most important constitutional check and balance that Congress has on an overreaching Executive is the power of the purse. The Framers of the Constitution wisely gave authority over expenditures of money to the Congress, and that is why the Senator from Utah, the Senator from Florida, and I, among many others, are standing to-

gether and saying: This isn’t working, and Congress should defund it.

In 62 days the continuing resolution that funds the Federal Government will expire. Each of the three of us, along with a number of others, has publicly stated that under no circumstances will we support a continuing resolution that funds one penny of ObamaCare. If 41 Members of this body stand together and make that same statement or if 218 Members in the House of Representatives stand together and take that same position, we can do something different than we have seen this year.

Over the past couple of years we have seen 39, 40, 41 votes to repeal ObamaCare, all of which have been effectively symbolic because none of them had a real chance of passage. With the continuing resolution, we have a chance to successfully defund ObamaCare. Right now we don’t have the votes in this institution. If the vote were held today, we would not hold 41 Senators to defund ObamaCare. But we have 62 days until September 30, and every one of us takes very seriously our obligation to represent our constituents. If in the next 62 days we see what I believe we are going to see, which is the American people rising up en masse—hundreds of thousands, millions of Americans standing up and saying: It isn’t working, it is hurting our jobs, it is hurting our economy, it is hurting our health care, it is making our lives worse, and we need to defund it—if enough Americans speak out and demand of their elected officials that we do the right thing, I am confident we will. I am confident that Republicans will, and I am hopeful that Members of the Democratic Party will as well, that every one of us will.

I believe the American people should hold their elected officials accountable, and that most assuredly includes me. It includes all of us. We should be held accountable by our constituents. The American people know this bill isn’t working. There is bipartisan agreement on it. We have the potential in the next 62 days to show real leadership—not to give a speech, not to give a meaningless, symbolic vote, but, if we stand together, to actually defund it.

Let me make one final point. Those who disagree with the position that is being taken by Senator LEE and Senator RUBIO and me and say that taking this stand will mean Republicans will be blamed for a government shutdown, let me be clear on what I think should happen. I believe the House of Representatives should pass a continuing resolution to fund the entirety of the Federal Government except for ObamaCare and should explicitly prohibit further funding of ObamaCare and should adopt the legislation I have introduced as a condition to the continuing resolution.

Now, the next step. There will be partisan critics who immediately charge Republicans with threatening to shut down the government. I would suggest

that we then take the argument to the American people. The American people should decide. If there are Members of this body who are willing to shut down the Federal Government in order to force ObamaCare down the throats of the American people, in order to say President Obama will grant a waiver to giant corporations but not to hard-working American families, let’s take that argument to the American people because I think the American people want economic growth back. That should be our top priority. Nothing is killing jobs more. Nothing is hurting the American economy more than ObamaCare. There is bipartisan agreement on that.

I am hopeful that Members of this body will stand and lead. I thank the Senator from Utah for taking the lead on what I believe is the most important battle this Congress will confront.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, those of us who share this position feel strongly that it is indisputably, constitutionally the prerogative of the Congress to exercise the power of the purse. This means we don’t have to vote to fund something with which we fundamentally disagree.

Some have suggested that because this was passed by Congress 3 years ago, we somehow have an obligation to fund it. Well, I would remind my colleagues who might make that statement that the Congress as it existed then is not the same Congress as it exists today. That was two Congresses ago. The Congress that enacted that law was fundamentally changed in part because it enacted that law.

The law has not been popular. It has not been good to those who voted to enact it. Ever since the majority party in the House of Representatives changed hands after the 2010 election—due in large part to ObamaCare—there have been a lot of people who have suggested that the Republicans in Congress need to defund ObamaCare’s implementation and enforcement. For a variety of reasons, that has not happened.

