that the order for the quorum call be rescinded.

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

## HONORING OUR ARMED FORCES

### PRIVATE CHARLES HIGH

Mr. UDALL of New Mexico. Since the wars in Iraq and Afghanistan began nearly 9 years ago, 72 service members with New Mexico ties have lost their lives while defending our Nation and the freedoms we hold dear.

Seventy-two. They were brothers and fathers and husbands and sons and friends. Each was irreplaceable to his family. Each had a different story. Today, I rise to tell the story of one of those men.

U.S. Army PVT Charles High was 21 years old, a son of the city of Albuquerque who attended Eldorado High School.

Known as ''Charlie'' to his friends, he played the viola in his high school orchestra. He ran track. And he taught himself how to play guitar.

Charlie's dad says he always knew that his son would join the military. He signed up for Junior ROTC when he was 14, and his dad said he was hooked. He went on to join the Army in June of 2007 and was stationed at Fort Campbell in Kentucky as part of the elite 101st Airborne Division.

His tour in Afghanistan was his second overseas. He served his first tour in 2008 in Iraq.

Charlie was killed last month when an IED detonated near his vehicle, which was patrolling in Afghanistan's Kunar Province.

He leaves behind his dad Charles, his mom Kimberlea Johnson of Illinois, his fiancée Maggie Jo Simmonds, four siblings, his grandparents and great-grandmother, and dozens of other family members and friends.

A month before he was killed, Charlie had gone home to Albuquerque for a visit with friends and family. Here is what his Dad said when asked about his son's death:

> I would say he's a true American hero. He fought and died for his country. He died doing what he wanted to do. I hate to see him go so young, but he was quite a young man all the way around. When he was home, we could see how much he had grown.

Charlie's impact on all who knew him was evident in the messages of condolence left for his family after his death.

''He was a great friend and example,'' read one.

''You never gave up and never surrendered,'' said another.

''He gave his life for freedom.''

''He is a hero to us all.''

Private High: you truly are a ''hero to us all.'' You are forever in our hearts, and we are forever in your debt.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. I ask unanimous consent that the order for the quorum call be rescinded.

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## CONGRESSIONAL DISAPPROVAL OF RULE RELATING TO GRANDFATHERED HEALTH PLAN—MOTION TO PROCEED

Mr. ENZI. Mr. President, I move to proceed to S.J. Res. 39.

The PRESIDING OFFICER. There will be 2 hours of debate equally divided.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, the resolution we are debating today is about keeping a promise. The authors of the new health care law promised the American people that if they liked their current health insurance, they could keep it. On at least 47 separate occasions, President Obama promised: ''If you like what you have, you can keep it.''

Unfortunately, the Obama administration has broken that promise. Earlier this year, the administration published a regulation that will fundamentally change the health insurance plans of millions of Americans. The reality of this new regulation is, if you like what you have, you can't keep it. The new regulation implemented the grandfathered health plan section of the new health care law. It specified how existing health plans could avoid the most onerous new rules and redtape included in the 2,700 pages of the new health care law.

This provision was a critical part of the new law. It allowed supporters to argue that current health insurance plans would be exempt from all of the rules and regulations created by the new law. Employers and health plans were told that the grandfathered protections would mean if you have coverage on the day the law passed, you could keep that coverage without having to make any major changes.

Employers and employees thought the bill would have cost-cutting measures, but now they find only cost increases. The new law will provide no relief to increasing costs until at least 2014. But this rule and its higher costs kick in now. Unfortunately, the regulation writers at the Departments of Treasury, Labor, and Health and Human Services broke all those promises. The regulation is crystal clear. Most businesses—the administration estimates between 39 and 69 percent—will not be able to keep the coverage they have.

Under the new regulation, once a business loses grandfathered status, they will have to comply with all of the new mandates in the law. This means these businesses will have to change their current plans and purchase more expensive ones that meet all of the new Federal minimum requirements. For the 80 percent of small businesses that will lose their grandfathered status because of this regulation, the net result is clear: They will pay more for their health insurance.

The Wall Street Journal recently reported costs as going up between 1 and 9 percent because of the mandates included in the new health care law. Couple this increase with inflation, and small businesses are looking at a 20-percent cost increase. I actually know something about small business; I used to run one.

I ran a shoe store in Wyoming. I stocked the shelves, worked the customers to fit shoes, ran the cash register. I placed the orders with suppliers. I did the accounting, I swept the sidewalk, I cleaned the toilets. I knew what it was like to worry about making payroll at the end of the month. I know firsthand about the struggles and challenges America's small businesses face. I understand what this regulation will do to small businesses across the country. Small businesses are struggling every day to find the resources to provide health insurance to their employees. Rather than making it easier for those businesses to continue to provide this coverage, the new regulation will mean that employers will simply drop their health coverage altogether. That is why I am so concerned about this grandfathered health plan regulation, and that is why I introduced the resolution we are debating today.

My resolution would force the administration to actually keep their promises. The resolution would overturn this grandfathered health plan regulation and allow tens of thousands of businesses across the country to keep their current plans. If we pass the resolution, millions of Americans will be spared from paying higher health care costs as a result of new Federal mandates. If we pass the resolution, small businesses across the country will not have to drop health insurance for their workers.

Congress created the Congressional Review Act we are using today specifically to overturn Federal regulations such as the one we are discussing. The sponsors of the Review Act recognized that too often Washington bureaucrats impose sweeping new regulations with little thought to the impact these changes will have in the real world. In particular, the Review Act was intended to protect small businesses across the country that are often most vulnerable to new government mandates and regulations.

That is precisely what happened with the grandfathered health plan regulation. The regulation writers went above and beyond what the law said and came up with a whole slew of requirements businesses must comply

with if they want to keep what they have. The regulation includes a long list of things that will disqualify businesses from being able to keep what they have. If a business does anything to try to keep costs under control, they lose their grandfathered status.

Earlier this year, when the grandfathered regulation was first published by the administration, I came to the Senate floor and warned of the negative impact this regulation would have on small businesses. This new regulation appears to ignore the impact it will have in the real world. It will drive up costs and reduce the number of people who have insurance.

I recently heard from Jim, an insurance agent in Illinois, who wrote to me and said:

My experience in the last few months is—maintaining grandfather status to my group plans is all but impossible. All my clients' renewal rates in September and October are in excess of thirty percent. To keep grandfather status, the group is limited in deductible changes and contribution levels. The only option is for the employer to accept the premium increase at the worst economic time in forty years. They can't afford to keep the grandfather status and soon won't be able to afford insurance at all. In my opinion, the legislative goal was to make maintaining grandfather status so restrictive, companies are forced out. It's working.

I have a whole slew of similar stories and I ask unanimous consent to have some of them printed in the RECORD.

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

HOW THE GRANDFATHERED HEALTH PLAN REGULATION IS IMPACTING AMERICANS—REAL LIFE STORIES FROM AMERICA'S HEALTH INSURANCE AGENTS

I recently helped a couple in their 50's who each had their own individual policy. I signed them up with their policies about a year ago and they gave me a call when their annual rates increased the usual 15%. They wanted to look for something more affordable even if it was a higher deductible plan. They settled on a plan. I went to meet with them and began to explain grandfathering and that if they do choose the new plan, they will lose the chance to keep their grandfathered status and either way will have to pay more. They decided to stay with their ''grandfathered plan'' because the benefits are ''better'' than what they would have been if they went to a new plan where they would have more out of pocket costs.

Really, either way, it's a lose-lose. At least if things would've remained the same, the benefits would be better. But, now we have to tell our clients and prospects that prices are still going to go up, and benefits are still going to go down, but just at a faster pace. It's been kicked into high gear with ObamaCare. So, kudos to the people that are making these drastic decisions. I'm glad I'm just the messenger, because I wouldn't want to be responsible for killing our healthcare.

TRESSA GIRT,
*Health Insurance Agent,*
*Milwaukie, OR.*

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Several of the insurance companies doing business in Utah have announced that they will not allow ''grandfathering'' plans for groups under 50 lives because of the expense to them to maintaining multiple plans on their books. This basically leaves those who had coverage with these carriers without any possibility of grandfathering and thus avoiding the expense of new mandates.

CHARLES COWLEY,
*Charles H. Cowley Employee Benefits,*
*Salt Lake City, UT.*

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I am an agent in Lafayette, IN. My specialty is small group health insurance. I work with many farmers and builders. These are hardworking, honest Americans just trying to make a decent living. Many of my clients struggle to make ends meet and desperately want to continue providing health insurance to their employees. With the healthcare reform, they are extremely confused and disappointed when it comes to being able to grandfather their plans. In particular, I insure a local builder. He has ensured throughout the years that his employees have good health coverage. He has absorbed many of the renewal increases in the past few years. With the downturn in new home sales, his business has struggled. His group health plan renewed Sept 1, 2010. He received a 15% increase. In years past, he was able to absorb the increase and keep the health plan ''as is.'' Financially, this year, that wasn't an option. He had to increase his deductible amount or risk being unable to offer health insurance at all. I explained that this small change would in fact cause his group to lose their grandfathering status. He was upset and concerned about the loss. He didn't want to make the change but it was either that or offer no coverage at all. I believe that a group should be able to retain their grandfathered status when making changes in deductibles such as raising by $500 or adjusting contribution levels. It is unrealistic to believe a small group can absorb 15+% increases for the next 4 yrs to maintain their grandfathered status.

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My client is a 22-life group in Ft. Lauderdale, FL. Currently with Aetna. They received a large increase which is driving all my clients—not just them—out of a grandfathered plan! They feel forced to get a new plan because they made their current plan so expensive. Now, the new plans have much higher deductibles, more out-of-pocket and the affordable plans only offer to pay 50% coinsurance! The options are very limited.

JENNIFER L. EISLER.

Mr. ENZI. Folks all over the country are just like Jim. Insurance agents are explaining to small businesses that they will be forced to choose either to absorb premium increases in excess of 15 percent or lose their grandfathered health plan status. By the administration's own estimate, up to 80 percent of small businesses will lose the right to keep what they have. Lots of companies pay 90 percent of the cost of their employees' and families' insurance. They were hoping to be grandfathered at least until 2014, to see exactly how damaging the whole bill would be. But we are experiencing 2014 now, with no help in cost cutting.

The Small Business and Entrepreneurship Council says it pretty succinctly. In a letter they wrote to me supporting S.J. Res. 39, they write:

Rather than helping small business owners and their workforce keep their plans, it appears the rule has been rigged to force most small businesses and their employers out of grandfathered status.

The letter also reads:

The rule, as written, is in clear violation of President Obama's promise that Americans would be able to keep the health plans they currently have upon passage of the Patient Protection and Affordable Care Act.

As the Chamber of Commerce, the National Association of Manufacturers, the National Retail Federation, and other business groups supporting this resolution have said: This rule will make it harder for employers to make changes that will hold down their health care costs. Large and small businesses will have few options for both keeping costs in check and maintaining the grandfathered status.

If employers do almost anything to help slow the growth in their health insurance costs, they will lose the limited protections against the expensive new mandates in the bill. It is worth noting that two pages in the law that create the grandfathered plans give infinite leeway to the bureaucrats who are writing the rule, and they took it. The law doesn't say anything about cost-sharing requirements or coinsurance rates. The administration made up all of these provisions and requirements. They didn't have to write these rules in a way that precludes half of Americans from keeping what they have.

Our economy is already struggling. It doesn't need more job killing. It doesn't need cost increasing government mandates. We are hearing from small businesses across the country which are already being forced to swallow large premium increases that will prevent them from hiring more workers. It is about the jobs. We need to create more jobs, not write more regulations that lead to less jobs. This bill was sold as letting people keep what they have. But the devil is in the details. Do a little digging and it is clear; Americans would not be able to keep what they have.

The simple truth is, because this new rule will drastically tie the hands of employers, few employers are expected to be able to pursue grandfathered status. I even have letters from people who have individual situations, and they are concerned as well. That means more than half of Americans who like what they have would not be able to keep it.

The final result of the new regulation will be that all Americans will eventually be forced to buy the kind of health insurance the Federal Government thinks they should have. Never mind they can't afford it. Never mind that employers will be less likely to hire new workers and probably even lay off workers. Simply put, this rule states: Washington knows best.

This new rule is pretty clear. If you like what you have, you can't keep it.

Later today, the Senate will have the opportunity to vote on the resolution that will help small businesses actually keep what they have. I urge my colleagues to support this resolution and keep the promise that if Americans like the insurance they have, then they can keep it. That should be the bare minimum until at least 2014, so businesses and employers can assess the

damage from all the regulations combined—and there is a pile of them coming. Help is not in the bill until 2014, but the rule is for now. The big question is, Why weren't the cost-cutting measures included in the regulation?

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is considering the motion to proceed to S.J. Res. 39.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I have 1 hour?

The PRESIDING OFFICER. That is right.

Mr. HARKIN. I know the Senator from Montana wants to speak. If he could just withhold for a few moments for my opening comment, and then I will yield to him.

Mr. BAUCUS. Sure.

Mr. HARKIN. Mr. President, I listened to the statement made by my good friend—and he is my good friend—Senator ENZI from Wyoming. We are in the seventh month since the Affordable Care Act became law. Ever since the day President Obama signed the bill into law, my friends on the Republican side have made it clear they intend to use every conceivable opportunity they have to repeal it. This resolution, regrettably, is another attempt to make good on that pledge by undoing some of the law's most critically important patient protections.

The resolution offered by Senator ENZI claims to protect small businesses by repealing the grandfather regulation, which defines which insurance plans and businesses have to comply with certain consumer protection provisions of the Affordable Care Act. However, if passed, the businesses and Americans could be in the worst of all worlds, losing the clear rules that allow them to keep the plans they have while not gaining additional consumer protections that apply when their plan changes.

I have a letter from the Main Street Alliance, which strongly opposes this resolution. This is an alliance of small businesses. Let me read an excerpt from that letter. They say:

> Opponents of the health law's insurance market reforms continue to hide behind business arguments and claims about increasing costs. But independent analyses show that all the new protections in the law should contribute a mere one to two percent increase to costs next year, a number easily offset by provisions like the small business tax credits—

That we have given small businesses—

> in the short term and savings from increased bargaining power and investing in prevention in the longer term. Let's be clear: those who seek to block implementation of the new grandfather regulations are acting in the best interests of the insurance industry, not Main Street small businesses.

Mr. President, I ask unanimous consent that letter be printed in the RECORD.

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

THE MAIN STREET ALLIANCE,
*Seattle, WA, September 28, 2010.*

Re Small business opposition to S.J. Res. 39, attempting to block implementation of health law's grandfathering rules.

HONORABLE SENATORS: On behalf of the Main Street Alliance, a national network of small business coalitions that brought the voices of real small business owners to the national dialogue over health reform, we write to urge your opposition to S.J. Res. 39, filed in the Senate on September 21. This resolution of disapproval would prevent the implementation of the grandfathering regulations that are critical to fostering an orderly transition to a reformed insurance market under the Patient Protection & Affordable Care Act.

Some of the health care law's new protections apply to all health plans, regardless of grandfathered status, including the prohibition of rescissions, ban on lifetime coverage limits, and end to exclusion of children based on pre-existing conditions. Still, other market reforms that are impacted by the grandfather provision are among the new protections most important to small businesses.

Small business owners want their health plans to cover basic preventive care at no cost so they can maintain a healthy workforce. We want an end to premium discrimination based on our employees' health status. And we want stronger review of premium increases and a meaningful third-party appeals process to make sure we get a fair shake. What we don't want is to be stuck indefinitely with plans that, because of their grandfathered status, allow insurers to continue ''business as usual'' without fulfilling new protections or submitting their rate increases for meaningful review—that would not be reform.

Opponents of the health law's insurance market reforms continue to hide behind business arguments and claims about increasing costs. But independent analyses show that all the new protections in the law should contribute a mere one to two percent increase to costs next year, a number easily offset by provisions like the small business tax credits in the short term and savings from increased bargaining power and investing in prevention in the longer term.

Let's be clear: those who seek to block implementation of the new grandfather regulations are acting in the best interests of the insurance industry, not Main Street small businesses.

Health reform needs to lower costs for small businesses. It also needs to end the slide toward junk health insurance. The regulations drafted by the Administration to implement the grandfather provision create a reasonable transition to a reformed insurance market. We urge your opposition to S.J. Res. 39.

Sincerely, on behalf of the Main Street Alliance,

J. KELLY CONKLIN,
*Foley-Waite Associates, Inc., Bloomfield, NJ.*
LEANNE CLARKE,
*Haleyanne Jewelry, Seattle, WA.*
DAVID BORRIS,
*Hel's Kitchen Catering, Northbrook, IL.*

Mr. HARKIN. One of the things we put in the health care bill when we designed it was the protection for consumers to keep the plan they have if they like it; thus, the term ''grandfathered plans.'' If you have a plan you like—existing policies—you can keep them. Well, then we left it to the Department of Health and Human Services to craft regulations to define exactly what a grandfathered plan is.

