

Mr. HATCH. I object.

The PRESIDING OFFICER. Objection is noted.

The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague. We are good friends and I know his heart is in the right place. I would just make a couple of quick points before I get into a little bit of the substance, and I will be brief.

The reason this extender has special weight and deserves being brought up today is the following: Most of the tax extenders—and I certainly support a large number of them—can be put into law retroactively with little harm done. Since most of them affect people's tax returns in 2015 if the law is changed, say, January or February of 2014, it doesn't affect this because the tax deduction would actually be filed before April 2015.

The one problem with the mass transit benefit is it is much harder to make retroactive. People try and we tried last year. We did it retroactively. But since the benefit goes each month to the commuter from his or her employer, retroactivity doesn't work quite as well.

That is why I felt it was important to try to get this passed now, so perhaps when the House returned immediately—there is good bipartisan support for this in the House support as well—they might enact it and we would not have to wait for the Finance Committee to go through a large number of other tax extenders hearings and whatever, because the longer it is retroactive, the harder it is.

I certainly appreciate my colleague's objection. I am going to fight very hard to try to get this done in January when we return. I would just make these following points about the benefit.

It is a win-win. It is a win for our mass transit commuters because then they get the same benefit—no more, no less—than those who drive to work and park. It was an anomaly in the law, pointed out by my late colleague, friend, and mentor, Senator Moynihan, that it was unfair to give people who drive their cars to work double the tax benefit of mass transit commuters. It is only fair to make them equal.

Right now, the law will raise the parking-driving benefit—those who drive to work—at the rate of inflation to \$250. That is a good thing and I am all for that. But if the law is not renewed before December 31, the mass transit benefit, which I have worked hard to make equal to the park-and-drive benefit, will revert back to \$130 a month, which is a lot less and unfair.

The second benefit is to people who drive. You say why would they benefit? They are getting theirs. The bottom line is, for every person who takes mass transit and doesn't take his or her car to work, that reduces congestion on the roads. So even if you never want to ride the train or the bus to work, you should be for this.

Finally, I would say the following: It benefits our environment. We all know

that mass transit pollutes the air a lot less than people driving individual cars. In many places it is not possible to use mass transit, but in more and more parts of the country it is and we ought to be encouraging that. To have this benefit expire is bad, bad for people who take mass transit. Obviously there are a lot of them in my State—700,000—who get this benefit. It is bad for those who drive and bad for the clean air that we wish to breathe.

I will continue my quest because I think it is only fair and only right and it is good for all of America. As my colleague noted, it is a tax break. We generally can find more agreement on tax breaks than many other issues—fiscal and tax issues in this Congress. I will continue my quest to have this renewed as soon as possible, and I think it is not unfair to do it ahead of the other tax breaks because of the unique way that this benefit functions and how it is harder—not impossible but harder to enact retroactively.

Mr. President, I wish you, the entire staff who has done a great job here through the year, and all of my colleagues as well as those here in the gallery, a merry Christmas, a happy new year—not least of whom is my good friend and colleague from Utah who I know has a big and happy family. I wish them a merry Christmas and a happy new year as well.

I yield the floor, I guess with just about almost certainty for the last time in 2013.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate my colleague from New York. He is a great Senator. I understand his concern here, but we ought to do this in accordance with regular order, especially on the Finance Committee, to get to where we work on these matters and get them done in an exigent and good way, and I will certainly try to work with my colleague throughout this process.

Mr. President, I also would like to wish everybody who serves in this body a merry Christmas and a happy new year. This is a wonderful time of the year. We all feel pretty good today, having finally gotten through most of the work that we needed to get through.

Mr. SCHUMER. I thank my colleague.

OBAMACARE

Mr. HATCH. Mr. President, I rise today to discuss the debacle that is the so-called Affordable Care Act. I don't think there is anyone in this Chamber, Republican or Democrat, who would dispute that thus far the implementation of this law has been a disaster, particularly with regard to the healthcare.gov Web site and the President's promise that "if you like your health care plan, you can keep it."

The administration has admitted that it bungled the rollout and has

tried to cover up for what PolitiFact dubbed "the lie of the year," by passing the buck to States and insurers as to whether individuals would be able to keep their plans for the next year.

Let's be clear about this. ObamaCare's problems are deeply rooted in its DNA, and they are far larger, far bigger than just a Web site. Is the Web site causing the cost of health insurance premiums to go up dramatically? Is the Web site causing businesses to force more and more employees to work part-time? Is the Web site sending out cancellation notices to patients and consumers, telling them that their health care plans are no longer available? Of course not. Yet as the functionality of the Web site continues to improve, the administration is starting to talk as if every problem with the law has been fixed and that all the other issues are going to simply dissolve.