We have continued to pass continuing resolutions with no restrictions on ObamaCare’s implementation and enforcement, at least as it relates to the ultimate implementation and enforcement of the exchanges, of the individual mandate, and so forth. Republicans have had reasons for doing this. Some of those reasons have included the statement to the effect that, well, the Supreme Court is going to knock it down. It will strike it down. It will invalidate ObamaCare because it is unconstitutional. Of course it is, and a majority of the Supreme Court concluded that it was unconstitutional as written. But the Supreme Court, rather than invalidating it, instead rewrote the law not just once but twice in order to save it. Some Republicans have also justified continuing to vote for funding

bills that contain ObamaCare implementation funding because they believed a Republican would be elected President in 2012 and would stop ObamaCare. Well, that did not happen either.

We have one last opportunity to defend the implementation of this law before these provisions I just mentioned kick in on January 1—one last opportunity—and that is in connection with our current spending bill, our current continuing resolution that is set to expire on September 30—just 62 days from right now.

So what we are saying is that if you agree with us, if you agree with the President that this law is not ready to be implemented as it was written, as it was enacted by Congress, if the President is not going to follow the law, then the American people should not have to fund it. If you do not like it, if you agree it is not ready, do not fund it. We can and we should and we must fund government but not ObamaCare.

So I would ask the Senator from Florida if these are sentiments that are consistent with what he has been thinking, sentiments that are consistent with what he has been hearing from his constituents in Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Mr. President, in response to the Senator from Utah, I would say I have because I think there is a pretty clear understanding growing every day, as evidenced by the Senator from Texas a moment ago, who went through all these groups out there, including labor unions that have now turned on ObamaCare because of what it means to their members. So it is increasingly established how much damage this law is doing.

The question I get, I say to the Senator from Utah, is, What can we do about it? There is almost this resignation by people that, well, what can we do about it? It is already in place. Is there anything we can do?

So I think there are three things we should be able to do, and I will summarize those fairly quickly.

The first thing we should do is not continue to double and triple down on these things.

I think both the Senator from Texas and the Senator from Utah grew up at the same time as I did, so they will remember something that a lot of the younger people here probably do not remember. There was a time when Coca-Cola came out with something called New Coke. It was a new Coca-Cola formula. After about 100-some years, they changed the formula of Coca-Cola and they came out with something called New Coke. It was a disaster. Everybody hated it. In fact, they hated it because—they said: If we want to drink something that has that kind of sweetener, there are other options on the market. We like old Coke.

What did Coca-Cola do when New Coke began to flounder? They did not say: Well, we are just going to continue

to make more of it. They backed away from it. They went back to the original formula. They learned from their mistake, and they did not double down. That is the way it is in the real world. That is the way it is in our lives, and that is the way it is in the private sector—but not government, not Washington. In Washington, if something is going wrong, here they double and triple down. It is like an invitation to move forward. We should not do that. That is the first thing I would say.

The second thing I would say is that we have to stop this from moving forward. The implications of this law are already being felt, but the regulations around this law—the mandates in this law, the fees and the costs and the new rate increases in this law, those things, you are only going to start to feel that right now. In the next few months you are going to really start to feel what this new law means to your life, to your business, to the place where you work.

Now is the time to act. People ask me: What can we do about it? Let me tell you what is probably not going to work in the short term. You are probably not going to get President Obama to sign a bill that repeals ObamaCare, and you are not going to get the votes in the Senate to do that. So these repeal votes—I will vote for every single one of them, but the problem is that our chances of getting that accomplished are probably minimal so long as President Obama is the President of the United States. So truly our last option is to stop paying for this thing. Why would we continue to pour billions and hundreds of millions of taxpayer dollars into a disaster? Why would we double down with your hard-earned money on a program that is going to hurt you?

We will have a chance to do that in September because in September, in order for the government to continue to function, we have to pass something called a short-term budget. I wish it were a permanent budget, but it is supposed to be a short-term budget. All we are saying is, in that short-term budget, fund the government, keep the lights on, pay the military, make sure Social Security checks go out. The only thing you should not do is you should not fund and pay for ObamaCare.

The pushback we get from that from some people is, well, that is crazy because that means you are willing to shut down the government over ObamaCare. That is not the way I see it. The way I see it is that if we pass a budget that pays for everything except for ObamaCare and the President says he will veto that, it is he who wants to shut down the government, it is he who is basically saying: I will shut down the government unless it pays for ObamaCare. That is an unreasonable position. It is unreasonable because this law is so bad. His own allies are coming to him and saying: Please stop this from moving forward. Well, we are

going to give you a chance, Mr. President, by refusing to fund it.