On the one hand, you want to give some flexibility to plans to be able to make reasonable changes. For example, if costs go up, they can increase their premiums somewhat. They can do certain things. But they cannot change the fundamental kind of nature of the plan and still call it a grandfathered plan. You want to protect consumers to make sure that what plan they signed up for is the grandfathered plan and not something else.

For instance, if the regulations are overturned, which is what the Senator from Wyoming wants, insurance plans could change immensely. Yet that is not what you signed up for; for example, the grandfathering rule that says the insurer cannot significantly cut your benefits. Let's say your insurer decides to cut from your plan conditions such as cancer or diabetes or heart disease. Let's say they cut that out of your plan. Well, that plan would no longer be considered grandfathered because that is not what you signed up for.

The second one says they cannot raise your coinsurance charges. For instance, if you are required to pay 20 percent of the cost for all hospital visits, your insurer cannot raise that to 50 percent because that is not what you signed up for.

They cannot significantly raise copayments. If your plan is grandfathered, you are protected from drastic increases in copays. Copays would be allowed to rise nominally each year, but if they changed significantly, that is not what you signed up for.

Grandfathered plans cannot significantly raise deductibles. Let's say your plan is grandfathered. You are protected from large increases to your deductible. That keeps your insurance company from shifting more cost to you because that is not what you signed up for.

Grandfathered plans cannot significantly increase your premiums. Well, for example, if 20 percent of your insurance costs are currently deducted from your paycheck, and your employer pays the other 80 percent, under the rule that cannot be changed by more than 5 percentage points a year. Well, what if a company came in and said: You were paying 20 percent; now you have to pay 40 percent? If they did that, that is not what you signed up for, so that should not be a grandfathered plan.

Also, grandfathered plans cannot add or tighten an annual limit on benefits. If your plan is grandfathered, your insurer cannot add a new cap on the amount they will pay for covered services each year. Why? Because that is not what you signed up for.

Grandfathered plans cannot change insurance companies. If your plan is

grandfathered, you get to keep your plan. This means you will keep your insurance company and with it your network of doctors. Because if that is changed on you, that is not what you signed up for.

So basically the rule my friend from Wyoming is seeking to overturn protects you, the consumer. It protects you in keeping the plan you like; we said, if you like a plan, you get to keep it, and you can grandfather it in. What if they change the caps on certain annual limits? What if they raise your copays? What if they raise your deductibles? What if they sell out to another insurance company that has a different kind of a policy? Why should that be grandfathered? Because that is not what you signed up for.

We want to make sure if you signed up for a plan and you like that plan, it can be grandfathered. What cannot be grandfathered is something drastically different, which puts you at a disadvantage.

So it is clearcut on this issue before us: You either stand with consumers and you stand with Main Street businesses—which I just read a letter from, which recognizes that if they want grandfathered plans, they also want to be protected, they want some certainty out there to know what those plans are going to be; and that is what these rules provide. On the other hand, if you vote to overrule this rule, you are obviously standing with the insurance companies one more time, letting them continue what we closed the door on, some of these terrible abuses of cutting people off, putting caps on what you can get, changing your policies midstream.

Well, the rule says: Yes, insurance company, you can do that, but you are no longer a grandfathered plan. That is exactly what this rule is about, to protect consumers and to provide certainty out in the marketplace for small businesses so they know what the grandfathered plans are and what they are not. Without this, if you do not have a rule, who knows what a grandfathered plan is. It is up in the air.

So with that, I yield 15 minutes to my friend from Montana who did such a great job as chairman of the Finance Committee in shepherding the health care reform bill through. He is one of our great experts in this area, and I know he feels strongly about these grandfathered plans too. So I yield 15 minutes to my friend from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my friend from Iowa, the chairman of the HELP Committee, for his excellent service.

A weather vane shows when the wind is blowing and in what direction it is blowing and a resolution such as this shows when it is election season.

This resolution is a political stunt. It is an election-season effort to take potshots at the new health care reform law. Before the Senate now is a joint resolution of disapproval under the Congressional Review Act of 1996. Colleagues will recall that the Congressional Review Act is part of what some folks called the Contract with America.

This particular resolution would nullify a regulation that is essential to implementing the new health reform law. The resolution is, thus, a transparent effort to undermine the new law. I urge my colleagues to oppose the resolution.

From the beginning, the new health care reform law has been about ending the worst insurance company abuses. That is why the new law requires insurance companies to end lifetime limits on coverage. That is why the new law prevents insurance companies from canceling coverage when you get sick. That is why the new law requires insurance companies to allow parents to put their children up to age 26 on their insurance policy, and that is why the new law prevents most insurance companies from discriminating against kids with preexisting conditions.

These important new protections took effect just last week. From the beginning, the law has been about preserving what is good about American health care. That is why one of the central promises of health care reform has been and is: If you like what you have, you can keep it. That is critically important. If a person has a plan, and he or she likes it, he or she can keep it.

Now some on the other side of the aisle have tried to pick apart that promise. They have tried to find some rare example to the contrary. But despite what some folks might say, we stuck to that promise. If you like your health care plan, you can pretty much keep it.

Then the question becomes: How can we be sure that what you have is still the same health care plan? What changes can the insurance plan make and still remain the same plan? That is what this new regulation is all about.

The Departments of Health and Human Services, Labor, and Treasury promulgated this regulation on June 17. The regulation defines what changes an existing health care plan can and cannot make in order to retain what is called the ''grandfathered'' status.

The new health care reform law gives grandfathered plans special treatment. This treatment ensures that satisfied consumers can continue to get their current health care plans, and this treatment ensures that dissatisfied consumers can get access to a fairer marketplace.

Plans with grandfathered status get more time to incorporate some of the consumer protections guaranteed in the new health care reform law. Grandfathered status is valuable to the health insurance plans. In some cases, it exempts plans from having to make particular changes until the year 2014.

Some fundamental consumer protections, however, are so important that all plans have to comply with them right away. Many of those protections are the ones that became effective just last week. The new regulation strikes a careful balance. It protects consumers from some of the insurance companies' most egregious abuses. At the same time, it recognizes the realities of what insurers are able to do. That balance is important to maximizing consumer choice, and that balance is important to minimizing insurance market disruption.

The new regulation spells out coverage changes that would cause insurance plans to lose this special grandfathered status. For example, plans cannot significantly reduce benefits and still retain their grandfathered status. It makes perfect sense to require plans to maintain their benefits as a condition of their preferred status. After all, if a plan significantly reduces its benefits, it is not the same plan anymore. If a plan significantly reduces its benefits, the plan is not truly letting you keep what you have.

Another example under the new regulation is that plans cannot significantly increase cost sharing and retain their grandfathered status. In other words, plans cannot significantly increase deductibles, copays or coinsurance that are more than nominal.

Once again, the new regulation is only fair because plans should not be increasing the financial burden on consumers and still qualify for this special status. If a plan significantly increases the financial burden on consumers, it is not the same plan. If a plan significantly increases the financial burden on consumers, the plan is not letting you keep what you have.

A third example under the regulation is that plans cannot add new or more restrictive limits on coverage and remain grandfathered. This, too, makes sense, because imposing or lowering annual limits has the same effect as reducing benefits, and that is not something for which plans should be rewarded.

Once again, if a plan adds new or more restrictive annual limits on coverage, it is not the same plan and the plan is not letting you keep what you have. These examples demonstrate how reasonable the new rules for grandfathered status are. Plans basically have to offer the same coverage. They have to offer the same cost sharing and annual limits as they do today.

The resolution before us would allow health insurance plans to leave the path to full compliance with new, commonsense consumer protections. The resolution would leave consumers relying on the kindness of the insurance industry, and we have seen how well that works. That is the effect of the resolution before us.

The resolution before us would strike down disincentives for plans to cut benefits, increase consumers' out-of-pocket costs, or reduce how much health care a consumer may use in a year. The resolution before us would

thus free the health insurance companies to cut benefits, to increase out-of-pocket costs, and to reduce annual limits.

The new health care reform law aims to eradicate these abusive practices, and the grandfathering regulation ensures a successful transition to a fully reformed insurance market.

The new health reform law puts consumers and their doctors—not insurance companies—in charge of their health care.

This resolution would put consumers at risk. It would put consumers at risk of paying more and getting less. This resolution is the exact opposite of health care reform.

This resolution is a political stunt. It is about repealing health care reform in an election season. This resolution is an attempt by the other side to dismantle the new health care reform law piece by piece. This time, they are sending a message to their friends in the insurance industry. This resolution invites the insurance companies to continue to put profits before patients. So I ask: What is next?

The other side says they want to repeal and replace the new health care law, but we saw what happened before health care reform. Before health care reform, insurance companies could discriminate against kids with a preexisting health condition. Before health care reform, health insurance companies did not have to let adults under 26 stay part of their parents' health insurance plans. Before health care reform, health insurance companies could kick people off their rolls when they were sick and needed coverage the most. That is what the law was before the new health care reform law. Is that what the other side wants to go back to?

The bottom line is this resolution would take away consumer protections that the new health care reform law guarantees.

I urge my colleagues to reject the proposition that insurance companies know best. They don't know best. I urge my colleagues to maintain the commonsense consumer protections that have just come into effect, and I urge my colleagues to reject this election season resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I appreciate the comments by both of the leaders on health care from the other side, but you can't have your own facts. You can't show significant changes as being the only thing that eliminates grandfathering.

If you look at the Federal Register, page 34,568, the last few paragraphs say: Any increase in a percentage cost-sharing requirement causes a group health plan or health insurance to cease to be a grandfathered health plan.

Another part says: Any increase in a fixed-amount, cost-sharing requirement other than a copayment—any increase in a fixed amount copayment. It doesn't say significant changes, it says any change.

I yield up to 10 minutes to my friend, the Senator from Wyoming, Senator BARRASSO.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Thank you, Mr. President. As my colleagues know, I have come to the floor week after week after this bill was signed into law with a doctor's second opinion based on my nearly quarter of a century practice in Wyoming, taking care of families there. I go home every weekend and talk to people.

The people of Wyoming remember when the President of the United States spoke to a joint session of Congress and he told the American people about the plan that was later signed into law. During that speech the President said:

> . . . if you are among the hundreds of millions of Americans who already have health insurance through your job, or Medicare, or Medicaid, or the VA, nothing in this plan will require you or your employer to change the coverage or the doctor you have.

Let me repeat:

> Nothing in our plan requires you to change what you have.

I think I heard the chairman of the Finance Committee say that if you like your plan, you can pretty much keep it. That is not what the President said. Pretty much keep it? With those words, the President—and congressional Democrats—made a vow to 170 million people who get health coverage through their employer. The President and congressional Democrats promised that if you like what you have, then the health care law would let you keep it. What a difference a year makes.

On June 14 of this year, the Obama administration released a 121-page ''grandfathered health plan'' rule. It is a rule that clearly violates—clearly violates—the President's promise.

Let me explain how. ObamaCare included a provision allowing existing insurance plans to be ''grandfathered'' under the new law. Theoretically, that means that employers and individuals would not have to give up the coverage they have and they like to comply with onerous government rules and mandates.

So you have to make sure, though, that you read the fine print. Look at the chart. The chart in the new administration rules estimates between 39 and 69 percent of businesses will lose their grandfathered health plan status.

The picture is even worse for small businesses in America, and it is small businesses that are the engines that drive this economy. The same chart in this report estimates that by the year 2013, up to 80 percent—80 percent—of small businesses will lose their grandfathered status. This means American businesses will not be able to keep their current insurance plans. That is what this means. They will be required by the Federal Government to comply with all the new mandates which are very expensive and are contained in the new health care law. This only serves to drive employer health care costs up, making it even more difficult for them to offer health insurance to their workers.

I am sorry. Maybe the American people are confused. The American people believed the goal of reform was to lower health care costs. America's small businesses struggle each and every day to find a way to provide health insurance to their employees. The government should be making it easier for businesses to keep providing the coverage. Instead, this bureaucratic regulation drives prices up. This is going to increase the odds that employers are going to simply choose to stop offering health care insurance coverage completely.

Additionally, this so-called grandfather regulation makes it much harder for employers to make health insurance changes that would actually help to keep down the cost of care, to keep down the cost of coverage. Today, businesses have very few options if they want to keep costs in check, as well as keep their grandfathered status. Businesses that lose their grandfathered status are then forced to comply with all the new rules, all the mandates in the health care law, and now, even by the White House's own admission, we are talking about up to 80 percent of the small businesses in this country.

Subjecting employers to these mandates forces them to change and to expand their insurance plans. What does that mean? Well, it means costs are going to go up. No surprise. It is obvious this administration doesn't want the American people to be able to keep what they have if they like it. The law wasn't written that way, and certainly the regulations were written in a way that violates—and this is the White House—the White House regulations were written in a way that violates the pledge the President made to the American people.

President Obama and congressional Democrats certainly like using their talking points, but the American people know it is just spin. That is why this bill was unpopular when it was signed into law and now, 6 months later, it is even more unpopular, with 61 percent of the American people wanting this bill and this law repealed and replaced.

That is why I come to the floor today to support the efforts of my friend, the senior Senator from Wyoming, the ranking member of the Health, Education, Labor and Pensions Committee, who has introduced Senate Joint Resolution 39, a resolution of disapproval that would overturn the administration's so-called grandfather rule. It is an honor to stand with Senator ENZI and fight against this job-killing Washington mandate. I appreciate his leadership but, more importantly, his dedication to make sure the President

keeps his promise—a promise that if you like the health insurance you had before the new health care law was passed, then you can actually keep it.

That is my second opinion. That is why we need to repeal and replace this health care law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. MCCONNELL. Mr. President, I wish to proceed under my leader time.

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

Mr. MCCONNELL. Mr. President, first, I had an opportunity to hear the remarks of Dr. BARRASSO, the Senator from Wyoming, about health care, and I wish to thank him for the ongoing contribution he has made in this very important debate. This is an issue that is not over and we will keep on revisiting the flaws in the coming years. So I thank the Senator from Wyoming for his important contribution.

I also thank the other Senator from Wyoming who is sitting to my left, who is the author of this measure we will be voting on—a necessary step. I thank the Senator from Wyoming for his important contribution as well.

VOICES GROW LOUDER

Mr. President, for the past year and a half, Americans have witnessed something truly remarkable here in Washington. They have watched a governing party that was more or less completely uninterested in what the governed had to say about the direction of the country. In a nation where the government's power is derived from the consent of the governed, that is a pretty risky governing philosophy. That is why the voices of the American people have grown louder and louder.

Republicans have listened to those voices. We heard the concerns Americans had with the stimulus bill that was based on the discredited premise that having bureaucrats and Democratic lawmakers spend $1 trillion on their favorite programs would revive the economy, and we opposed it. We heard the concerns Americans had about a health spending bill that was built on the discredited premise that spending more money and growing the Federal bureaucracy would make health care less expensive, and we opposed it. We heard the concerns Americans had about a financial regulatory bill that was built on the discredited premise that hiring more of the same kind of bureaucrats who missed the last crisis was a good formula for preventing the next one, and we opposed it.

Again and again, Democrats were faced with a problem, and their solution was to ram through some costly, big government solution Americans did not want, but that they are now expected to pay for. And they are still not finished.

In order to fund even more programs, more government, our friends on the other side now want to raise taxes. Nearly 15 million Americans are looking for work and can't find it. Another 11 million are underemployed, meaning they have settled for part-time work instead of a full-time job. Household income is down for the second year in a row, and Democrats want to take more money out of people's pockets.

Just yesterday, the nonpartisan Congressional Budget Office said these tax hikes will hurt the economy and slow the recovery. So what did we do here over the past week in the Senate? An ill-conceived bill the chairman of the Finance Committee said would put U.S. companies at a competitive disadvantage, and a campaign finance bill, the entire goal of which was to give Democrats an electoral advantage in the upcoming elections by muzzling their opponents.

If Americans need any further proof that Democrats haven't been listening to them, this past week has provided all the evidence they need. Americans want us to focus on jobs, and our friends on the other side focused on preserving their own jobs and spending more taxpayer dollars.

It has to stop.

That is why earlier this month I proposed a bill that would prevent a massive tax hike from going into effect on anyone at the end of the year, and that is why Republicans put forward an appropriations cap that would cut $300 billion from the President's budget, even as our friends on the other side neglected to bring a single appropriations bill to the floor.

Sometime today or tomorrow, we will be leaving Washington to head back to our States and when we do, Democrats will have a lot of explaining to do about how they have spent their time here in the last year and a half. As for Republicans, we will be able to say we listened.

TRIBUTE TO LARRY COX

Mr. President, in the reception area of my office in the Russell Building, there is a framed copy of a page from my hometown newspaper hanging on the wall. It is from section B, the front page, and the date reads January 21, 1985, just days after I was first sworn in as Kentucky's newest Senator.