We know that is not the case. In reality the problems with ObamaCare are only beginning. I would like to take a few minutes to discuss some of the problems we are going to be seeing in the future as the President's health law continues to be implemented. I have to say that when it comes to ObamaCare, it is a little difficult to make predictions. That is because the administration has gone to great lengths to muddy the waters with delayed deadlines and unilateral policy changes. However, I think we can look through the opaque waters and identify at least six general areas where we can expect to see major problems in the coming months. These are six areas among many, but these are six I want to talk about today.

No. 1, we are going to continue to see problems with the implementation of ObamaCare. Like I said, there have undoubtedly been improvements to the Web site. They should be able to resolve that problem. It is a technical problem. It is a shame it was not resolved to begin with. It is a shame that enough time wasn't given to resolve it, but there still are issues that are far from resolved besides that.

Let's just look at the enrollment in the exchanges to see how things are going. As of November 30, roughly 365,000 individuals enrolled in health insurance coverage through the State and Federal exchanges. That is a small improvement from the numbers that we saw at the end of October but still far short of the benchmarks that the Department of Health and Human Services had set for enrollment in the exchanges. Originally, HHS touted a goal of enrolling 7 million people in the exchanges by March of 2014. According to a memo obtained by the Associated Press, HHS projected that on the way to reaching that goal of 7 million enrollees, they would enroll roughly half a million people in the first month. Yet after 2 months they were still more than 100,000 people short of that one-month benchmark, which is not a high benchmark in my opinion.

The same memo projected that they would have 3.3 million enrollees by the end of 2013. Yet, if they are going to reach that goal, they will have to enroll nearly 10 times as many people as they have enrolled so far in just the next week and a half.

Sure, many of these enrollment problems are due to a poorly designed and poorly executed Web site, but even with the Web site's improvements, it would take a substantial miracle for the administration to meet its enrollment goals for the coming months.

There are other significant problems to be concerned about, most notably those associated with the premium subsidy program administered by the IRS.

Earlier this month the Treasury Inspector General for Tax Administration issued a report that found that the IRS has an inadequate system in place for preventing fraudulent premium subsidy payments from occurring and that people's personal information will likely be at risk. That is the Inspector General for Tax Administration. That is not Republicans. There are real questions as to whether the IRS can effectively verify the income of those applying for these subsidies. I have also raised the concern on a number of occasions.

Similar tax subsidy programs, including, for example, the Earned Income Tax Credit, EITC, that are paid out before they are verified, have improper payment rates as high as 25 percent. Think of that.

If we see the same improper payment rate on these ObamaCare subsidies as we do on the EITC, it will end up costing taxpayers hundreds of billions of dollars over the next 10 years. As I have said in the past, the ObamaCare premium subsidies with the lack of security and safeguards are a fraudster's dream. We have warned the administration, and I personally warned the administration.

The administration may claim that with the recent improvement to the healthcare.gov Web site all is now right with the world. However, as you can see, there are a number of administrative problems that, even with a functional Web site, have yet to be resolved.

No. 2, Americans will be left without coverage due to the problems with ObamaCare. As a result of the dismal rollout of ObamaCare, many Americans, particularly those who have tried to enroll in the exchanges, could very well end up being uninsured for a time. Maybe a significant time.

Last week an article appeared in the Washington Post that told the stories of people had were forced out of their existing health plans due to ObamaCare's coverage mandates but are unable to sign up for the new plans on the exchange due to the failings of the Web site. The deadline for signing up for coverage that starts on January 1, 2014, is December 23, 2013. Anyone who has been kicked off their plan who

is unable to sign up before that date, which is just a few days away, will find themselves facing a gap in medical coverage.

For the chronically ill or for people with expensive medical conditions, this gap in coverage will be particularly acute. These people are, according to the Washington Post, "ObamaCare's biggest losers." Yet, ostensibly, these are the very people that this law was enacted for and supposed to help.

Another reason countless Americans may end up seeing gaps in coverage is simply because they will be unable to navigate the ever-changing landscape that is ObamaCare's dates and deadlines. Due to the failures of the rollout, the administration has delayed or shifted virtually every deadline associated with obtaining and paying for coverage. For example, like I said, the deadline for enrolling in insurance coverage that starts on January 1 is December 23, just a few days away. The deadline for actually getting the first premium payment to insurers is December 31. Both of these dates have been moved at least once already and could be moved again. They probably will be. On top of that, the administration has issued statements "encouraging" insurers to extend their own deadlines for payment and enrollment.