Here is my last point: To my colleagues in the Republican Party—I know every single one of the Senate Members here in the Republican Party is against ObamaCare—this is our last chance, our last best chance to do something about this. When this thing starts to kick in and starts to take root, it is going to be very difficult to undo major portions of this despite the damage it is going to create.

Now, I only speak for myself, although I think I can speak for the other two Senators who have joined me here today in this effort. I want to be able to go back to Florida, no matter how this thing turns out, and say to the men and women who sent me here in 2010: I did everything I could to keep this from happening to you.

When someone comes to me and says: I just got moved to part time because of ObamaCare, I want to be able to look them in the eye and say that I did everything I could.

When someone says to me: I just lost the insurance I was happy with; I now have this new insurance plan I am not that familiar with, and my doctor, whom I have had for 30 years, is not on that plan, I want to be able to say to them that I did everything I could.

When someone comes to me and says: I have a pretty successful business; I have set some money aside; I was going to open a new business or grow this one, but I am not because of ObamaCare, I want to be able to say that I did everything I could.

If we pass a budget in September that funds ObamaCare, you did not do everything you could. You paid for this. You doubled down on it in ways that will have irreparable harm to our economy and to our country.

This is our last best chance.

To those who say they are against ObamaCare, I believe you. But let me tell you something. If we are not willing to draw a line in the sand on this issue, then on what issue are we willing to draw a line in the sand? If we are not willing to go to the limit on this issue, then what issue is there? Is there an issue on which we are prepared to say: We will not move forward because of this? Is there an issue on which we are willing to do everything we can and lay it all on the line? Is there such an issue? And if it is not this one, which one is it?

That is the choice before us. I truly believe you cannot go back home and say you did everything you could to stop ObamaCare if you vote for a budget that funds it.

I would ask the Senator from Texas if he too shares those thoughts and those feelings?

The PRESIDING OFFICER. The Senator from Texas.

Mr. CRUZ. Mr. President, I do indeed share those thoughts and feelings and the obligation we owe to our constituents to honor our word and put action behind our words.

I would ask the Senator from Utah if he would yield for a series of three short questions?

Mr. LEE. Surely.

Mr. CRUZ. The first question is, There has been much talk of a shutdown. Am I correct that we do not have to hypothesize what a shutdown would look like, that we, in fact, saw that in 1995 with two temporary, partial shutdowns that occurred when Republicans in the House stood up to President Clinton?

When that occurred in 1995, we saw several things. No. 1, we saw that the parade of horrors that was brought out did not occur. Social Security checks continued to flow, the military continued to be funded, interest on the debt continued to be paid, planes did not fall out of the sky.

Indeed, what occurs—if Democrats decide to block a continuing resolution and force a temporary shutdown in order to force ObamaCare on the American people—is a partial, temporary shutdown where nonessential government services get suspended for a period of time, not a shutdown of essential services, such as paying for the men and women who are fighting in the military and providing Social Security checks. We have seen that in the past; is that correct?

Mr. LEE. That is correct. That is correct, and it is how it has happened in the past. This is not something we want. This is not something we have threatened. This is something we think can and should be avoided and we want to avoid. In the unfortunate, completely avoidable event that did happen, it would be largely as the Senator described it.

Mr. CRUZ. A second question I would ask is this: This week we saw the rather stunning news that the IRS employees union—the men and women at the IRS charged with enforcing ObamaCare are asking not to be made subject to ObamaCare. Indeed, the union leaders have said to their union members: Draft letters to send to Members of this body, saying that we, the IRS employees union, do not want to be subject to ObamaCare.

Likewise, ObamaCare subjects Members of this body and their staffs to ObamaCare. I am not aware of a single Senate office that is not deeply concerned about that, that is not facing the prospect of staff quitting the congressional offices because the arms of ObamaCare are so significant, and there have been many a panicked discussion among Democrats and Republicans about what to do about subjecting Members and their staff to ObamaCare.