There is a picture of me sitting in my new Senate office, talking on the phone, with quite the head of dark hair. Behind me you can see a man in a sport coat lifting some boxes. And he looks like he can lift them quite easily, too. The caption under that photo reads:

''McConnell made a few telephone calls while aide Larry Cox moved boxes in on the first day.''

The first day.

Now, in too many ways, it feels like an era has reached its final days. Because after more than 25 years of Senate service, and nearly 30 years of setting his own ego aside to help me and my career, on September 2 of this year, Larry Cox retired.

No other single person worked as hard or did as much for Team McConnell as Larry has. And because Larry was there from the beginning—when on any given day, he could serve as driver, security detail, advance man, political operative, caseworker, legislative advisor, and my eyes and ears all at once—no other single person probably ever will.

We have heard the phrase ''jack of all trades,'' but Larry is a master of all trades—not only because of the many roles he filled in my office, but for the fullness of his life outside the office as well.

As the State director in my office beginning in 1985, Larry was my chief representative in Kentucky. He oversaw an 18-member field staff, spread out amongst six offices in the State, and led my efforts in constituent casework, project development, and outreach.

Beyond that, however, Larry was the picture of the perfect Senate staffer. Content to stay in the background, for years he happily worked without seeking credit. He is a man of fairly strong opinions, and was somewhat our resident keeper of the ideological flame—but he would never force his opinion on you if you didn't ask for it.

Most of all, for the hundreds of staffers that have been through my offices, he served as a role model, an example of good character, and a true friend.

Larry and I have more in common than just our Senate service. We were both born in Alabama, just a year apart, and after a little traveling, we both ended up about as Bluegrass as one can get. Additionally, both Larry's father and mine served in World War II.

After the war, Larry's father, Lawrence E. Cox, Jr., worked for Gulf Oil, and that job took him and his family all across the southern United States. Larry spent time growing up in Louisiana, Arkansas, and Tennessee.

He attended George Peabody College of Vanderbilt University, and earned his master's at the University of Tennessee. A city planner by trade, he finally moved home—that is to say, to Louisville—in 1972.

My friendship with Larry began in 1981, when Larry began working for county government as the deputy secretary for community development. I was the county judge/executive, and I successfully lured Larry away from his old job. By 1984, he was with me as I made by first run for the Senate.

I can't talk much longer about Larry without mentioning his lovely wife Joanie. Larry came to start working for me just 3 months after he and Joanie got married. It is lucky for me it wasn't 3 months before. Joanie didn't know just how much I would take her husband away from her over the years.

Elaine and I have to thank Joanie for sharing Larry with us, because as we all know, sometimes Larry's work obligations have gotten the lion's share.

Sometimes Larry served as a one-man security detail. It was like being staffed by Clint Eastwood. You could call him ''Dirty Larry,'' and he was

just waiting for someone to make his day.

Larry is not a guy you want to make mad, even though those of us who know him know that under that tough exterior is a very kind and caring man. I am probably going to get in trouble with him for saying that out loud.

In the old days, Larry and I crisscrossed every county in the State, in a car that Larry faithfully had service every 3,000 miles. Every event, he had planned precisely down to the minute. Executing Larry's plans was like executing a military maneuver.

This was also when I first learned about Larry's honest-to-gosh superpower. He is a walking, talking human GPS. Ask him how to get anywhere, and he can give you landmarks, travel time, distance and cardinal direction.

Naturally, a fellow like that became one of my very first Senate staffers after we were victorious in the 1984 election. And he was the perfect choice to be my State director.

In that job, he has been to every town parade and county festival. I believe he could name the sitting judge/executive in all 120 Kentucky counties, or tell you which counties towns like Eighty Eight or Grab are in. Since 1985, there have been 14 commanding generals at the Fort Knox Armor Center, and he has known and worked with every one of them.

And in the hundreds of thousands of hours I have spent with Larry, if he ever had a bad day, he did it pretty well.

Maybe that is because Larry never got bored. I have already described how he did everything in my office, no job too big or too small. And the rich and complete life he leads has given him plenty else to do as well.

Larry knows a lot about a lot of things. If you are on the road with him, and you point out a nice looking Corvette, he will be able to tell you it's a ZR1 with 638 horsepower and over 600 pounds of torque that can pull one 'G' in a turn and goes zero to 60 in 3.5 seconds.

Larry once stopped me from boarding a plan because he could smell that it had been filled with the wrong kind of fuel. Despite the so-called experts telling him otherwise, he insisted they double check. Turned out he was right. Larry's nose saved some lives that day.

Larry's favored method of transportation, however, is not by air, but by land—specifically, by motorcycle. You can catch him driving across Kentucky on his Suzuki Bandit 1250, and he is usually with friends. In fact, Larry's got so many friends in the biker community that I have benefited from having a fleet of motorcycles roll in to many of my events. Larry's also a strong supporter of the second amendment. He believes in gun control—gun control being a firm hand and a steady grip.

I don't know how many guns Larry has, he may not even know, but I believe the number is somewhere north of 50. Years ago, Larry used to shoot skeet competitively.

You could even say Larry is one of those ''bitter'' people, the type who clings to his guns and his religion. He is a devout Christian who has been attending St. Matthew's United Methodist Church in Louisville since 1978.

He has faithfully volunteered countless hours over the years, including time spent at Susannah House, a daycare center run by the church. He has held every church leadership position, including serving on the board of trustees.

In what is becoming a recurring theme for Larry, he is always willing to do whatever is asked, and whatever it takes. On top of his church, he gives his time generously to the Kiwanis, and to the State Republican Party.

Larry is a great lover of the outdoors. He and Joanie have a farm in Hart County, KY, that is just shy of 100 acres. Now that Larry is leaving us I know he will be spending a lot more time there.

Larry generously opens up his farm to the McConnell Scholars, students at the University of Louisville who are part of a scholarship program for kids that I helped establish in 1991. He has held retreats for them there, mentored the students, and helped bring in speakers for other McConnell Center events. His contribution is so great that Dr. Gary Gregg, the center's director, puts it this way: ''Simply put . . . we would be impoverished without Larry.''

Dr. Gregg has a 15-year-old son, and Larry has helped encourage his interest in deer hunting, by letting him use his farm and his fields and educating him about shooting and gun safety. Whenever he has a chance to share his love of nature and the outdoors, Larry shines.

Anyone who thinks Republicans can't be conservationists, I want them to meet Larry and go visit his farm. The Green River runs through it, and Larry participates in the CREP program—a Kentucky conservationist effort to preserve and protect the river.

A third of the farm is planted with warm-season native grasses, to prevent soil erosion into the river and enhance the local wildlife. A third of the property is in timber, and a third in hayfields. You may have noticed what's missing on this farm—Larry has to abide by Joanie's rule, ''No crops, no critters.''

Larry is so well known throughout the State for his conservation efforts, he was honored this year as the Kentucky Association of Conservation Districts Person of the Year. He is also the first person to receive the Award for Distinguished Service from the Natural Resources Conservation Service.

My wife Elaine is also close to Larry and Joanie, and I know she is going to miss them a lot. Larry was one of the first Kentuckians she met when she came to the State, and he was so knowledgeable and friendly he made her feel just at home. She liked going to Larry and Joanie's home, where she knew she would always find good food and good company.

During my 1996 campaign, Elaine's sister Angela came to Louisville to volunteer, and Larry and Joanie generously put her up in their home. They have done that many times for other volunteers and staffers through the years. The McConnell Team has always been grateful to stay at their home.

I have wondered often over the years how a man as unique and special as Larry Cox came to be, and how I was lucky enough to find him.

To the second question, I can only credit providence. But the first question, that I can take a stab at answering.

I know Larry learned a lot about living from his mother. So did I. So did everyone lucky to know her. Beryl O. Cox was a spirited, adventuresome woman—in other words, she was a lot like Larry.

She raised three boys, and she was like one of the boys. She knew her priorities: She loved her family, her church, her motorcycles, and her bourbon—not necessarily in that order.

She and Larry would go riding together. She had her own motorcycle, a Honda Valkyrie. She didn't drive it—Larry would drive, and she would sit on the back.

Beryl was a delightful woman—''a real kick,'' according to Joanie. And may I say she was a close friend of mine as well. I remember how much she volunteered on many of my campaigns.

She was about the same age as my own mother. She lived a full and robust life, until her passing at the age of 95 in 2007.

A full and robust life, well lived. Larry obviously learned that from his mother as well. And just like her, he has made countless friends along the way.

Those friends will get to see a lot more of Larry now. So will his family. Whether it is time spent on the farm or on the back seat of his motorcycle, if it is time spent with Larry, I am sure they are grateful.

The Cox family includes Larry's wife Joanie; his daughter and son-in-law Lisa C. and Steve Pieragowski; his son and daughter-in-law J. Randall and Kristen A. Cox; his grandchildren Alexa Brooke Pieragowski, Erin Phoebe Pieragowski, Hayden Lawrence Cox, and Hadley Marie Cox; his brother and sister-in-law Alvin J. and Cammie Cox; his brother and sister-in-law Davis S. and Lynn C. Cox; his nieces and nephews Christopher L. Cox, Carter Cox, Lindsay F. Cox, and Stephen Cox; and many more beloved friends and family members.

Larry, your family's gain will certainly be our loss. It is a loss for my office, and a loss for the entire State of Kentucky that you have faithfully served for so many years.

As for me, I am going to miss my old friend.

After 30 years, there is too much to be said, so I simply say, thank you, Larry. For your dedication, your service, and your friendship, I don't think you can ever be thanked enough.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, before I yield to the Senator from Connecticut, I listened to my friend from Wyoming before the minority leader spoke. He was reading from the Federal Register, if I am not mistaken, saying that any change—and he kept repeating ''any change,'' ''any change,'' any increase because we have been talking about there had to be significant increases and changes. My friend from Wyoming was reading from the Federal Register and said ''any increase.''

After reading through this, it reminds me of an example I have often used about not taking things out of context. It comes from Psalm 14 in the Bible. There is a sentence in the Bible that says, ''There is no God.'' I say to a lot of people, it cannot be true. Yes, there is a sentence in Psalm 14. It is right there. The problem is the sentence before that says: ''The fool in his heart says there is no God.'' You can take things out of context. I started reading this and saw how this was taken out of context.

First of all, my friend from Wyoming said ''any increase in fixed amount cost sharing requirement.'' But, it says—he did not read on—''if the total percentage increase exceeds the maximum percentage increase,'' as defined in another paragraph over here, which is basically expressed as a percentage of inflation plus 15 points. So it is not any increase, it is any increase based on whether it is inflation plus 15 points.

Then my friend said: ''Any increase in fixed amount copayment.'' But you have to read on because it says ''determined as of the effective date if the total increase in the copayment exceeds the greater of an amount equal to $5 or the maximum percentage increase,'' as I mentioned before, which is medical inflation plus 15 percentage points.

I ask unanimous consent to have printed in the RECORD this chart to show that it is not any changes, as my friend was saying.

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

CHANGES THAT DISQUALIFY PLANS FROM GRANDFATHERED STATUS

| Plan Element | Disqualifying Change* |
|---|---|
| Copayment | The greater of an increase of more than $5 (adjusted for medical inflation since March 23, 2010) or an increase above medical inflation plus 15 percentage points. |
| Deductible | An increase above medical inflation (since March 23, 2010) plus 15 percentage points. |
| Out-of-Pocket Limit. | An increase above medical inflation (since March 23, 2010) plus 15 percentage points. |
| Co-Insurance | Any increse in the co-insurance rate after March 23, 2010 |
| Annual Limit | Any decrease of an annual limit that was in place on March 23, 2010, disqualifies a plan. Adoption of a new annual limit for plans that did not have one on March 23, 2010, also disqualifies a plan.** |

CHANGES THAT DISQUALIFY PLANS FROM GRANDFATHERED STATUS—Continued

| Plan Element | Disqualifying Change* |
|---|---|
| Employer Premium Contribution Rate (in group plans). | A decrease of more than 5 percentage points below the existing employer contribution rate as of March 23, 2010 |
| Benefits Package | The elimination of all or substantially all covered benefits to diagnose or treat a particular condition after March 23, 2010. |

*See the interim final rule on grandfathered plans, listed under ''Additional Resources,'' for information regarding exceptions to the March 23, 2010 date. Exceptions may apply to plans that had already filed pending changes at the time that health reform was enacted.

**If a plan had a lifetime limit but no annual limit on March 23, 2010, it may replace its lifetime limit with an annual limit while maintaining its grandfathered status, as long as annual limit has a dollar value that is equal to or greater than the previous lifetime limit.

Mr. HARKIN. Mr. President, you have to read the whole paragraph. There is one where there is any change at all would disqualify a grandfather plan, and that is any increase in the percentage cost sharing. You can understand that. If you have a percentage cost sharing, let's say it is 20 percent, if the cost of the plan goes up, medical inflation goes up, then your total cost will go up because 20 percent of $100 is $20; 20 percent of $120 is $24. Your out-of-pocket will go up.

The only thing that would deny a plan from being grandfathered is if they changed the percentage of your copay. But if they have a fixed amount of copay, say $20, they can go above that by the maximum percentage increase of inflation plus 15 points.

I wanted to try to clear that up, that there is only one case in which any change at all denies grandfathering, and that is if, in fact, the plan changes your percentage of what you have to pay in. I wanted to make that clear.

Now I yield to my good friend, Senator DODD, who was the leader on our committee in getting the Affordable Care Act through and who knows the importance of making sure we keep these protections, not only for consumers but for small businesses.

I yield whatever time he wants.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I express my gratitude to my friend and colleague from Iowa and his terrific work. He, along with so many others, brought us to the point that has defied administrations and Congresses for more than half a century. Together, we were finally able to expand access, try to stabilize costs, and increase the quality of health care. It is no easy task. These efforts, obviously, consumed a great amount of this Congress's time and attention.

Despite the rigid opposition of those opposed to these changes, without an alternative ever being offered, for the first time the American people can look forward in the years to come to having increased access to health care, improved quality, in my view, but also stabilizing costs. Without these changes, we would put our great economy in this country at significant risk, beyond the other problems we are grappling with today.

I say respectfully—because my friend from Wyoming knows he and I have worked together on many issues over my tenure and his—it is with a deep sense of respect for him that I rise today in opposition to what his resolution would attempt to achieve and to associate myself with the remarks of Senator HARKIN, Senator BAUCUS, and others who worked day to day, along with their staffs, to achieve this health care reform package.

We are told health reform is not popular. I listened to one of my colleagues give a presentation that this is not terribly popular in the polls, as if somehow that is going to determine whether what we are doing is right or wrong.

I recall 1948, the Marshall Plan. If popularity in the polls had been the deciding factor as to whether we passed the Marshall Plan, it would have failed miserably. About 17 percent of Americans thought we should rebuild Europe. The Civil Rights Act and the Voting Rights Act—I can guarantee to this day there were those who said this was not a terribly popular idea. I am not sure how it would fare in certain quarters. I do not think anybody in this Chamber would disagree we are a better country today because of what we did in the Marshall Plan, what we did with the Voting Rights Act, the Civil Rights Act, and others.

I think it is disturbing that we ought to determine the outcome of trying to make America achieve its great potential by the results of polling data. I know that has become the standard some people use. It ought not be the standard by which the Senate determines its course of action.

Health reform is the culmination of more than a half century—in fact, arguably going back to Teddy Roosevelt's day, almost a century ago—a struggle by Democrats, Republicans, and Congresses to try and get to a point where we can get our arms around this very important issue. At long last, we set ourselves on a course to manage this issue.

At the center of that struggle was the question: Who would control a person's health care? On this issue there seems to be unanimity. I think all of us would like individuals and their health care providers to be in control when it comes to deciding what a person's health care coverage would be, and not the insurance industry that has a history of abusing those who fall ill and need coverage.

Just 6 months ago, we answered this question definitively. Americans should be able to control their own health care, and the insurance industry should not. This resolution before us today would take us backwards once again on that fundamental, underlying question at the heart of the long debate that consumed this Congress: Who would control whether a person had good health care, the insurance industry or the individual, their family, and their providers?

The law we passed phases in many new protections over several years protecting Americans' rights while ensuring stability of the health care system.

Just last Thursday on the 6-month anniversary of the passage of the health care reform bill, many consumer protections came into effect making up what we call the Patients' Bill of Rights.

This Patients' Bill of Rights, which my colleagues and I fought so very hard to include in our final bill, provides that sense of security to people across the Nation and in each of our respective States by prohibiting the worst of the insurance companies' abuses and practices. These abuses went on year in and year out, disadvantaging average citizens in our country. As a result of that bill of rights we adopted in our health care reform bill and as a result of last Thursday, the following rights became the law of this land:

All insurance plans must end lifetime limits on coverage. How long have we heard that debate and how important is it today that protection exists?