This is on top of the delays in the employer mandate, the SHOP exchanges, and the countless other provisions we have seen delayed or extended over the past year.

People are bound to be confused by all of these changes. It is nearly impossible for anyone, let alone those with serious medical conditions, to keep track of the ever-changing deadlines the administration keeps issuing. With no clarity as to when people should sign up and who they should pay and when, it is a virtual certainty that many consumers will find themselves uncovered for a period of time through no fault of their own.

The administration added to all of this uncertainty last night with the announcement it was going to allow people with canceled insurance plans to either buy catastrophic plans or avoid the requirement that they buy health insurance altogether. It has been less than a full day, and already this decision is causing confusion among insurers. It will almost certainly do the same for consumers.

It seems the Obama administration is making all of this up as they go along. Undoubtedly, many people will suffer the consequences of this ineptitude. The administration should be ashamed of the way this is bollixed up and messed up, and it is just going to get worse.

No. 3, there will continue to be spikes in premiums and other costs. We have already seen what is happening to the price of insurance in the individual market. Thanks to ObamaCare, millions of people have already lost their existing health insurance and have found that their options on the ex-

changes come with much higher premiums. This sticker shock has been widely reported. But that is not the end of the crisis problem.

Unfortunately, many people are also finding that their out-of-pocket costs will be dramatically increased thanks to higher copayments and prescription drug costs, included in plans on the exchanges. In many cases, it is difficult for patients to determine which medications are covered on the ObamaCare plans.

Unlike in Medicare Part D, the ObamaCare Web site does not have a plan finder that would enable consumers to search for plans based on coverage. These new costs are particularly high when compared with the insurance plans that were recently canceled.

But it is not just happening in the individual market. These price spikes are also hitting people with employer-provided insurance. According to a recent poll by the Associated Press, nearly half of Americans with job-based or other private insurance say their policies will be changing next year, mostly for the worse. So 69 percent say that the cost of their insurance will be going up; 59 percent say their annual deductibles or copayments are increasing. The Affordable Care Act did little to reign in the actual cost of health care.

When you add in the costs associated with the law's mandates and regulations, costs are going up, particularly for small businesses, our main job creators.

A recent survey of small business owners by the National Federation of Independent Business confirmed that this is already starting to happen. In the survey, 64 percent of small businesses reported that they paid more for employee health insurance premiums in 2013 than they did in 2012. Small business owners consistently cite the rising cost of health care as their top business concern.

This brings us to the next obvious prediction, No. 4. Millions of people will lose their existing employer-provided health insurance. Once again, we are all too familiar with President Obama's infamous promise, "If you like your health care plan, you can keep it," but little has been said about the threats ObamaCare's mandates pose to people who get their health insurance from their employers.

Put simply, the health law was designed specifically to invalidate existing health care plans—those deemed inadequate by the drafters of the law—in order to force people into more expensive plans with expanded coverage they don't necessarily want or need. This applies to both individual market plans and employer-provided plans alike. The administration's own estimates, published in the Federal Register, predicted that tens of millions of Americans with employer-sponsored—keep in mind, employer-sponsored—insurance will see their plans invalidated by the

so-called Affordable Care Act's mandates and regulations.

According to a recent analysis by the American Enterprise Institute, as many as 50 to 100 million insurance policies in the employer-provided insurance market will see their plans canceled next fall when all business plans must be fully compliant with ObamaCare's insurance mandates. At that point businesses will have to face a difficult choice: Offer a more expensive health care plan to their employees or send employees into the exchanges. As we have already seen, that is not a great place to be.

No. 5, health insurers will either leave the market or face bankruptcy. One of the foundational assumptions made by the drafters of the Affordable Care Act was that the costs to insurers of providing vastly expanded coverage would be offset when more young and healthy patients are brought into the risk pools. Indeed, this is almost the entire basis for the individual mandate. The problem is that so far this doesn't seem to be happening, and I doubt it ever will. There is good reason to question whether it ever will. With the ever-increasing cost of insurance as a direct result of ObamaCare, there will likely be many who opt to stay out of the market altogether.

There is ample data right now to support this conclusion. For example, in a poll released earlier this month from the Harvard Institute of Politics, those in the millennial generation—the very people whom proponents of ObamaCare desperately need to add to the insurance pool—were shown to be highly skeptical of the law. In the poll, a majority of 18- to 29-year-olds disapproved of the Affordable Care Act and said it will increase their personal health care costs. Only 18 percent of respondents in that age group said they thought the law would improve their health care.