My second question of three short questions is, What does it say to the Senator that the IRS employees union is asking: Let us out from ObamaCare, and that Members and congressional staff are deeply concerned about the harms ObamaCare is going to do to them?

Mr. LEE. Well, first of all, that tells me that those who are part of that

union do not want to be subject to the same provisions of the same law they will be enforcing.

What it also tells me in the bigger picture is that above all, this law creates uncertainty. That is why we see so much angst among people right here on Capitol Hill who are facing the very real prospect, the very real future in the next few months of going onto these exchanges because nobody knows what this is going to look like. Nobody has any idea.

One thing Americans really do not like, in this world of a lot of unavoidable uncertainties, is more uncertainties heaped upon them by dictate of the Federal Government. We have enough uncertainties in life. We do not know when somebody is going to get sick. We do not know when accidents are going to happen. So we should be able to avoid those things that government thrusts upon us.

This is one of the many reasons why there is so much angst within the IRS and within the ranks of the Capitol Hill workforce. People do not want to go onto these exchanges because they have absolutely no idea what this is going to look like.

Mr. CRUZ. My third brief question is, For those in this body who have campaigned at home, who have told their constituents they are opposed to ObamaCare, on January 1 the exchanges go up and running, the subsidies begin. And the history of the modern entitlement state is that anytime a subsidy has been put in place, it has proven to be politically virtually impossible to undo. Indeed, no major entitlement that has been implemented in modern times has ever been undone.

For those who say they oppose ObamaCare, what is the alternative to defunding ObamaCare with a continuing resolution? Let me ask it a separate way. If we do not defund it, am I correct that come January 1, Republicans will essentially be surrendering that in all likelihood ObamaCare will be a permanent feature of the economy, hurting the economy, hurting jobs, hurting low-income workers, hurting our health care system? And if that is correct, has any reasonable alternative been proffered by anyone on this side of the Senate to stop that harm other than what you and Senator RUBIO and I and others are trying to do?

Mr. LEE. Based on historical precedent, we have every reason to believe that once this new entitlement program kicks in, it is not going away. It is a one-way ratchet. You have death, taxes, and entitlements. Once created, they do not go away.

To answer the second part of that question, I am not aware of any plan among any Republicans—aside from this one; aside from the plan that says: Do not fund ObamaCare, fund government but not ObamaCare—that would address this issue. I am not aware of any plan. The only other plan I am

aware of would be one that says: Let's just wait and see what happens. Let's wait and see what a horrible disaster this will be. Let's wait and see how awful this will be for the American people, how utterly intolerable they will find it. And let's just hope that will provide enough political momentum for us perhaps to win elections at some unknown point in the future. This is not a good way to run a government. This is not a kind thing to do to an unsuspecting public who hopes and expects that we have their best interests at heart.

So to all those in this body who support ObamaCare, this argument might not be all that persuasive to you, although you ought to look at the fact that the President, who signed this into law, has said he himself is not ready, is not willing, is not able to enforce and implement the law evenhandedly as it was written. So maybe that ought to give you pause as to whether you should fund it.

But for those of you in this body who are, in fact, opposed to ObamaCare, I ask you: How can you oppose it, be against it, and yet fund it? So I would invite you to consider the possibility that what you are doing in thinking about funding it is not really where you want to go. Consider what might be said about this. Defund it or own it. If you fund it, you are for it.

This law was enacted without a meaningful opportunity for the Members voting on it to read it. It is 2,700 pages long. After it was enacted into law, it was rewritten a total of four times: twice by the Supreme Court of the United States, twice more by the President of the United States. The President's rewrite came just a few weeks ago, the Supreme Court's rewrite was over a year ago.

But what the President did was acknowledge that this law is not ready for prime time. This law is not ready to implement. This law is not one that he is willing to implement as written. He is going to implement and enforce it selectively, holding hard-working Americans, individuals and families to the fire, while throwing a big bone to big business.

This is not acceptable. This is un-American. This is not something that those of us who purport to be against ObamaCare can support by funding it. So I invite my colleagues to join me in this cause to vote to fund government but not ObamaCare.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, even though I disagree with my three friends, I appreciate their sincerity, their advocacy. They are all three very intelligent men, good Senators. But I am going to move on to another subject.