All insurance plans must stop canceling coverage when you get sick. How many of my colleagues at townhall meetings heard the frustrations expressed by our constituents that just when they needed the coverage the most, they would be dropped by the insurance industry?

And, today, parents who have adult children but under the age of 26 know they can carry those kids on their plan. How many families, because of the economy we are in with high unemployment, particularly among younger people, go through sleepless nights worrying about their children who have been dropped from their plans, knowing they are struggling to get on their feet? The law today protects those families and those young adults.

New insurance plans must offer additional benefits and protections to consumers under our bill such as preventive services—which Senator HARKIN championed day in and day out to be included as part of this bill—covered with no cost sharing, an increased choice of providers, and no prior authorization requirement for emergency care. Those protections benefit millions of people across this country.

If they knew what was at stake with this kind of a resolution, which can throw these back and change these plans in such a way, I suspect those using polling numbers to identify a reason for being for this resolution or against the health care bill might have second thoughts. When we began to debate the health care reform bill, the President of the United States made clear that part of having control of one's health care was having the right to keep what you have. We enshrined that in the bill during the HELP Committee markup, the Finance Committee markup, and the Senate debate on this bill.

No matter how important we thought those protections were, we said you can keep what you have, if that is what you want. But this was not carte blanche for the insurance industry to ignore the new law and continue abusive practices that have been in place for too long. They can continue their old plans as long as they did not dramatically increase the cost to their customers.

It made no significant negative changes to the coverage consumers were paying for. In other words, you can keep what you have. But if the insurance companies try to take away what you have, the law will protect you. In the parlance of Washington, this is called grandfathering.

To clarify to businesses, insurers, and all Americans what this meant in practice, the administration released a regulation on June 17. This regulation strikes an important balance of keeping our businesses strong while ensuring that employees and their families are able to weather difficult economic times, such as the ones we are in.

Under the regulation adopted on June 17, grandfathered plans are not required to offer the additional benefits included in the Patients' Bill of Rights. I wish they were, but they are not. The grandfather regulation provides insurers and businesses flexibility to continue to innovate and to grow and still maintain their status.

Businesses' health plans will not lose their grandfather status unless significant changes are made to policies which unduly burden employees and average American families.

For example, if a health plan increases co-payment charges for a working mother in Hartford, CT, as has been pointed out by Senator HARKIN, by more than 15 percentage points, it will lose the grandfather status. Or if a health care plan significantly reduces benefits for a family in New Haven, CT, it loses its grandfather status, as it should.

These are not unreasonable requirements as we strive to protect average families in our country.

My colleague from Wyoming and I disagree about this new law. We sat together day in and day out during those long markup periods. He is a good man, a good Senator, and a good friend. But I disagree with him strongly on this resolution. In my view, he wrongly claims this repeal would benefit small businesses. I say today that adopting this resolution would not only hurt small businesses but also roll back the important consumer protections that ended some of the worst insurance industry abuses across our country.

If we repeal the grandfather regulations, we will harm small businesses and their employees because nothing would protect them from the insurance companies raising premiums by double digits each year, without offering any new and better benefits to the very people who would suffer.

Nothing would protect them from insurance companies deciding to drop benefits or price them out of reach for these very employees.

This resolution would not guarantee the right to keep what you have. What this resolution does guarantee is that the insurance industry can decide what you are going to get from them—not what you want. That is the fundamental difference if we adopt this resolution.

Health reform changed that by handing control, as we all agreed on, back to you and your family. If we adopt this resolution we fundamentally shift that equation once again. In order to help small businesses more easily provide coverage to their workers and make premiums more affordable, the law provides tax credits for that coverage. In Connecticut alone, there are 54,000 small businesses that will benefit from these tax credits. This is just the first step toward bringing health care costs down, as we all want, and ensuring quality care, as we all want as well, for coverage of average Americans and their providers.

This resolution is not about small businesses and harming them. This is another effort to dismantle health reform, and I believe it is fundamentally wrong for thousands of small businesses and employees across the country. It is a gift to the insurance industry, which all of us agree should no longer be the ones to decide what you get based on what they want to charge you, but whether you have insurance and confidence you are going to get for your family what you need not what they decide you get.

For those reasons, I strongly oppose this resolution and hope my colleagues will join us in that effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. I yield up to 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, Congress meets in the District of Columbia. The District of Columbia is an island surrounded by reality. Only in the District of Columbia could you get away with telling the people if you like what you have you can keep it, and then pass regulations 6 months later that do just the opposite and figure that people are going to ignore it. But common sense is eventually going to prevail in this town and common sense is going to have to prevail on this piece of legislation as well. I support the resolution of Senator ENZI, disapproving the regulation on grandfathered health plans.

The partisan health care overhaul enacted last March and subsequent implementation represents so many broken promises that I hardly know where to begin. But the resolution of Senator ENZI certainly sheds some light on one of the most glaring broken promises we have seen so far, and is as good a place as any for us to start.

Time and again throughout the health care debate, supporters of the health care overhaul assured voters that even after their proposal became law, ''If you like what your current health plan is, you will be able to keep it.''

The administration's own regulations prove this is not the case. Under the grandfathering regulation, according to the White House's own economic impact analysis, as many as 69 percent of businesses will lose their grandfathered status by 2013 and be forced to buy government-approved plans.

The estimates are even more troubling if you are a small business. Again, according to the administration's own estimates in the regulation, as many as 80 percent of small employers will be forced out of their current plan and into a more expensive government-approved plan. It is no wonder that the grandfathering regulation is opposed by pretty much every employer organization in the country. The National Federation of Independent Businesses, the Chamber of Commerce, the National Association of Manufacturers, and the National Retail Federation have all weighed in against this burdensome and disruptive policy. In every one of those cases, businesses that are members of those organizations want to provide health insurance and have been providing health insurance for their employees, and they want to keep it. They were believing Congress when they said if you have what you like you can keep it, and now they are finding out otherwise.

It is true our economy is in a fragile place right now. Yet the implementation of the new health care law is creating more uncertainty and higher costs for American businesses. How can we ask them to go out and create jobs and hire new people when each new health care regulation adds another layer of bureaucracy and uncertainty? The White House should be making it easier to do business in this country, not harder.

This is not just about confusion, it is also about costs. When employers and individuals make even modest changes to their benefits and lose grandfathered status, they are forced to buy a new government-approved health care plan that in most cases will cost more than their current plan. That means the government will tell employers what benefits they have to cover, to whom they have to offer coverage, and how much they are going to have to contribute.

We have already seen data from health plans saying that the requirement in the new law could drive up premiums by about 9 percent. This is in line with the Congressional Budget Office's estimate that the overall increase in premiums could be as much as 10 percent to 13 percent. When you factor in medical inflation, some people are still seeing premium increases of 20 percent or more after the passage of the health care law.

What happened, then, to President Obama's promise about lowering premiums by $2,500? Are we supposed to add that to the list as another broken promise? Each day it seems as if another news story comes out that shows why the partisan health care overhaul was the wrong approach. Health plans are being forced out of the child-only market. Some have stopped selling in individual markets entirely. Premiums continue to go up at twice the rate of inflation.

The White House's own actuary is telling us that health care inflation will be worse now than it was before the health care reform bill became law. Over 1 million seniors are being forced out of their current national Medicare Advantage or Medicare prescription drug plans, and this is only going to get worse. Businesses are considering dropping retiree health care benefits and possibly dropping health care coverage altogether.

With these kinds of stories coming out on a daily basis, it is no wonder that polls are showing close to 60 percent of the American people opposed to this new law. I support the efforts of Senator ENZI and appreciate that he is willing to shed some light on this issue. There is a lot of misinformation out there and people need to understand what this health care overhaul means for them.

The grandfathering regulation is a clear violation of the promises made by supporters of the health care law that, if you like what you have, you are able to keep it. We owe it to our constituents to fix that misrepresentation.

I urge my colleagues to support the resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I yield up to 10 minutes to the Senator from Nevada, Senator ENSIGN.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, many Americans may be wondering what this huge stack of paper is that I have on my desk. Over 2,000 pages of this stack of paper represent the actual health care bill. The rest of the stack consists of the regulations that have been written to this point.

From what we understand, once the whole health care bill and regulations are written, this stack of paper will grow much higher; estimates are as much as 20,000 pages total. The complexity of the health care law is incredible. The resolution we have before us today concerns grandfathered health plan status. This regulation is one of those regulations that many of us believe is going to do damage to our health care system. I want to talk a little bit about the regulations under discussion today.

Over the last couple of months, I have gone around to many businesses in my home State of Nevada, to talk about many of these regulations as well as the health care bill. Let me tell you, many small business owners in my State are very concerned about what this health reform bill is going to do to their businesses. A lot of small businesses struggle to do the right thing by giving their employees health care. A lot of them cannot afford the Cadillac plans that a lot of big businesses have, but they are trying to do the right thing. Some businesses cover half of what their employees pay. Some businesses have slimmed-down plans. The vast majority of the health plans that small businesses offer would not meet the minimum standards that this health care bill is going to require.

Why is that important? The President said during the health care debate that if you like your plan you can keep it. If you like your doctor, if you like your plan, you will absolutely be able to keep it. There is a small detail he left out. The detail is this: If you change your health plan—and it does not have to be in a significant way—or if you change your copays—you could lose your grandfathered status. If you lose your grandfathered status you now have to comply with the minimum standards in the Federal law. That is a problem because, for most small businesses, these standards will dramatically increase the cost of their health insurance for their employees and a lot of them are barely keeping their doors open today. A lot of small businesses I talk to are actually putting pencil to paper and figuring out whether they are even going to be able to keep the plans they have today.

The advocates will say: Well, don't change your plan. The reality is that every single year, businesses look at the health care plans that they offer and almost every year they make changes to those health care plans. Under this regulation, if you make changes to your health care plan you could lose the grandfather status. That is a major problem.

According to the government's own statistics, by 2013 as many as almost 70 percent of all employer plans and 80 percent of small business plans will relinquish their grandfathered status. Those are the government's own estimates. Based on these numbers, it doesn't sound like everybody is going to be able to keep their plan, as the President talked about in his promises about this health care legislation.

In my view—and I think this view is shared by a lot of experts who are studying this health care plan, this bill is going to raise costs for those who currently have insurance. Think about it; if you are going to cover 30 million people there will be costs associated with that coverage. There was a $500 billion cut in Medicare and there was an increase in taxes. We know that a lot of different taxes were increased to pay for this bill. But the other pay-for in this bill, that was not officially scored as a pay-for, is that for people who have insurance—it is going to become more expensive for them because of a lot of the mandates in the bill.

We have seen recently, insurance company after insurance company, when they are going to their State commissions bringing forward fairly large increases.

I was talking to a small business owner the other day in Nevada. He told

me his plan is going up 38 percent. That was the lowest bid he could get; a 38-percent increase for this year. The insurance companies told him it is because of this health care bill.

I was on a telephone call yesterday. I did a telephone townhall meeting back in my State. A senior citizen was on the phone. He was telling me about his Medicare supplemental insurance that is covered by his union. The copays and the premiums for that were going up dramatically. He was wondering how he was going to be able to pay his rent. He has virtually no discretionary income, so any premium increase is going to make it tough for him. He is actually figuring out how he is going to be able to make his rent payments. Those are some of the unintended consequences with this bill and the regulations that are being written.

I think we need to take a second look at health reform. First of all, obviously I wish to see the health reform bill repealed and replaced with real health insurance reform that makes insurance more affordable. I support things such as buying insurance across State lines—similar to how we buy car insurance across State lines. I also wish to see us enact real medical liability reform that would lower the costs of health care in this country. All of these things would be good to make health care more affordable and accessible for more Americans as opposed to what we have today. But let's at least start this process by rejecting the regulations that are going to hurt the grandfathered-in status of a lot of these plans. If you take away grandfathered status from a lot of plans, a lot of small business owners are going to be hurt and a lot of people who work for small businesses are going to lose their health insurance. This is because the small businesses will not be able to afford to comply with this health care bill and the regulations that are associated with it.

I urge support of this resolution of disapproval. I appreciate Senator ENZI for bringing this resolution of disapproval of these regulations forward. I think this resolution is something the Senate should support and support in a bipartisan way.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. ENZI. Mr. President, I yield up to 8 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I rise in support of Senator ENZI's resolution of disapproval and thank him for that. It seems every day a new story comes out about the negative consequences of the health care reform law, and I cannot keep up with them. I know people involved in the health care industry are having a very difficult time also.

Do you remember the campaign pledge that health care reform would immediately reduce family's premiums by $2,500? Well, last week a slew, a slew of new mandates on health insurers, including coverage of preventative services without any cost sharing, restrictions on annual limits on coverage, and coverage of children up to age 26—I guess a child 25 is a child—took effect.

Many of them, in fact, may be beneficial to some Americans, but they will not come free. Health insurers have begun alerting their customers to the fact that these new mandates cost money, money that has to be charged in additional premiums. I think most Americans understand you cannot get something for nothing.

But instead of admitting that their policies are causing health insurers to raise their rates, the Obama administration has unleashed Health and Human Services Secretary Kathleen Sebelius to silence its critics by intimidation.

In a letter to America's health insurance plans, the Secretary explicitly threatens health insurers that do not toe the line on ObamaCare with exclusion from the State health insurance exchanges, which start in 2014. ''There will be zero tolerance for this type of misinformation and unjustified rate increases,'' she has warned. ''We will also keep track of insurers with a record of unjustified rate increases: those plans may be excluded from health care exchanges in 2014.''

Well, let's be clear about what the Secretary, on behalf of the President, is saying. She is threatening to shut down private companies for exercising their first amendment right to free speech, and she is keeping a list. Some have called this gangster government in the press. As a former newspaper man, I am shocked. I am stunned by my former Governor's actions. First, it was the gag order on Humana Insurance for daring to describe the consequences of slashing more than $100 billion from Medicare Advantage to the customers, now this.

This administration says it wants transparency. Well, transparency is a two-way street. It does not mean muzzling dissenting opinions or inconvenient facts because they are not advantageous to the administration. As the Wall Street Journal opinioned: ''They're more subtle than this in Caracas, Venezuela.''

Not only are the actions of the Obama administration unconstitutional, they are also extremely hypocritical in light of their own highly misleading rhetoric. For example, the President and Secretary Sebelius have been touting the recent decision of health insurer Blue Cross Blue Shield in North Carolina to issue rebates to its customers in the individual market as a supposed ObamaCare victory.

President Obama claimed this victory at a recent campaign stop in Virginia, saying that the insurance commissioners are newly empowered to look after consumers, that we are already seeing ObamaCare's new levels of accountability pay off.

Well, aside from the fact that most State insurance commissioners have had the ability to review rate increases for years, a fact that Secretary Sebelius, as a former Kansas insurance commissioner, knows all too well, they are leaving out another very important fact, the rest of the story.

What they are not telling you is, the reason why the insurer is paying out rebates is, because of ObamaCare, their plans in the individual insurance market will cease to exist in 2014. This means the reserves they have stored to protect their solvency are no longer necessary.

That is where the rebates are coming from, not some well of hidden profits. The insurer is paying the rebates out of their reserves because the plans will no longer exist. This is hardly a victory for the thousands of people enrolled in those plans. If that is not misleading, I do not know what is.

What about the Secretary's taxpayer-financed mailer regarding Medicare Advantage that was recently sent to seniors all across the country? This mailer misleadingly claims that Medicare Advantage enrollees will not see any changes to their benefits under ObamaCare. That is a claim that is demonstrably false.

Already we are seeing insurers such as Harvard Pilgrim drop their Medicare Advantage plans altogether as a result of these huge cuts. So actually thousands of seniors will see changes in their benefits. They will not have any. I urge the President and the Secretary to reconsider their use of these tactics which only serve to further erode the government's credibility with the American people and to insult their elected representatives.

In the United States of America, private citizens are not only allowed to disagree with the government, it is a cornerstone of our democracy. So I say to the Department of Health and Human Services and the administration, stop the gag orders and the intimidation. To HHS, do not tread on the first amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, while I am waiting for another speaker to come, I will make some additional comments.

Mr. HARKIN. Mr. President, can I ask how much time is remaining?

The PRESIDING OFFICER. There is 27 minutes on the Senator's side and 21 minutes on the other side.

Mr. ENZI. Mr. President, I just wish to get a few things read into the RECORD. I have a list of 54 organizations that are supporting my resolution. They include the Latino Coalition, the Chamber of Commerce, the Coalition of Affordable Health Coverage, the Health Care Leadership Council, the National Federation of Independent Business, the National Restaurant Association, the Small Business and Entrepreneurship Council, to name just a few of the 54.

I ask unanimous consent to have printed letters of support from the Chamber of Commerce, the National Association of Health Underwriters, the National Association of Manufacturers, the National Federation of Independent Business, the National Retail Federation, the Small Business Entrepreneurship Council, and the Associated Builders and Contractors, all of which are in support of this and I suspect will be key voting this particular resolution.