Clearly, the authors of ObamaCare thought that the individual mandate, along with the strong sense of civic duty, would coerce people into acting against their own interests and paying expanded costs for coverage they don't necessarily want or need; however, in the real world where people weigh costs and benefits before making a decision, millions of people are more likely to pay a fine instead of entering a skewed and unstable insurance market where costs are forever going up. A lot of these young people will not even pay the fine because there is no penalty for not doing so.

Without a greatly expanded risk pool of younger and healthier consumers, it is not going to be worth it for many insurers to stay in the market. Those insurers who do stay and try to stick it out will do so at greater risk to their financial future.

Insurers are not the only ones facing a dismal economic outlook as a result of ObamaCare, which brings me to my final prediction. Remember, I am just limiting it to six today. I will have more later.

No. 6, ObamaCare will continue to be a drag on business and our overall economy. It isn't just patients and consumers who are suffering under ObamaCare; employers are also facing difficulties as a direct result of ObamaCare. As I have discussed here on the floor at length in anticipation of the employer mandate, businesses all across the country have either reduced employment or have stopped hiring. Workers who had full-time jobs before the passage of ObamaCare are finding themselves moved into part-time work because under the law employers will be forced to provide coverage for full-time workers.

Even the unions, which were among the largest and biggest supporters of the health law when it was being debated in Congress, have come out and said the law is destroying the 40-hour workweek for American workers.

Last week the National Association of Manufacturers released its quarterly survey of its members which showed overwhelmingly that the President's health care law is having a negative impact on the manufacturing sector. According to that survey, more than 20 percent of manufacturers have cut or decelerated their business investment as a result of ObamaCare. Nearly one-quarter of them have either reduced employment or ceased hiring. Roughly one-third of them say they have reduced their business outlook for 2014 as a result of the so-called Affordable Care Act. And more than 77 percent—nearly 8 in 10—of manufacturers cited rising health insurance costs as a primary business challenge.

In other words, at a time when our economy is growing at a sluggish pace and job growth remains lackluster, the President and Democrats in Congress continue to support a health care law that is making America a much more difficult place to do business and to find and keep a job. It is only going to get worse as this wears on. These are just some of the problems we are going to see in the coming months as a direct result of ObamaCare, and they are not going to go away so long as the Affordable Care Act remains in place.

As I see it, with 2013 coming to a close, the President and his allies here in Congress are at a crossroads. As I see it, they have two choices: They can continue to double down on the same failed policy that is increasing the cost of health insurance in this country and causing millions of people to lose their existing coverage and will continue to wreak havoc well into the future or they can, for once, try to work with Republicans on replacing this failure with something that has a real chance of success. I hope that eventually my colleagues will choose the latter, but needless to say I don't think I can keep my hopes up.

Last but not least, I hope this is not leading to a throwing of the hands in the air, admitting this doesn't work, and then saying we have to go to so-called medicine, or what many call a

single-payer system. If we do that, I have to tell you, we will never get out from under this mess.

We had a system that was working pretty well. There were up to 30 million people who did not have coverage. Why didn't we just concentrate governmentally on helping the 30 million people rather than doing this colossally bad bill that we are all going to rue the day we did? I am so concerned about it.

There are ways we can work together. I really believe we have to find some folks on the other side of the aisle who really understand this and who really understand that they are getting killed by this bill. Hopefully, we can find some folks who will sit down and work with people like myself. I have been instrumental in an awful lot of health care legislation over the last 37 years. Hopefully, we can work together in order to get this terrible problem resolved. I am concerned about it.

Health care should never have been a partisan issue, and in this case it is a totally partisan issue. Every Democrat in the House and Senate voted for it. Not a single Republican in the House or Senate voted for it. We all voted against it, knowing in advance that it would be a disaster. Frankly, I would like to get rid of the disaster, and I hope we can find some colleagues on the other side who will be willing to work to do that.

I hope the President will wake up. I think he thinks he is going to double down and fight for this, when, in fact, it is killing his reputation and the Democratic Party's reputation as well.

We clearly can't keep going the way we are.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. 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. GRAHAM. I ask unanimous consent to be able to engage the Senator from New Hampshire in a colloquy for about 20 minutes. I would appreciate it if the Presiding Officer would let us know when the 20 minutes has expired. I would like to discuss the military retiree position and the budget with Senator AYOTTE when she gets here.

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

MILITARY RETIREMENT

Mr. GRAHAM. The Presiding Officer is from Virginia, and I know he understands military men and women very well. It is a very patriotic State when it comes to their military footprint. I am confident that he and I—and others—will be able to fix the problem that occurred in the budget agreement.