I ask unanimous consent that following Senator COBURN's remarks, which are 15 minutes as I understand it, that all postcloture time on Calendar No. 223 be yielded back, and the

Senate proceed to vote on confirmation of the nomination with no intervening action or debate; further that following disposition of Calendar No. 223, the Senate proceed to consider the following nominations en bloc: 224, 104, 102, and 103; further that there be 2 minutes of debate equally divided in the usual form prior to cloture votes on Calendar Nos. 224 and 104; that if cloture is invoked on the nominations, all postcloture time be yielded back and the Senate proceed to vote on confirmation of the nomination with no intervening action or debate; further that if Calendar Nos. 223, 224, and 104 are confirmed, the Senate proceed to vote with no intervening action or debate on Calendar No. 102 and 103, in that order; that if cloture is not invoked on Calendar Nos. 224 or 104, Calendar Nos. 102 and 103 be returned to the calendar; further, that if a nomination is confirmed, the motion to reconsider be considered made and laid on the table, with no intervening action or debate and no further motions be in order; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action; further, that upon confirmation of Calendar No. 103, the Senate resume legislative session and that all after the first vote be 10 minutes in duration.

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

UNANIMOUS CONSENT AGREEMENT—S. 1243

Mr. REID. Mr. President, finally one last unanimous consent. I ask unanimous consent that when the Senate resumes its consideration of S. 1243 on Wednesday, July 31, the pending amendments be set aside and Senator PAUL be recognized to offer amendment No. 1739; that there be 60 minutes of debate equally divided between the proponents and opponents; that upon the use or yielding back of that time, the Senate proceed to vote in relation to the Paul amendment; further, that no points of order or second-degree amendments be in order to the Paul amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. Reserving the right to object, I am not going to object, but I wanted to ask the majority leader, as you know, we have lost a great American, Ambassador Lindy Boggs. Senator BEGICH and I just wanted 10 minutes on the floor sometime today or tomorrow to honor her. Could we include that in some agreement for tomorrow?

Mr. REID. If we are not able to get it done today, we will do it in wrap-up tonight.

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

The Senator from Oklahoma.

THE AFFORDABLE CARE ACT

Mr. COBURN. Mr. President, I appreciate having the opportunity to talk about this subject. I also appreciate my colleagues. They are absolutely right in everything they said in terms of the effect of ObamaCare. I was here when

that debate took place. But there are two contentions on which I disagree with them. I thought I would voice them on the floor.

One is one of the quotes from the Senator from Texas: You can thank the men and women of the Congress for ObamaCare.

I would just say you can thank the Democrats for ObamaCare because there was not one Republican who voted for it. So it is not the Congress that did this; it is the President and his allies who created this mess that we are about to experience.

The other thing I disagree with is the fact that you can design a piece of legislation that will defund ObamaCare, because the vast majority of it is mandatory spending. So no matter what we did in terms of a continuing resolution, and according to the CRS—which I ask unanimous consent to have printed in the RECORD after I finish what I am talking about—all of the things would continue in terms of the implementation of the Affordable Care Act if we carried out the strategy that is outlined by my colleagues.

Now, their motivations are absolutely pure. I have never voted for a continuing resolution since I have been in the Senate. My American Conservative Union rating is 99 percent. I would love to defund it. I want somebody to show me a mechanism where we can do that because the vast majority of the money being spent today is mandatory spending that does not come under a spending bill associated with appropriations. It was passed by a law. So the only effective way to truly stop ObamaCare—and I think we ought to do it. To stop it would be to totally reverse it. We do not have the votes to do that, but we do have the votes to delay it.

When you go out and talk about the fact that they are not going to implement the employer mandate but implement the individual mandate, we can have a vote on that in the Senate. Then we can have our colleagues go home and say why they think it is fair to do that. We can actually add that.