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

(See exhibit 1).

Mr. ENZI. The Chamber of Commerce, for instance, says:

> The administration released an extremely complex regulation that makes it virtually impossible for plans to maintain grandfathered status, instead subjecting them to many expenses and burdensome new requirements. In our view, this regulation violates Congressional intent, and does not live up to the promises of proponents of the new law.

NFIB, a small part of their letter says:

> If required to comply with the administration's interim final rule, millions of small businesses will be forced out of the plans they know and like—

Which means their employees lose the plans they know and like.

The Associated Builders and Contractors say:

> The grandfathered rule demonstrates a fundamental failure of the Federal Government to understand the needs of small businesses. With the current unemployment rate of 17 percent, the construction industry cannot endure another cost increase at the hands of the Federal Government. It is unfortunate that the Federal Government continues to fail to provide employers and their employees with health care solutions that are practical or affordable.

Earlier, there were some mainstays of health care that—I think there was an aspersion I was getting rid of with my resolution. I want you to know that if the resolution passes, businesses will still be prohibited from discriminating against someone with preexisting conditions, businesses will still be prohibited from imposing annual limits on benefits, all plans will still be prohibited from imposing lifetime limits on benefits, all plans will still have to cover kids under the age of 26 on their parents' plan, all plans will still be prohibited from canceling coverage because of a paperwork error.

All those things will exist when this resolution passes, and this resolution needs to pass. All those things that I mentioned, preexisting conditions, annual limits, lifetime limits, children under the age of 26, and canceling coverage for paperwork errors, all those cost money. That is why the price is going up at the present time.

The price is going up at the present time. This was supposed to be cutting costs. Help does not arrive until 2014. But small businesses, particularly small businesses, are going to be required to meet this grandfathering rule now. They cannot afford the grandfathering rule now. Another thing I am objecting to is watching television and seeing an old favorite of mine, Andy Griffith, getting paid, at taxpayer expense, to tell us that this whole deal is excellent.

You saw the stack of regulations over there. They estimate there will be 100 pages of regulation for each page of that bill. There are 2,700 pages in the bill. That means there are going to be 270,000 pages of regulations. We do not legislate that way. We try and fill in those blanks. You do not even know what those blanks are going to hold yet, neither does small business.

They already know these are things that are going to drive up cost in the beginning, with no cost-cutting opportunity, and then the grandfathering rule kicking in right away, which means for 3 years, before they even know what some of those regulations are going to be, they are going to have to constrain everything in their organization within 15 points, as is pointed out, and we can expect the first year's increases to be even greater than the 15 points.

But they will try and stay with that grandfathered plan because it is what they can afford and it is what their employees like. So we are trying to keep people in the insurance they like. It is an employee request. I also noticed one of the Senators mentioned the Marshall Plan that was not liked when it was first passed; and the Civil Rights Act that was not liked when it was first passed.

I would like to point out those were both very bipartisan acts that were passed—bipartisan. It was not a partisan bill. You would have to notice that a lot of these people have been mentioning this was all passed by one side of the aisle, and there was a lot of warning before that if you do things in a hurry and you do it just partisan, that you do not devote the time that is necessary or put it in a small enough package that people can understand it.

There are vast parts of this that people did not get to read before they passed it. It is particularly noted on the House side. That leads to the kinds of difficulties we have now. We also turn over to bureaucrats writing the rules, and this is one of the examples, and we have a chance to overturn that at this point. They can go back and rewrite it again.

But, at this point, we can say: No, enough is enough. You cannot put all these things into place. You cannot kick people out of their insurance and let's see what happens in 2014 when we have all the regulation. So I think we have put a lot onto businesses that does increase cost. Because we do—even when this passes, we will still prohibit discriminating against someone with a preexisting condition, we will still prohibit imposing annual limits on benefits, we will still prohibit imposing lifetime limits on benefits. All plans will still have to cover kids under the age of 26. Although, I have noticed a whole bunch of the companies now are not going to write some of the plans that would do this, and they are getting out of the business. But all plans will still be prohibited from canceling coverage because of a paperwork error. Those drive up costs.

Relief is not in sight until 2014.

I yield the floor and reserve the remainder of my time.

EXHIBIT 1

LIST OF 54 ORGANIZATIONS SUPPORTING S.J. RES 39

Aetna; American Council of Engineering Companies; American Osteopathic Association; American Rental Association; American Road & Transportation Builders Association; AMT—The Association For Manufacturing Technology; Associated Builders and Contractors; Association of Clinical Research Organizations; Assurant Health; Automotive Recyclers Association; Chamber of Commerce; Cigna; Coalition for Affordable Health Coverage; Communicating for America; Furniture Dealers Association; Health Equity; Healthcare Leadership Council; Independent Electrical Contractors; Inc; International Franchise Association; International Foodservice Distributors Association.

International Housewares Association; Manufacturers' Agents Association for the Foodservice Industry; National Association for Printing Leadership; National Association of Health Underwriters; National Association of Insurance and Financial Advisories; National Association of Manufacturers; National Association of Mortgage Brokers; National Association for the Self-Employed; National Association of Wholesaler-Distributors; National Club Association; National Federation of Independent Business; National Office Products Alliance; National Restaurants Association; National Retail Federation; National Roofing Contractors Association; National Tooling and Machining Association; Northeastern Retail Lumber Association; NPES The Association for Suppliers of Printing, Publishing and Converting Technologies; Office Furniture Dealers Alliance; Pediatrix.

Pharmeceutical Research & Manufacturers Association; Plumbing-Heating-Cooling Contractors—National Association; Precision Machined Products Association; Precision Metalforming Association; Printing Industries of America; Self-Insurance Institute of America; Service Station Dealers of America; Small Business & Entrepreneurship Council; Small Business Coalition for Affordable Health Care; Specialty Equipment Market Association; Textile Care Allied Trades Association; Tire Industry Association; Turfgrass Producers International; The Latino Coalition.

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THE SPIRIT OF ENTERPRISE,
U.S. CHAMBER OF COMMERCE,
*Washington, DC September 27, 2010.*

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, urges you to support S.J. Res. 39, a resolution of disapproval that would repeal the onerous grandfathering regulations promulgated pursuant to the Patient Protection and Affordable Care Act.

The President and many other proponents of the new health care law repeatedly promised, ''if you like the plan you have, you can keep it,'' and the grandfathering provision was meant to ensure this promise. The statute contained a few short paragraphs specifying that a plan operating when the bill was

enacted could continue to operate as before; new employees and dependents of employees could also be added to the plan. The provisions demonstrate Congress clearly intended to preserve maximum flexibility for employer plans and those currently in operation.

However, the Administration released an extremely complex regulation that makes it virtually impossible for plans to maintain grandfathered status, instead subjecting them to many expensive and burdensome new requirements. Rather than allowing plans to continue operating in the manner they are accustomed to, the regulation specifies numerous ways by which such plans would lose grandfathered status. Thus, many existing plans would be forced to change in order to comply with an array of new mandates. In our view, this regulation violates Congressional intent, and does not live up to the promises of proponents of the new law.

Due to the critical importance of this issue to the business community, the Chamber strongly urges you to support S.J. Res. 39. The Chamber may consider votes on, or in relation to, this issue in our annual How They Voted scorecard.

Sincerely,

R. BRUCE JOSTEN.

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NATIONAL ASSOCIATION OF HEALTH UNDERWRITERS,
*Arlington, VA, September 28, 2010.*

Hon. MICHAEL B. ENZI,
*Ranking Member, Committee on Health, Education, Labor and Pensions, U.S. Senate, Hart Office Building, Washington, DC.*

DEAR SENATOR ENZI: On behalf of the National Association of Health Underwriters (NAHU), which represents more than 100,000 health insurance agents, brokers and employee benefit specialists involved on a daily basis in the sale and service of private health plans, I am writing to convey our support for your resolution of disapproval (S.J. Res. 39) to overturn the so-called grandfather rule in the Patient Protection and Affordable Care Act (PPACA).

As you know, throughout the legislative debate on health system reform, President Obama and congressional leaders repeatedly stated that ''if you like the coverage you have, you can keep it.'' Unfortunately, the proposed interim final rule (IFR) on grandfathering issued this past June follows a rigid path in defining the requirements for ''keeping what you have,'' which our professional benefit specialist members conclude will have a negative impact on employers large and small, their employees and their families. The complex and inflexible requirements could ultimately undermine the ability of employers to continue to provide existing health coverage for their employees.

The current grandfather IFR has not provided adequate guidance on various scenarios employers and consumers may encounter and, as such, there are many questions about the allowable changes that may be made to employer plans and the risk of losing grandfathered status. Once grandfathered status is lost, employers will be forced to follow a number of expensive new insurance rules, which will increase costs for employers and employees, threatening the coverage Americans currently have.

The Departments of Treasury, Labor and Health and Human Services own estimates indicate that the complex and restrictive IFR regime would effectively make grandfathering temporary: More than half of all employers, and two-thirds of all small employers, will relinquish their grandfathered health plans by the end of 2013.

Barring employers from changing insurance carriers or increasing cost sharing percentages of any level, for example, severely limits the ability of employers to maintain their grandfathered status. Other requirements to maintain grandfathered status, such as limits on the increases for fixed-amount cost sharing, are simply out of touch with the individual and small-group insurance markets since most employers have little control over the plan designs offered in the small-group and individual market.

In addition, the current grandfather rules do not afford protections for individuals and employers who lose their grandfathered status through no fault of their own. For example, if an individual or employer's health insurance carrier pulls out of a state marketplace, the only option the consumer has is to buy a new non-grandfathered policy or cease to be covered altogether. Unfortunately, our members report that a number of carriers are vacating many health insurance markets as a result of PPACA provisions, particularly in the individual and limited benefit plan markets, and that millions of their clients will be affected.

Our members also report that many large health insurance carriers are reorganizing all of their policy offerings as a means of streamlining administrative expenses. So while an individual or employer may be offered identical benefits through the carrier, their contractual dates may shift and they may technically be sold a new policy offering. Such administrative simplification moves may inadvertently cause millions to relinquish their grandfathered status.

We are very concerned that a great number of individuals and employers will be left with even less choice and flexibility and will be faced with the difficult choice of paying more to maintain grandfathered coverage, shopping for a new (and more expensive) plan or possibly dropping it entirely.

A workable and sustainable grandfathering protection framework should be aimed at achieving a number of important health reform objectives: (1) to promote stability during the transition to full health care reform by ensuring that Americans have a choice of keeping their current coverages; (2) to allow individuals to better control their health care costs; (3) to preserve affordable coverage options and limit disruption of coverage for currently insured individuals; and (4) to lessen the potential for regulatory uncertainty.

Unfortunately, the current grandfather rules fall short of these objectives on a number of levels. As such, we very much support your resolution of disapproval of the current grandfather rules, and hope that Congress and the Administration can work together toward a more sensible and sustainable policy moving forward.

Sincerely,

JANET TRAUTWEIN,
*Executive Vice President and CEO.*

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NATIONAL ASSOCIATION OF MANUFACTURERS,
*Washington, DC, September 23, 2010.*

Hon. MICHAEL ENZI,
*Ranking Member, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.*

DEAR RANKING MEMBER ENZI: The National Association of Manufacturers (NAM)—the nation's largest industrial trade association—urges you to support S.J. RES. 39, a ''resolution of disapproval'' to prevent implementation of the Interim Final Rule defining grandfathered health plans under the Patient Protection and Affordable Care Act.

The grandfather rule, as currently drafted, does not meet the standard on which the push for reform was predicated—insure the uninsured and allow those with coverage to keep an existing plan. The Department of Health and Human Services' own analysis determined that up to 80 percent of existing small plans will lose their grandfathered status. Employers are proud to offer their employees health insurance, and freezing this benefit limits employers' ability to provide quality coverage.

Currently, 170 million people receive insurance from their employers. Under the new law, the health plans covering these employees were to have grandfathered status and were not to be subjected to the broad insurance market reforms necessary for newer plans. This exemption was intended to allow employees to keep the coverage they currently have and with which they are most comfortable. However, the Interim Final Rule limits the ability of these plans to make routine modifications that will control the rising health care costs crippling many manufacturers.

The rule also removes grandfathered status from those who are fully insured if they change issuers. This eliminates the ability of many smaller businesses to negotiate with insurers to obtain lower rates. Those that are fully insured should be able to negotiate with competing issuers and maintain grandfathered status if they change issuers. This would allow for a competitive marketplace, keep costs down and create parity for smaller businesses that, without a large pool of insured to manage costs like most self-insured plans, use the competition of an open market to lower costs. As a result, the current rule places small businesses at a significant disadvantage.

Ninety-seven percent of NAM members provide health insurance to their employees. Manufacturers are proud to provide health care to their employees and would like to continue that benefit. The rule, as it stands, will decrease competition and create a stagnant, uncompetitive and more expensive insurance market.

The Senate should disapprove this rule because it will unnecessarily disrupt the current employer-based system, which provides coverage to millions of Americans. As manufacturers face tremendous uncertainty in these challenging economic times, Congress should not allow a federal agency to issue regulations that harm manufacturers' ability to create and retain jobs.

On behalf of manufacturers, we urge your support for S.J. RES.39 and look forward to working with you on our shared goals for a strong economy and job creation.

Sincerely,

JOE TRAUGER,
*Vice President,*
*Human Resources Policy.*

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SEPTEMBER 28, 2010.

Hon. MIKE ENZI,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR ENZI: On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing in support of S.J. Res 39, the Enzi disapproval resolution regarding the Interim Final Rule on grandfathered plans under the Patient Protection and Affordable Care Act (PPACA). The vote in support of the motion to proceed to S.J. Res 39 will be considered an NFIB Key Vote for the 111th Congress.

NFIB believes the Administration has overstepped its legal authority under PPACA in writing regulations that go beyond the legislative authority embedded in the statute. A strict reading of Section 1251 in the Act clearly outlines what defines a grandfathered plan. However, through its Interim Final Rule the government inappropriately reinterprets the intent of Congress by narrowing the scope of how plans qualify to retain grandfathered status.

The Interim Final Rule appears to be based on an assumption that coverage choices should be narrowed in the run up to 2014. Nothing in the statutory language of the PPACA supports this assumption. In fact, interpreting the PPACA so that it narrows the range of coverage choices is inconsistent with the spirit of the Act, as well as the letter of the law.

If Congress is unable to overturn the Interim Final Rule, NFIB remains deeply concerned that the new regulations will most heavily impact small, rather than large businesses. As written, the Interim Final Rule is so restrictive that the rule provides small businesses with little to no flexibility to keep their plan.

The precedent set forth by this Interim Final Rule is especially detrimental for the men and women who currently have coverage through small businesses. Millions of Americans rely on small business plans for their health coverage, and must continue to rely on those plans until at least 2014 when new purchasing options become available. However, if the Interim Final Rule is not overturned, the government's own analysis confirms what many small businesses fear most—that upwards of 80 percent of small employers could lose the plan they have today by 2013.

NFIB strongly supports the Enzi resolution of disapproval. As the 111th Congress comes to a close, Congress must restore the true meaning of ''if you like what you have today, you can keep it.'' If required to comply with the Administration's Interim Final Rule, millions of small businesses will be forced out of the plans they know and like. Thank you for your hard work on behalf of small business, and NFIB looks forward to working with you to address this critical issue.

Sincerely,

SUSAN ECKERLY,
*Senior Vice President, Public Policy.*

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SEPTEMBER 27, 2010.

Hon. MIKE ENZI,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR ENZI: I write to lend the support of the National Retail Federation (NRF) to the resolution of congressional disapproval (S.J. Res. 39) you have recently introduced to block the ''grandfathered plan'' regulations. We strongly support and endorse your effort and urge that the resolution be promptly adopted.

We are also concerned that regulators have taken too narrow a view of the grandfathered plan regulation. NRF's formal comments (submitted on August 16, 2010) noted in part that: ''[o]ur concern is that the [interim final regulation's] rigid, trip-wire rules make it entirely too possible (if not probable) that a plan that elects grandfathered plan status will not be able to maintain that status for long. Many plans may not even bother to elect grandfathered plan status.'' Our letter recommended several specific steps to improve the grandfathered plan regulation:

1. Allow employers to change insurance carriers without losing grandfathered status provided that: The coverage is actuarially equivalent or better, and that provider networks are substantially equivalent; prohibiting a change in carriers will needlessly inhibit competition bases on price and quality of service.

2. Allow for improvements in prescription drug formularies and provider networks without jeopardizing grandfathered plan status. New drugs come onto the market with great regularity and medical practice changes quickly. Formulary changes in the interest of plan beneficiaries are appropriate and necessary. Provider networks require regular maintenance to allow for retirements, addition of new providers and to maintain network quality. Reasonable changes that do not compromise ongoing treatment should be allowed.