The fact that they are not going to do a check on the claims for eligibility under the exchanges, 88 percent of Americans think that is wrong. Why do they think it is wrong? Because they know right now, with the earned-income tax credit, between 25 and 34 percent of it is fraud. On the child tax credit it is the same thing. They know exactly the same thing will happen when it comes to credits and payments in the exchanges.

They also know the Independent Payment Advisory Board is going to ration care for the vast majority of the Americans. We can have a vote on that again. A good portion of my colleagues on the other side would like to get rid of that. So we can have a strategic method of delaying ObamaCare by putting the votes up. But there is no way, according to the Congressional Research Service, that the vast majority

of funding can be stopped unless you totally reverse the whole bill.

As my colleague said, they did not think President Obama would sign that. So you would have to have 67 votes to let that happen. I spent hours on this floor trying to defeat the Affordable Care Act. Many of my colleagues on this side came around to other proposals, the Patient's Choice Act, which accomplished many of the same things without large government, without tremendous cost, and without the government getting in between a patient and their doctor.

I do have a little bit of experience on that side of the ledger in terms of caring for people for the last 25 years as a practicing physician. So I would think it would be important that we have a way. I do not disagree with the intent of what my colleagues want to do. I want to defund this bill, but I also want to do it in a way that kills it. There is not a legislative method that we have that is capable of defunding it short of 67 votes in the Senate, short of two-thirds votes in the U.S. House.

Now, can we put some riders on it to say you will not implement a certain section of it? Yes, as long as it is associated with discretionary spending. So what I would ask is that my colleagues look at what the Congressional Research Service has said and what the approach will be based on their analysis of a plan.

I believe the vast majority of Americans want us to get rid of this bill, this law. They want it reversed. There is a dissonance between what Americans want and what Congress is willing to give them, much as my colleague said. It is different. But to claim the fact—and I will be with them on not voting for a CR. However, it will not necessarily be for the same right reasons. There are good reasons. I think that is a terrible way to fund the government, but the fact is, there are a lot of ways that we can delay this bill and accomplish what we need to accomplish.

I don't think we can do the other. I don't believe we can accomplish that. So my colleagues will remember, it was actually 1996 when we had the government shutdown. Everybody was all for it until they were not. I voted against reopening the government. Had we held, much like our colleagues want us to hold today, we would not be \$17 trillion in debt. We would not have a budget deficit of \$800 billion this year. We would not be borrowing \$34,000 a second—a second—in this government.

But I also know human nature. The very people who say they will do things today, when it gets tough, do not do it. So I praise my colleagues for what they are trying to do. They are right in wanting to try to kill the Affordable Care Act: the costs, the lack of effectiveness, the long-term diminution of the doctor-patient relationship, government involved in every aspect of your health care.

To have a litmus test of, if I do not agree with the process then I do not

really want to defund the Affordable Care Act, that is not a claim that settles very well with me, especially spending the last 4 years trying to fight this bill. I would say that the administration is lawless in its implementation of this bill, the fact that they are going to pick and choose—regardless of what the law says, they are going to pick and choose what they will implement and what they will not.

I think it is unacceptable. I think it is unfair to the average American. It is certainly unfair to the middle class. It is certainly unfair to those people who are trying to get a job today and cannot get full-time employment. We had 334,000 part-time jobs created last year. At this time in the economy, we should be creating 800,000 full-time jobs a year.

They are correct in terms of what it is doing to job creation. They are correct in terms of the negatives that it is having on our economy. They are correct about every part of this except whether it will actually solve the problem. In contrast to that is what it is that we have done that we can talk about with the American people that has been positive? We have actually shrunk the size of the Federal Government. For the first time since 1995, the discredited spending of the Federal Government is going to decline—for the first time.

We ought to use the continuing resolution, in my mind, to accentuate that one positive thing, which is that the reach and impact of the Federal Government in everybody's lives should be downgraded, as well as with the Affordable Care Act.

There is no one perfect way to do this. There will be disagreements, but the fact is we have accomplished some great things with the Budget Control Act and with the sequester. What we need to do is improve on that.

When I first came to the Senate, the average individual's debt was \$23,000. It is at \$54,000 today. Every man, woman, and child in this country, if you are born today, by the time you are 20 years of age—if you count unfunded liabilities—you will be responsible for in excess of \$1 million of debt and unfunded liabilities.