3. Provide greater flexibility to manage future medical inflation. Changes in fixed dollar cost sharing should be made on a year-to-year basis rather than be based on March 23, 2010 and percentage increases from that.

We strongly concur with your view that a formal resolution of congressional disapproval is the appropriate next step under existing law. We urge its prompt adoption. Again, NRF commends you for introducing this legislation.

Sincerely,

STEVE PFISTER,
*Senior Vice President, Government Relations.*

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SMALL BUSINESS &
ENTREPRENEURSHIP COUNCIL,
*Oakton, VA, September 23, 2010.*

Hon. MIKE ENZI,
*Ranking Member, Health, Education, Labor and Pensions Committee, Senate Russell Office Building, Washington, DC.*

DEAR SENATOR ENZI: On behalf of the Small Business & Entrepreneurship Council (SBE Council), I am writing to applaud you for introducing a Resolution of Disapproval (S.J. Res. 39) relating to the rule on ''grandfathered plans'' issued by the U.S. Department of Health and Human Services (HHS). The rule, as written, is in clear violation of President Obama's promise that Americans would be able to keep the health plans they currently have upon passage of the Patient Protection and Affordable Care Act (PPACA). In addition, we believe that HHS has taken creative license in its interpretation of PPACA, bringing an ideological bent that is not supported by the statutory language.

SBE Council strongly supports your Resolution. Without its successful passage most small business owners and their employees will lose the health coverage they currently enjoy.

Small business owners and the self-employed were promised by President Obama and supporters of PPACA that they could keep the plans they currently have under the legislation. However, this promise has turned out to be false and small business owners feel betrayed by what transpired during the rule-making process, as well as what is occurring in the insurance marketplace. In order to qualify for grandfathered status, small business owners must stay with their current carrier and not significantly alter their current health plan or coverage. If their current carrier significantly raises their premiums, small business owners cannot shop around for more affordable plans or they will risk losing grandfathered status. The alternative is to move to another carrier and face more costly coverage mandated by the new health care law. In sum, small business owners are rendered helpless by this catch-22 rule.

Rather than helping small business owners and their workforce keep their plans, it appears the rule has been rigged to force most small businesses and their employees out of grandfathered status. We are aware that HHS estimates, worst case, 80 percent of small business owners will lose their current health plans. SBE Council believes 80 percent is the likely scenario, if not a conservative figure.

The consequence of the rule is obvious—more small business owners will drop coverage. Hiring will remain weak and jobs will be lost. This was not the promised outcome of PPACA.

Senator Enzi, SBE Council shares your desire to overturn this unjust rule. We applaud your leadership, and will do what it takes to see that S.J. Res. 39 advances into law.

Sincerely,

KAREN KERRIGAN,
*President & CEO.*

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ASSOCIATED BUILDERS
AND CONTRACTORS, INC.,
*Arlington, VA, September 28, 2010.*

Hon. MIKE ENZI,
*United States Senate.*

DEAR SENATOR ENZI: On behalf of Associated Builders and Contractors (ABC), a national association with 77 chapters representing 25,000 merit shop construction and construction-related firms with 2 million employees, we are writing to express our strong support for S.J. Res. 39, which would overturn the recently issued rule relating to status as a grandfathered health plan under the Patient Protection and Affordable Care Act (PPACA).

Throughout the health care reform debate, ABC advocated for policies that reduce the cost of health care for employers and their employees. ABC called on Congress to advance commonsense proposals that would address the skyrocketing costs of health insurance, especially for employer-sponsored plans, and the rapidly rising number of uninsured Americans. ABC believes true reform should provide greater choice and affordability and allow private insurers to compete for business.

Unfortunately, the new health care law will do nothing to reduce the cost curve; instead it simply will enroll more Americans into a broken and unsustainable health care system. Specifically, the recently issued grandfather rule will increase, rather than decrease, costs for small businesses.

On June 17, the Departments of Health and Human Services, Labor and Treasury issued an interim final rule relating to a plan's status as a ''grandfathered health plan'' under PPACA. As part of the Small Business Coalition for Affordable HealthCare, ABC and several other organizations filed comments expressing concern that the grandfather rule is overly restrictive and could make it even more likely that small businesses will choose to drop their plans prior to 2014 as they are faced with unsustainable premium increases. Instead of lowering the number of uninsured Americans, the rule could actually increase the number of uninsured before the health care law is fully enacted.

The coalition also pointed out that neither PPACA nor the grandfather rule address the core problem facing small businesses: the rising costs of health care. Instead, the rule strips small employers of the ability to exercise flexibility in adjusting to cost increases in order to maintain their current plan.

The grandfather rule demonstrates a fundamental failure of the federal government to understand the needs of small businesses. With a current unemployment rate of 17 percent, the construction industry cannot endure another cost increase at the hands of the federal government. It is unfortunate that the federal government continues to fail to provide employers and their employees with health care solutions that are practical or affordable.

Once again, ABC strongly supports S.J. Res. 39 and we commend you for introducing a resolution that is intended to reduce health care costs for a struggling sector of our economy: small businesses. We look forward to working with you in the future on commonsense health care initiatives.

Sincerely,

BREWSTER B. BEVIS,
*Senior Director, Legislative Affairs*

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I yield myself such time as I may consume.

I have to say to my friend from Wyoming: Where did that come from—100 pages of regulations for every page that is in the bill? That is going to be 200,000 pages of regulations. Where did that come from? It sounds like it came from the health insurance industry to me. Boy, I tell you, that is quite a figure. Well, obviously, it is a bogus number, and I do not know where that figure came from. I would like to ask my friend where that did come from.

But I say to my friend from Wyoming, the Senator just said there is no help—I wrote it down here as fast as I could—no help for small businesses until 2014.

Wait a minute. Wait a minute. In the Affordable Care Act, we attached—in the tax bill that Senator BAUCUS got through the Finance Committee, small businesses, beginning this year, 2010, will receive a tax credit—a tax credit, not deduction, a tax credit—of up to 35 percent of the cost of an employee's health insurance.

So you have a small business, prior to this year, that did not get a tax credit, I say to my friend from Wyoming. I mean, the Republicans ran this place for 8 years under George Bush—8 years. They had a Republican President, Republican Senate, Republican House. They did not give small businesses any tax breaks for health insurance. We did. It is in the bill, a 35-percent tax credit this year for small businesses. That would cover 83.7 percent of all small businesses in the country. That is quite a bit of help for small business.

I have heard from small businesses in my State that can get that tax credit this year that they have never had before. A lot of these small businesses are small businesses that employ just a few people—10, 12. They know their employees. They go to the same churches, schools. They are neighbors. I can't tell my colleagues how many small business owners in Iowa have told me: I feel so bad. Because of the increasing costs of health insurance, whether they are increased copays or deductibles, cutting out benefits, I have had to increase the cost of health insurance to my employees to the point that it is almost not worth it anymore because of high deductibles.

They feel badly about it because these are their friends, neighbors. They are related a lot of times. I have had them come to me and say: Finally, this year I can get a tax credit, up to 35 percent.

Quite frankly, in my State, 90.8 percent of small businesses will get the maximum 35 percent tax credit. Small businesses don't have to wait until 2014 to get help; they are getting that help right now.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HARKIN. I am delighted to yield to my friend from Illinois.

Mr. DURBIN. I would like to ask the Senator from Iowa, if the Senator from Wyoming prevails in what he is seeking to do this morning, it is my understanding that almost half the people in America who currently have health insurance through their employers, people who are so-called grandfathered in under this bill, would not get the new protections that are coming in the law, protections that say that under their health insurance, they will not be subject to a lifetime limit. For example, if someone gets into long-term cancer therapy that is going to be very expensive over a long period and the insurance company decides halfway through they will cut them off, we now protect people so that they can continue to get the care they need. They can't be limited.

Isn't it also true that the effort of the Senator from Wyoming would protect the right of the insurance companies to literally cancel one's policy because of an error made in the application for the policy, to rescind the policy?

I might add, it is my understanding that this rescission is abused in my State more than any other in the Nation. The rescission rate on health insurance in Illinois is three times the national average. We have had over 5,000 people who have had their health insurance canceled. When they went to the company and said: I am facing surgery, I am facing cancer therapy, and I need coverage and want to make sure I have it, they ended up getting their policies canceled.

I ask the Senator, would the effort by the Senator from Wyoming take away these protections we are now building into the law to make sure health insurance is there when people need it the most?

Mr. HARKIN. Mr. President, we have two things here. We have the Patients' Bill of Rights which just went into effect. That covers everybody. That covers all plans. That covers grandfathered plans. They can't escape that. However, if a plan wanted to be grandfathered, we left it up to the Department to write rules and regulations as to what grandfathered means. For example, let's say the Senator from Illinois and I have a contract. We both have agreed to it. We say we are going to let that contract go into the future. After a certain date, you are grandfathered in that contract.

What the Senator from Wyoming would say is that if you are the insurance company and I am the individual covered, we will grandfather it, but you can change it any way you want. You can raise my copay. You can raise my deductible. You can reduce the annual limit on claims you will pay. You can eliminate benefits, such as the Senator just pointed out, for cancer or diabetes. And guess what. You would still be considered grandfathered. But I am stuck with that. That is what is so important here. That is what people have to understand about what the Senator from Wyoming is trying to do. He is saying that basically we will grandfather it in, but the insurance companies can change it however they want, and you are stuck with it.

Mr. DURBIN. So if the Senator from Wyoming prevails and I am one of the grandfathered plans—in other words, I have my health insurance plan that I like through my employer—my health insurance company on my grandfathered plan can literally cut me off when I need health insurance the most, can literally put a limit on the amount they are going to pay on an annual basis?

Mr. HARKIN. That is right.

Mr. DURBIN. Can really take away my health insurance protection.

I ask the Senator from Iowa, hasn't he heard, as I have from people in my State, how vulnerable they are when you empower health insurance companies to bail out when you need them the most? If we voted with the Senator from Wyoming, we would empower the health insurance companies at the expense of vulnerable people who may face an accident or a diagnosis tomorrow that changes their lives. Isn't that what this gets down to in its most basic form? Do we want to give power to the people who are insured or power to the health insurance companies? As I understand the Senator from Wyoming, he thinks the health insurance companies should have the power and we should not be providing protection to the people who need it most.

Mr. HARKIN. That is the way I see it. It just seems that we have rules and regulations. What the Department has said is that, OK, to be a grandfathered plan, you have to fall under these items: You can only raise your copayment a certain amount. By the way, it is quite a bit. You can raise your copayment either the greater of 5 bucks or medical inflation plus 15 percent. That is pretty good. It says you can change different things but within certain limits. They can't, for example, raise your coinsurance charges—that is, if you have a percentage. For example, if it is 20/80, they can't just raise that. It has to stay the same percentage. They could raise the copayment if it is a dollar amount.

That is why the Senator from Illinois is so right. If this resolution passes, all of the protections for consumers are wiped out.

Mr. ENZI. Will the Senator yield for a question?

Mr. HARKIN. On whose time?

Mr. ENZI. I am about out of time.

Mr. HARKIN. How much time remains?

The PRESIDING OFFICER. The Senator from Iowa has 17 minutes, and the Senator from Wyoming has 13½ minutes remaining.

Mr. HARKIN. Mr. President, I will be glad to yield time if he will yield me time if I have a question.

Mr. ENZI. Certainly.

The Senator from Iowa is not answering the same question the Senator from Illinois is asking. I did say that when the resolution passes, they would

not be able to discriminate on preexisting, they would not be able to impose annual limits. They will not be imposing lifetime limits. They will have to keep people until age 26, and they will not be able to cancel it for paperwork error. I think that is the question the Senator from Illinois was asking, not the copays and those things.

Mr. HARKIN. I did respond that the bill of rights applies to all plans.

Mr. ENZI. All plans, even if the grandfathering clause is taken out?

Mr. HARKIN. Absolutely. I made that very clear. The bill of rights that came into effect stays for everything. But what I am saying is that the Senator is right, and I responded that way concerning the bill of rights. But what doesn't apply to grandfathered plans are preventive services that are covered with no cost. That is not covered. The right to an appeal to a third party is not covered. Restrictions on annual limits is not applied. They can put annual limits on coverage under these grandfathered plans. Direct access to OB/GYNs without a referral is not part of the Patients' Bill of Rights. No higher cost sharing for out-of-network emergency services, no prior authorization requirement for emergency care—none of that is in the bill of rights. So all of that is wiped out by the resolution of the Senator from Wyoming.

Again, for emphasis, you have a contract. You work for an employer. They have a plan. You are part of that plan. If you like that plan, you can stay with it. My friend from Wyoming said: Only in Washington, DC, could they say, if you like your plan, you can stay with it, and then they change it. No. Only in the health insurance industry, perhaps in the Republican philosophy, would you say that you can grandfather a plan, but you the consumer are stuck if the insurer wants to change it any way he wants to change it, with the exception of the bill of rights. They could raise your copayment, they could take away your right of access to an OB/GYN without referral, and all the other things I mentioned.

If your insurer dramatically raises your copayment, that is not what you signed up for. That was not the plan you signed up for. If your insurer dramatically raises your deductible, that is not what you signed up for. If your insurer reduces the annual limit on claims they will pay, that is not what you signed up for. If your insurer eliminates covered benefits, such as cancer or diabetes, that is not what you signed up for.

We are saying: You have a plan here. You signed up for it. You like it. You can keep it.

But what if your insurer comes along and says: Guess what. We are not going to cover it if you get diabetes, and we are going to put an annual limit on claims we will pay, and we are going to raise your deductible by a huge amount. Is that the plan you signed up for? No. So why should you be stuck with that? Why should that be a grandfathered plan?

A grandfathered plan means a plan that was in existence before April of this year that you like but which is not changed dramatically on you by your insurer. So if you have a grandfathered plan, you are fine. What the Department did is that they issued regulations to define what that is. Quite frankly, I thought they were very lenient. For crying out loud, they can raise your copayment by the greater of $5 or medical inflation plus 15 percent. Fifteen percent of medical inflation sounds like a lot to me. That is quite lenient.

Again, my friend had a lot of letters he included for the RECORD. I would like to insert letters in opposition from the Small Business Majority, from the Center for Budget and Policy Priorities. Here is a letter signed by the American Cancer Society Cancer Action Network, the American Diabetes Association, the American Heart Association, Families USA, the National Partnership for Women and Families, National Women's Law Center, SCIU, and U.S. PIRG. I also have letters from Health Care for America Now, Service Employees International Union, the AARP, and Trust for America's Health. I ask unanimous consent to have these letters printed in the RECORD.

All are in opposition to the Enzi resolution.

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

SMALL BUSINESS MAJORITY,
*Sausalito, CA, September 28, 2010.*

Hon. TOM HARKIN,
*Chair, Senate Committee on Health, Education, Labor and Pensions, Senate Dirksen Office Bldg., Washington, DC.*

Hon. MIKE ENZI,
*Senate Russell Office Bldg., Washington, DC.*

DEAR SENATORS: Small Business Majority strongly opposes S.J. Res. 39—a resolution of disapproval that would prevent implementation of the grandfathering regulations under the Patient Protection and Affordable Care Act. This unnecessary resolution would impede the orderly and responsible implementation of comprehensive reform—which would deny small businesses and their employees the protections reform provides, and make it more difficult for them to access affordable care.

The passage of healthcare reform was a huge victory for small businesses, many of whom are being crushed under high healthcare costs and were looking to reform to give them some relief. However, there are small businesses that like their existing plans and want to keep them. The legislation allows them to do so. But these plans must continue to resemble their current form and also must work in the context of overall reform.

The regulations issued by Health and Human Services on June 15 strike the right balance. They require that the existing plans don't increase costs more than 15% above medical inflation and that they don't disturb reforms that will be put in place in 2014—such as prohibiting insurance companies from denying coverage due to preexisting conditions. We found from extensive opinion polling that these requirements address small business owners' biggest concerns: controlling costs and the elimination of preexisting condition rules. While we believe the regulations make sense, they aren't set in stone; HHS is open to making additional changes based on small business input.

Small Business Majority continues to support healthcare reform. Small businesses are the lifeblood of our nation's economy and shouldn't be denied the benefits reform provides, which is why we urge you to vote against this counterproductive resolution.

Sincerely,

JOHN ARENSMEYER,
*Founder & CEO.*

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[From Off the Charts, Center on Budget and Policy Priorities, Sept. 29, 2010]

ENZI PROPOSAL WOULD THREATEN MARKET REFORMS IN AFFORDABLE CARE ACT

The Senate is expected to vote today on a proposal from Senator Mike Enzi (R–WY) to overturn federal regulations related to some of the Affordable Care Act's key health insurance market reforms that took effect last week.

The regulations define ''grandfathered plans.'' Here's why this definition matters. Among other things, the new health reform law would require health plans to cover preventive care without cost-sharing, undergo reviews to see if their premium rate increases are unreasonable, and offer enrollees the choice of their primary care provider. But plans that existed when the law was enacted on March 23, 2010—known as ''grandfathered'' plans—aren't required to comply with these reforms.

The regulations define how much a grandfathered plan can change before it is considered a new plan that must abide by these new reforms and consumer protections. As we explained in a recent fact sheet, they strike a good balance for consumers, allowing people to keep the plans they have while ensuring that consumer protections kick in if an insurance company reduces a plan's benefits or raises consumers' out-of-pocket costs significantly.

Repealing the regulations, as Senator Enzi is proposing, would confuse consumers, employers, and insurers about which plans are grandfathered and which plans have to comply with market reforms. As a result, it would threaten the implementation of the immediate market reforms, thus making the insurance market less stable and would likely leave many consumers without access to critical protections the Affordable Care Act provides.

In short, the Enzi proposal—which would require just 51 votes to pass—would be a significant step backward.

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SEPTEMBER 29, 2010.

DEAR SENATOR: The undersigned organizations write to you to express opposition to Senate Joint Resolution 39, Disapproval of Grandfathered Health Plans, filed by Senator Mike Enzi. The resolution would block key insurance reforms included in the Affordable Care Act that protect consumers and ensure high quality, affordable care.

Specifically, the resolution would eliminate an interim final rule issued by the Departments of Health and Human Services, Labor and Treasury in June that clarified important consumer protections. Many provisions in the Affordable Care Act apply to all plans, new and existing. However, some provisions only apply to new plans. The rule outlines how health insurance plans could maintain or lose their ''grandfathered'' status.

The rule, issued by the Administration, strikes the right balance between protecting consumers and providing stability and flexibility for employers. Specifically, the rule

prohibits plans from significantly cutting or reducing benefits, increasing copays by an excessive amount, dramatically raising deductibles or decreasing employer contributions that result in an increase in workers' share of premiums. If plans significantly raise out-of-pocket costs for consumers, they lose their ''grandfathered'' status and would be considered a new plan, subject to further requirements in the law. Senator Enzi's resolution would completely eliminate the rule, making it impossible to enforce important consumer protections against potential insurance company abuses. If enacted, the resolution would put consumers' rights in jeopardy.

We strongly urge you to stand up for American families and vote ''no'' on SJ Resolution 39.

Sincerely,

American Cancer Society Cancer Action Network.
American Diabetes Association.
American Heart Association.
Families USA.
National Partnership for Women and Families.
National Women's Law Center.
SEIU.
U.S. PIRG.

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HEALTH CARE FOR AMERICA NOW!,
*Washington, DC, September 28, 2010.*

DEAR SENATOR: On behalf of Health Care for America Now, we urge you to oppose the Joint Resolution of Disapproval of the ''grandfathering rules'' filed by Senator ENZI. We understand this could come up for a vote as early as Wednesday, September 29. The Enzi resolution would nullify the interim final rule defining grandfathered plans. In striking the rule, Senator Enzi's resolution potentially allows any health plan to be grandfathered—shielding plans indefinitely from complying with important new consumer protections that benefit millions of Americans.

Like the Affordable Care Act (ACA) itself, the interim final rule issued by the Departments of HHS, Labor and Treasury sought to strike a balance that allows consumers to keep current plans they like, while also ensuring that plans evolve to incorporate new consumer protections. To do this, the rule laid out the circumstances under which a health plan loses grandfathered status, and therefore must comply with certain new consumer protections. Factors that result in a plan losing grandfathered status include significant benefit cuts, cost-sharing hikes, lower employer contributions, a new or tightened annual limit, or switching insurance carriers.

The Enzi resolution wipes away the rules that define grandfathered plans, potentially allowing any plan to assert its permanent non-compliance with consumer protections. This would invalidate many benefits of the ACA for people that currently have insurance and indefinitely lock them into plans that fail to meet basic consumer protections. Though claiming to help small business, the resolution will plunge many small business health plans into a maze of litigation. This resolution is a transparent attempt to gut some of the most important provisions of insurance reform.

Consumers lose under the Enzi resolution. Plans would not have to cover preventive services at no cost. The right to internal and external appeals could be stripped. A trip to the emergency room could again require prior authorization and result in enormous out-of-network costs. These protections are so basic, popular and bipartisan that there can be no explanation for this resolution other than pandering to an insurance industry that lost the battle but is still gunning to win the war against consumers on health reform.

On September 23, people all around the country celebrated the arrival of key consumer protections. Advocates hosted hundreds of events nationwide, including 87 sponsored by Health Care for America Now and the Main Street Alliance. This spiteful resolution threatens to rip away those hard-won consumer benefits. We urge Senators to vote no on the motion to proceed and no on the resolution.

Sincerely,

ETHAN ROME,
*Executive Director.*

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SERVICE EMPLOYEES INTERNATIONAL UNION.

On behalf of the more than 2.2 million members of the Service Employees International Union (SEIU), I urge your boss to oppose S.J. Res. 39 filed by Senator ENZI. This resolution of disapproval would strike the interim final rule submitted by the Departments of Health and Human Services, Labor and Treasury on the grandfathered health plans under the Affordable Care Act (ACA).

Many of the new protections under the ACA apply to all health plans, both those in existence known as grandfathered plans and new health plans or non-grandfathered plans. Those provisions covering all health plans include a prohibition of rescissions, a ban on annual lifetime coverage limits, coverage of children until age 26, and an end to exclusion of children based on pre-existing conditions. There are certain provisions that do not apply to grandfathered plans, including the requirement to provide preventive health services with no cost sharing and the new internal appeals and external review process. Senator Enzi's resolution seeks to disapprove the interim final rule which states that health plans would cease to be the same plan that was in effect on March 23, 2010 and therefore no longer maintain grandfathered status if they significantly cut benefits, raise deductibles or co-pays or lower employer contributions.

This resolution would give insurance companies free reign to change the structure of a health plan such as increasing co-pays and deductibles and not be required to provide stronger consumer protections/benefits enacted under health care reform designed to increase access and affordability. In short, S.J. Res 39 is a blatant attempt to erode the protections provided to consumers under health care reform.

SEIU strongly urges you to oppose S.J. Res. 39. SEIU will add votes related to this issue to our Congressional Score Card located on our Web site at www.seiu.org. Should you have any questions or concerns, contact Desiree Hoffman, Assistant Director of Legislation, at desiree.hoffmanaseiu.org.

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SEPTEMBER 29, 2010.

AARP: SENATE RESOLUTION WOULD WEAKEN NEW HEALTH INSURANCE PATIENT PROTECTIONS

ASSOCIATION URGES SENATORS TO OPPOSE S.J. RES. 39.

WASHINGTON.—AARP Legislative Director David Certner released a statement in advance of today's expected vote on S.J. Res. 39, a Senate resolution of disapproval that would weaken the patient protections put in place under the health care law. Certner's statement follows:

''The rules created earlier this year strike a good balance between preserving the rights of individuals to keep their existing coverage, while also honoring the purpose of the Affordable Care Act in providing for patient protections and important insurance reforms that safeguard individuals from practices that lead to denials of coverage or to underinsurance in the event of serious illness or accident.

''As I stated in AARP's letter regarding the Interim Final Rule (IFR) to implement the grandfather status rules, 'AARP supports the general thrust of the IFR that plans not lose their grandfather status for changes that are modest in nature. This is consistent with the need to balance the objectives in the ACA of preserving the right of individuals to keep their existing coverage with the goal of ensuring access to affordable essential coverage and improving the quality of that coverage.' AARP agrees with the IFR's determination of what would cause plans to lose their grandfather status (e.g., cannot significantly cut or reduce benefits, cannot significantly raise co-payment charges, cannot significantly lower employer contributions) as important consumer protections and consistent with the statute.

''As a result, AARP urges Senators to oppose this resolution to ensure critical new protections and rules remain in place so that the vast majority of Americans who get their health insurance through employers will have clear guidelines on how their plans comply with the new law.''

AARP is a nonprofit, nonpartisan social welfare organization with a membership that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP does not endorse candidates for public office or make contributions to either political campaigns or candidates. We produce AARP The Magazine, the definitive voice for 50+ Americans and the world's largest-circulation magazine with over 35.1 million readers; AARP Bulletin, the go-to news source for AARP's millions of members and Americans 50+; AARP VIVA, the only bilingual U.S. publication dedicated exclusively to the 50+ Hispanic community; and our website, AARP.org. AARP Foundation is an affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. We have staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

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TRUST FOR AMERICA'S HEALTH,
*Washington, DC, September 29, 2010.*

U.S. SENATE,
*Washington, DC.*

DEAR SENATOR: The Trust for America's Health urges you to oppose S.J.Res 39, a resolution of disapproval of the interim final rule that stipulates what actions health plans are precluded from taking if they wish to be considered a ''grandfathered'' health plan under the Patient Protection and Affordable Care Act (ACA).

Among the many benefits of this critical law enacted earlier this year is the renewed focus of the law on the importance of prevention. As a result of ACA, patients and consumers who enroll in new health insurance plans will have access to recommended preventive clinical services for little to no cost. This represents a tremendous opportunity to encourage Americans to seek out and receive recommended preventive services, which will have a real impact on improving health outcomes. Furthermore, guaranteed coverage of preventive services is a critical component of establishing a national culture of prevention and wellness.

While we hope that one day all Americans will be guaranteed this access, a certain category of ''grandfathered'' health plans are exempt from this requirement. As released

in June, the rule requires that health plans not make significant changes to plan benefits, premiums, or cost-sharing requirements should they wish to maintain their ''grandfathered'' status.

Enactment of this resolution would block the Department of Health and Human Services from implementing this rule and effectively permit any existing health plan to avoid the important affordability and benefit protections created under health reform, including coverage of preventive health services.

Once again, we urge you to vote against this resolution to ensure that ''grandfathered'' status does not become a route to curtailing the important prevention components of health insurance reform. We hope you will stand on the side of ensuring that patients have access to clinical preventive services and other important insurance reforms contained within ACA.

Sincerely,

JEFFREY LEVI,
*Executive Director.*

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I yield up to 10 minutes to the Senator from Arizona, Mr. MCCAIN.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent to engage in a colloquy with the Senator from Wyoming.

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

Mr. MCCAIN. I would say to my friend from Wyoming, this seems like old times—what we tried to stop for over a year, and now our predictions came true, beginning with they turned 2 pages of this 2,733-page bill—2 pages—into 121 pages of regulation. Is that correct, I would ask my colleague from Wyoming?

Mr. ENZI. In one of the instances, that is correct.

Mr. MCCAIN. So in a 2,733-page bill, if we have 121 pages of regulation for every 2 pages, that is going to be pretty interesting, isn't it? And the fun has just begun. The fun has just begun.

If the Senator might recall, I ask my friend from Wyoming, President Obama—quote after quote, time after time:

And if you do have health insurance, we'll make sure that your insurance is more affordable and more secure.

We know that is not true from every estimate. It is neither affordable nor secure.

If you like your health care plan, you can keep your health care plan. This is not some government takeover. . . . I don't want government bureaucrats meddling in your health care. . . . That's what reform is about.

I quote from the President of the United States.

So now they have taken 2 pages of a 2,733-page bill, and that is 121 pages of regulation.

Now, isn't it true, I would ask my colleague from Wyoming, who knows as much or more about this than anyone, that it will result in 50 percent of all employees being in plans ineligible for grandfathered status? Is that a correct statement?

Mr. ENZI. That is not only a correct statement, the estimate is a little low, according to the administration.

Mr. MCCAIN. According to the administration.

Mr. ENZI. According to the administration, in small businesses, 80 percent of the people—unless this is passed—will lose the insurance they have and like, and in all businesses 69 percent will. Those are not my numbers; those are the administration's numbers.

Mr. MCCAIN. But isn't it also true that is the case for small business and people and entrepreneurs all over America except the unions? Isn't that true? Isn't this a carve-out again, part of this sleaze that went into putting this bill together, part of the ''Cornhusker kickback,'' the ''Louisiana purchase,'' the buying of PhRMA—all that went into this—the ''negotiations'' that were going to take place on C–SPAN that the President said during the Presidential campaign that went from one sweetheart deal cut to another. Part of one of those sweetheart deals was the unions are exempt; is that correct?

Mr. ENZI. That is correct. And so were the other parts that were done in order to buy the bill in a bipartisan way.

Mr. MCCAIN. So what you are saying is that unless a health care policy provided by an employer is absolutely unchanged totally for an unspecified period of time, then that health insurance policy can be declared invalid by the Department of Health and Human Services, and they will have to go to a government-mandated health insurance policy or pay a fine. Is that a correct assessment?

Mr. ENZI. It is a correct assessment in most of the parts. They will have to give up the insurance they have now, even if they like it, which the President did mention 47 times in public speeches. And there are some requirements on how much of a change there can be.

But I have been talking to small businessmen traveling across Wyoming, talking to them and visiting them, because Congress thinks ''profit'' is a bad word, and a lot in Congress think every business is simple to run. But they have never been out there and scratched the surface a little bit to see just how tough it is.

I have had businessman after businessman whom I have visited and ones who have come to Washington because they have been so concerned who have said: I am going to do everything I can to keep my plan just exactly the same because this regulation is so difficult to understand, and I am pretty busy anyway, so I don't think I dare make any changes.

That is not true. They could make a few changes, but if they do, they will lose their status, and they will have to pay more.

Mr. MCCAIN. So an employer, a small businessperson provides health insurance for their employees. That employer sees health care costs go up,—as everybody knows, and that is every objective estimate—so that employer says to its 10, 50, 60, whatever, employees: Look, we are going to have to increase your copay. We are going to have to increase your copay because, simply, the costs are prohibitive, and we would like to sit down, and I think you would probably agree to it given the overall situation across health care. And the employees agree with that and they change the copay, and then automatically they are finished. Is that correct?

Mr. ENZI. Yes, that is correct. That is correct. If they change the copay, they are no longer grandfathered.

Mr. MCCAIN. So even though it is obvious that the cost of health care is going up, continues up dramatically—that is estimates of OMB, of literally every objective observer; the curve has not been bent down—that unless employers keep exactly, with very little wiggle room, basically the same health insurance policy for their employees, then they will then have to comply with a government-mandated health insurance policy. Is that correct?

Mr. ENZI. That is correct. The Federal bureaucrats have figured out what the minimum amount of insurance is that you ought to have and everybody else in America ought to have, and even if you like what you have, you are going to have to go to that if there are certain changes in your policy.

The small businessmen are worried about any changes. Because this thing is so complicated, they do not even know what the rest of the rules are going to be. They have talked about this tax credit, but a number of them have looked at the requirements on the tax credit and said: How in the heck do I ever comply with that? So they are a little worried about being able to get that too.

Mr. MCCAIN. So I guess it was one of our colleagues and the President who intimated: Well, the American people really don't pay attention. The American people don't really—they are deceived by FOX News, et cetera.

The American people knew this was a bad deal then, and they know it is a bad deal now. The majority of the American people want it repealed. And all of this is suspicions confirmed when you take 2 pages of legislation and turn it into 121 pages of regulation—a 2,733-page bill.

Mr. ENZI. Yes, it will be dramatic. We have not begun to touch all of the regulations that have to be written on this yet. We looked at the Medicare bill and how many pages of regulations came out of that, and it was 100 per page, which would be 270,000 pages on this one. That is where that number came from.

Mr. MCCAIN. So here we are with an economy that the administration, the President, and his crack economic team said that if you pass this stimulus bill, maximum unemployment will be 8 percent. What is the problem with

investment and hiring and economic growth in America today? The total uncertainty. We have just punted on the extension of the tax cuts or an Obama tax increase. We have just punted on a number of issues, and the American people now are going to have to—this small businessperson the NFIB represents is going to have to thumb through 121 pages of new regulations in order to understand. Big businesses and small businesses are going to say: What are the next 121 pages of regulations that are coming down for 2 pages of the bill? I guess the title page probably would not have regulations associated with it, but the other 2,732 would.

Mr. ENZI. And the Senator from Arizona has not even mentioned the 1099 problem that is supposed to help pay for part of this bill.

Mr. MCCAIN. Yes, which our colleagues just voted down. They voted down a resolution by the Senator from Nebraska that would allow them not to have to report every single transaction of $600 or more. No wonder small and large businesses in America are reluctant to invest and hire with this kind of foolishness going on.

Mr. ENZI. Right.

Mr. MCCAIN. The CPAs come to me in Arizona and say: I can't advise my clients. I don't know what the tax structure will be.

So here we are with a new 121 pages of regulation which obviously will affect 50, 60, 80 percent—let's say it only affects 50 percent of businesses in America—and we are going to vote down, probably, with the big-government majority here, this effort to not have this regulation implemented.

All I can say to my colleague from Wyoming is, thank you for your leadership. Thank you for your thoughtful dissertation on this issue. And I guarantee you, maybe next January, we can take this up again.