Let me say that again. If you are born today, by the time you become a majority citizen, you will be responsible for debt and unfunded liabilities in excess of \$1 million. The Affordable Care Act adds to that, but it doesn't add much compared to everything else we have done.

We have to rein in this President. I agree. We need to rein in spending. We need to rein in the Affordable Care Act. If we could end it, I would be for ending it tomorrow. What we need to do is delay it to where we can get to the point where we can kill it. It does need to be terminated.

There are positive things we need to be doing. There is no question that we ought to make available, without discrimination, health care for people who

have preexisting illnesses. Those are positive things. We can do that. There are ways to do it other than the inefficient, ineffective way this bill does it. They weren't even ever considered for a vote when we had this. There wasn't any real debate on alternatives because we weren't allowed to offer them in the Senate.

My time has expired. I commend to my colleagues the CRS, Congressional Research Study, "Potential Effects of a Government Shutdown on Implementation of the Patient Protection and Affordable Care Act (ACA)."

I yield the floor.

The PRESIDING OFFICER. Under the previous order, all postcloture time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Kent Yoshiho Hirozawa, of New York, to be a Member of the National Labor Relations Board?

Mr. VITTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Ms. HEITKAMP) is necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from New Jersey (Mr. CHIESA).

Further, if present and voting, the Senator from New Jersey (Mr. CHIESA) would have voted "nay."

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

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 190 Ex.]

#### YEAS—54

Baldwin	Harkin	Murray
Baucus	Heinrich	Nelson
Begich	Hirono	Pryor
Bennet	Johnson (SD)	Reed
Blumenthal	Kaine	Reid
Boxer	King	Rockefeller
Brown	Klobuchar	Sanders
Cantwell	Landrieu	Schatz
Cardin	Leahy	Schumer
Carper	Levin	Shaheen
Casey	Manchin	Stabenow
Coons	Markey	Tester
Donnelly	McCaskill	Udall (CO)
Durbin	Menendez	Udall (NM)
Feinstein	Merkley	Warner
Franken	Mikulski	Warren
Gillibrand	Murkowski	Whitehouse
Hagan	Murphy	Wyden

#### NAYS—44

Alexander	Enzi	McConnell
Ayotte	Fischer	Moran
Barrasso	Flake	Paul
Blunt	Graham	Portman
Boozman	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Heller	Rubio
Coats	Hoeven	Scott
Coburn	Inhofe	Sessions
Cochran	Isakson	Shelby
Collins	Johanns	Thune
Corker	Johnson (WI)	Toomey
Cornyn	Kirk	Vitter
Crapo	Lee	Wicker
Cruz	McCain	

NOT VOTING—2

Chiesa

Heitkamp

The nomination was confirmed.

NOMINATION OF NANCY JEAN SCHIFFER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

NOMINATION OF MARK GASTON PEARCE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

NOMINATION OF HARRY I. JOHNSON III, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

NOMINATION OF PHILIP ANDREW MISCIMARRA, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consider the following nominations en bloc, which the clerk will report.

The bill clerk read as follows:

Nancy Jean Schiffer, of Maryland, to be a Member of the National Labor Relations Board.

Mark Gaston Pearce, of New York, to be a Member of the National Labor Relations Board.

Harry I. Johnson III, of Illinois, to be a Member of the National Labor Relations Board.

Philip Andrew Miscimarra, of Illinois, to be a Member of the National Labor Relations Board.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Nancy Jean Schiffer, of Maryland, to be a Member of the National Labor Relations Board.

Harry Reid, Tom Harkin, Jack Reed, Sheldon Whitehouse, Christopher A. Coons, Robert P. Casey, Jr., Benjamin L. Cardin, Patrick J. Leahy, Joe Manchin III, Elizabeth Warren, Debbie Stabenow, Carl Levin, Angus S. King, Jr., Charles E. Schumer, Richard J. Durbin, Amy Klobuchar, Richard Blumenthal.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate divided in the usual form prior to a vote on the motion to invoke cloture.