Mr. President, I yield the floor.

Mr. KYL. Mr. President, last June, President Obama promised on national television that ''Government is not going to make you change plans under health reform.''

In his September 2009 address to Congress he told Americans, ''If you have health insurance through your job, nothing in our plan requires you to change what you have.''

Many Americans doubted this would be the case, and they have been proven right.

In the months after the health care law was passed, the administration wrote the regulations for plans with grandfathered status. Grandfathered status was supposed to allow employers to continue offering current health plans, even if those plans don't meet all of the government's new cost-increasing mandates and requirements. And we were told it was intended to help protect Americans enrolled in these plans from ''rate shock,'' or significant premium increases, as a result of the new government mandates.

The consulting firm Mercer has bad news for people hoping to keep what they currently have. It released a new survey of employers on the impact of the health care law. One-quarter of employers surveyed estimate that the law would raise premiums by at least 3 percent. That increase is beyond this year's normal rise in costs due to medical inflation.

A majority of respondents—57 percent—said they will ask employees to pay a greater share of the cost of coverage in 2011, meaning higher deductibles and copays.

As the Mercer study notes, ''The rules for maintaining grandfathered status were tougher than many employers expected. As they start to get a clearer picture of projected costs for 2011, many are finding they need more flexibility to get their cost increases down to a level they can handle.''

Yet the administration's regulations expose employers and employees to extensive bureaucratic redtape just so they can keep their current plans.

In fact, the administration's own experts at the Department of Health and Human Services estimate that between 39 and 69 percent of businesses won't be able to keep the health plans they have now.

Small businesses will fare even worse. By 2013, up to 80 percent of small businesses could lose their grandfathered status. All of this means that few health plans will qualify for grandfathered status, so many Americans will not get to keep what they have.

Employers that lose grandfathered status for their health plans will be forced to comply with all of the new mandates included in the health care law and all of the administration's regulations.

Subjecting employers' health plans to these mandates will either force them to change their plans and increase their costs of insurance or pay a fine and dump their employees into the Federal Government's new insurance exchange.

I do not support the health care law at all, but I believe Americans should get to keep what they have, as promised, so I support the Enzi resolution of disapproval. The resolution would nullify these regulations and direct the administration to develop true grandfathering protections that allow Americans to keep their current coverage.

These latest developments are consistent with the pattern that has emerged ever since this bill passed and was signed into law—one of broken promises. Americans never liked or wanted this bill, and we are continually reminded why they opposed it in the first place.

Mr. WARNER. Mr. President, I ask unanimous consent to have printed in the RECORD, the following letter to Secretary Sebelius which discusses my thoughts on the interim final rule, ''Rule'', regarding grandfathered plans—75 Fed. Reg. 34538—as part of the Affordable Care Act. While I will vote against the motion to proceed on Senator ENZI's joint resolution of disapproval, S.J. Res. 39, I do have concerns that the rule itself is overly restrictive. I look forward to working with the administration and my fellow colleagues on continuing to develop guidance on this issue.

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

U.S. SENATE,
*Washington, DC, September 29, 2010.*

Hon. KATHLEEN SEBELIUS,
*Secretary, U.S. Department of Health and Human Services, Washington, DC.*

DEAR SECRETARY SEBELIUS I write regarding the Interim Final Rule (''Rule'') regarding grandfathered plans (75 Fed. Reg. 34538).

While I understand that the Rule seeks to balance consumer protections while still allowing consumers to keep their existing plans, I am concerned that as currently written, the Rule is overly restrictive. In some places the Rule places significant restraints on the ability of employers and health plans to make adjustments to their existing plans that contain costs while maintaining the overall benefit structure and value for plan participants.

As a starting point for more flexibility, I urge you to reconsider the provision that automatically revokes grandfathered health plan status if an employer-sponsored health plan changes insurance carriers. This provision, as written, is overly restrictive and unfairly locks in employers to a specific carrier. For instance, changing carriers should not trigger a loss of grandfathered status if the benefit coverage under a different insurer remains the same. In fact, many new carriers have shown that they can offer lower cost-sharing to employees due to a better rate.

I hope to work with you to refine and adjust this and other aspects of the regulation as we further define grandfathered plans to ensure appropriate stability in the marketplace. I appreciate the opportunity to assist the Agencies in continuing to develop guidance on this important issue.

Sincerely,

MARK R. WARNER,
*United States Senator.*

Mr. HARKIN. Mr. President, how much time do we have?

The PRESIDING OFFICER. Eleven minutes 12 seconds.

Mr. HARKIN. How much time does the other side have?

The PRESIDING OFFICER. Three and a half minutes.

Mr. HARKIN. Mr. President, I yield 4, 5 minutes to the Senator from Illinois.

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

The Senator from Illinois.

Mr. DURBIN. Mr. President, I just listened to the Senator from Arizona, who is my friend and whom I respect. I cannot remember how many pages were in the McCain-Feingold bill. I voted for it. I believed in it. I did not count the pages. I thought he was on the right track to change campaign financing in America. It was a bipartisan bill, and I supported it.

Has that now become the measure in the Senate—we will count the pages, and if it goes over 1,000 pages, we are not going to pass the bill? I hope not because this bill, the underlying bill on health care reform, to make it more affordable and more accountable, took on

one of the major industries in America, where the cost of health insurance has gone up 10, 15, 20 percent a year.

We know the health insurance industry and the companies behind it are not going to go down without a fight. They are going to hire the lawyers and the lobbyists—and they did—to fight the passage of the bill and to fight its implementation in court and everyplace you turn because what is at stake is their money, their profit. What is at stake is the way they do business, and they know it. So when this administration writes the rules and regulations to make sure that when we are challenged in court, this is going to stand up under the law, it is the reasonable thing to do, and I think even the Senator from Arizona would acknowledge it.

Now, I know the Senator from Wyoming does not feel this way because he told me personally this morning that he does not favor repeal of the bill. I do not know what the position of the Senator from Arizona is. But I would say to those who want to repeal the health care bill that the President signed into law, this is what they want to repeal. They want to repeal the consumer protections which we have finally put into the law which say the health insurance companies cannot cancel your coverage when you need it the most. They cannot deny you coverage because of a preexisting condition. They cannot deny to children under the age of 18 coverage under health insurance for a preexisting condition. They cannot deny to you the right to keep your kids under your health insurance policy, your family's policy, until they reach the age of 26.

In that bill was also a new deduction for the cost of health insurance for small businesses so they can afford to find health insurance for the owners and the employees of the businesses. In this bill was closing the doughnut hole on the Medicare prescription Part D, sending a $250 check to the seniors who needed it this year and increasing that amount over the year and still not adding to the deficit overall with this bill. That is what they want to repeal.

Well, I am not going to stand before you and tell you that the bill we voted for was a perfect law. The only perfect law I am aware of was carved in stone tablets and carried down a mountain by Senator Moses. All the other bills that have been passed are going to need some changes over the years. But the change the Senator from Wyoming brings to the floor is a bad change—a bad change—because what he wants to do is empower the health insurance companies to increase the amount of money Americans pay for their coverage. That is it. Give them more protection so they can raise costs.

The Senator from Wyoming said we should not be embarrassed to say these companies are in business for a profit. I understand that. But this underlying bill limits the profits of the company and says that 80 percent of the premiums they collect need to be spent on health care. That leaves them 20 percent for their bonuses, for their salaries, whatever they want. But we want to make sure people across America have a fighting chance to have health insurance protection when they absolutely need it the most.

I see my colleague on the floor, the Senator from South Dakota. He and I had an unexpected experience in the month of August. We were both in a hospital for surgery. Lucky for us, Senator JOHNSON and Senator DURBIN—and also the Senators on the other side of the aisle—are protected by the best health insurance in America. Shouldn't the people of this country have that same kind of peace of mind so that when they need medical care, even expensive medical care, their health insurance is there to protect them?

All of the people standing on the floor railing against government-administered health care are covered by government-administered health care. Our health insurance plans in Congress are administered by the Federal Government, and not a single Senator on the other side of the aisle has said: In principle, I am going to give up my health insurance to show you how much I hate government-administered health care. They have not done it because the plans are too darn good. We want to give every American the same peace of mind Members of Congress have.

We have to defeat the Enzi approach today. It empowers health insurance companies at the expense of people who need health insurance when they face a diagnosis, a surgery, a cancer treatment that could literally bankrupt their family unless they have health insurance protection. I urge my colleagues to oppose Senator ENZI's effort on the Senate floor today.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. HARKIN. Mr. President, again, I don't know where all of these figures come from, how many pages of regulations per page on the bill, and all that kind of stuff.

I have in front of me the Federal Register of Thursday, June 17, 2010. What we are dealing with today are grandfathered plans, right? The resolution offered by the Senator from Wyoming has to do with what is a grandfathered plan and the regulation of the grandfathered plan.

Well, I looked at the rules in the Register. It is one page and not even a half, about a page and one-third—well, not actually even a page and a third, a little over a page, a page and a third. I have it right here. Page 34,568 and page 34,569: Maintenance of Grandfather Status. That is what it is, and that takes into account all of the things to which the Senator from Wyoming referred.

It is a page and a quarter, right there. There is a bunch of other stuff in this regulation that comes through there, including accounting tables and all kinds of things, but the actually rule, regulation, is a page and a third. I don't know what all this other stuff is in here. It is probably make work for somebody, I don't know. But it is a page and a third.

But getting to the crux of it, we provided in the health reform bill, which is now law, that if you had a plan you liked, you could keep it. If that plan was in effect prior to April of this year, you can keep it. It is called grandfathering. Many of the things we provided for new plans don't apply to those grandfathered plans, things such as preventive services. As my colleagues know, all new plans now must cover certain preventive services without any copays or deductibles, that type of thing. All new plans have a right to an external appeal to a third party, if you want. There are restrictions on annual limits and coverage in the individual market. There is direct access to OB/GYNs without a referral. You can't charge a higher cost sharing for out-of-service emergency services. You don't need a prior authorization requirement for emergency care. Those are just some of the elements that apply to new plans that will not apply to a grandfathered plan.

So then you have to ask, well, what is a grandfathered plan? A grandfathered plan is a plan that was in existence prior to April of this year on which the insurer and the insured agreed, like a contract.

What if that grandfathered plan—what if that insurer then says: Well, we agreed on a certain coinsurance charge. It was 20 percent. But now we are going to raise it to 40 percent. Well, that is not what you agreed to. That is not what you signed up for.

Let's say they want to raise deductibles. Let's say your deductible was $1,000, and they say now they are going to raise your deductible to $2,500. That is not what you agreed to. That is not the plan you liked or you signed up for. Or let's say the plan wants to significantly increase your premiums or they want to tighten down on your annual limits. That is not what you signed up for.

So the rules and regulations say: Look, there are certain limits. You can raise your copayment, but not more than $5 or 15 percentage points above medical inflation. So there are certain restrictions put on what an insurer can do and still claim to have a grandfathered plan. That seems to me to make infinitely good sense because they leave the consumer with nothing. They are at the whims of the insurance company. That is what it was like before we passed the health care reform bill. That is what my friends on this side of the aisle want to go back to: Giving the insurance companies the wherewithal to define everything and tell the consumer what it is that a consumer has to have. They call the shots.

Well, quite frankly, what this regulation does is it gives more empowerment to consumers. It says to an insurer: You can't just willy-nilly change your plans that you had prior to April and call it a grandfathered plan. If you change it, if you make all of these big changes, guess what. You are going to have to cover preventive services without copays and deductibles. If you do all of these big changes, well, your insurer is going to have the right to appeal that. Quite frankly, I think that has a lot to do with this. We said for any new plans, the insurer has the right to appeal to a third party—not the grandfathered plans but the new plans. That is why a lot of the old plans don't want to become new plans. They don't want to give you that right of appeal.

There are restrictions on annual limits, which I mentioned before, in the individual market.

So, again, if you want to have a grandfathered plan, fine, but you can't just change it dramatically. I say again to my friend from Wyoming, read it in full. It doesn't say any changes; it says any changes based upon certain things.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. So I say to my friends, we should vote this down and move ahead with health care reform and protect the consumers of America.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, when we talk about 121 pages, we are talking about what the small businessman has to access. He has to go on the Internet and print out the pages. There are 121 pages. Yes, if he could get it in the format of the Federal Register, he would have 34 pages. But you can't ignore everything but 1½ pages. You have to do the whole thing.

Small business is upset about this. That is why I listed the 54 different organizations that are opposing this bill. I have gotten, and I am sure everybody has gotten—even though I only brought this resolution up last week, there are hundreds of letters coming in with examples of what this will do to them.

From Fort Lauderdale, FL: They received such a large increase of people being grandfathered out of the plan, they will be forced to get a new plan because they made their current plan so expensive. Now the new plans have much higher deductibles, more out-of-pocket costs, and more affordable plans only offer to pay 50 percent coinsurance. So the options are limited.

The options are limited to all of the businesses. I have letter after letter that shows how it isn't just the business that has to absorb these costs. The individuals who have the insurance who have been pleased with their insurance are going to have to go out on the open market because the company is going to say it can't afford to do it anymore. They are trying to keep the insurance, but that has been the problem for small businesses all along.

Our economy is already struggling. It doesn't need more job-killing, cost-increasing government mandates. We are hearing from small businesses across the country which are already being forced to swallow large premium increases that will prevent them from hiring more workers. That is jobs. We need to create more jobs, not write regulations that lead to less jobs.

The bill was sold as letting people keep what they have, but the devil is in the details. Do a little digging. It is clear. Americans would not be able to keep what they have. The simple truth is, because this new rule will drastically tie the hands of employers, few employers are expected to be able to pursue grandfathered status.

The Enzi resolution is about protecting small business and the people who work there. Anytime an individual doesn't like what they are getting, they can go out on the open market and get something, but most of the help on getting that doesn't arrive until 2014.

Where is the cost cutting they were promised in the bill? Now we are going to add this regulation to it, and small businesses are telling me they can't afford it. If this becomes the grandfathered thing, 80 percent of small businesses are going to have to change unless my resolution is passed. Sixty-nine percent of all businesses are going to change unless my resolution is passed. People out there who like what they have—listen to this. Help your small business and help get this grandfathered thing passed.

As I mentioned, there are several organizations that are key voting on this one because it is so critical to their members and the people who work for them.

I ask my colleagues to support the resolution.

I yield the floor.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

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

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—40

| | | |
|---|---|---|
| Alexander | Collins | Hutchison |
| Barrasso | Corker | Inhofe |
| Bennett | Cornyn | Isakson |
| Bond | Crapo | Johanns |
| Brown (MA) | DeMint | Kyl |
| Brownback | Ensign | LeMieux |
| Bunning | Enzi | Lugar |
| Burr | Graham | McCain |
| Chambliss | Grassley | McConnell |
| Coburn | Gregg | Risch |
| Cochran | Hatch | Roberts |
| Sessions | Thune | Wicker |
| Shelby | Vitter | |
| Snowe | Voinovich | |

NAYS—59

| | | |
|---|---|---|
| Akaka | Gillibrand | Murray |
| Baucus | Goodwin | Nelson (NE) |
| Bayh | Hagan | Nelson (FL) |
| Begich | Harkin | Pryor |
| Bennet | Inouye | Reed |
| Bingaman | Johnson | Reid |
| Boxer | Kaufman | Rockefeller |
| Brown (OH) | Kerry | Sanders |
| Burris | Klobuchar | Schumer |
| Cantwell | Kohl | Shaheen |
| Cardin | Landrieu | Specter |
| Carper | Lautenberg | Stabenow |
| Casey | Leahy | Tester |
| Conrad | Levin | Udall (CO) |
| Dodd | Lieberman | Udall (NM) |
| Dorgan | Lincoln | Warner |
| Durbin | McCaskill | Webb |
| Feingold | Menendez | Whitehouse |
| Feinstein | Merkley | Wyden |
| Franken | Mikulski | |

NOT VOTING—1

Murkowski

The motion was rejected.

## RECESS

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

Thereupon, the Senate, at 12:51 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

## DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2010—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 3081, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to consideration of Calendar No. 107, H.R. 3081, an act making appropriations for the Department of State, Foreign Operations and Related Programs for the fiscal year ending September 30, 2010, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

Mr. KAUFMAN. Mr. President, I ask to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### FAREWELL ADDRESS

Mr. KAUFMAN. Mr. President, I love the Senate. It is not always a beautiful thing, and surely it is not a picture of a well-oiled machine, but years ago I found a home here. As my colleagues know, I first came to the Senate in 1973 as an aide to a young man who had won a stunning and very improbable election against a respected incumbent. At that campaign victory party 38 years ago—I can remember it as if it was yesterday—I thought to myself I would never again believe that anything is impossible.

In the intervening 37 years I have seen a lot of campaigns. I never saw one that was as big an upset as JOE