

Those are his words. CMS is exempted? Health care is exempted? That is unreal.

I believe otherwise, and this belief is being verified by personal stories from Kansans. In my letter to the President today, I strongly encouraged him to review all of the regulations that have been issued, past, present, and future, while considering their impact on the economy and jobs. Sure, it would be a tough job. It is time, with the "Katrina" of regulations pouring out of the various agencies in Washington.

Understanding this, last month, I, along with Senators BARRASSO and COATS, and with the support of 38 Senate colleagues—have introduced the Regulatory Responsibility for Our Economy Act, S. 358. I urge my colleagues on the other side, who I am going to engage in the next week. We will go face to face and I will try to convince you.

My bill moves to codify and strengthen President Obama's January 18 Executive order that directs agencies within the administration to review, modify, streamline, expand, or repeal those significant regulatory actions that are, in the President's words, duplicative, unnecessary, overly burdensome, or would have significant economic impacts on Americans. I have given President Obama credit for saying that, but I don't give him credit for including the loopholes.

While I agree in principle with the President that we need to take a serious look at both current and proposed Federal regulations, I don't think his Executive order actually does what it purports to do. I have some loopholes listed. In Dodge City, where I come from, coming close to the truth is coming pretty close, but it still ain't the truth. I think this is where this fits.

The Executive order states—and I want everybody in the Senate, if you are listening, or if your staff is listening, provide this to your member. Figure this out:

In applying these principles, each agency is directed to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.

That is a good thing.

Where appropriate and permitted by law, each agency may consider (and discuss qualitatively)—

and this is the part where I had the most concern, and I hope somebody can explain it.

values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

What is that? "But," as the Wall Street Journal captured so eloquently in their response to President Obama's editorial, "these amorphous concepts are not measurable at all." They are not.

On the surface, I feel this language has the potential to be a very large loophole—probably is already. I believe this is the loophole being used to exempt the PPACA regulations from this review. That is unfortunate. In fact,

upon reading and rereading it, it could be better described as gobbledygook.

As a matter of fact, it got my gobbledygook award of the month this past month. My legislation would close the loopholes in President Obama's Executive order and would close other existing loopholes, including those the administration has been using—or the Secretaries for the various agencies have been using—to bypass valuable stakeholder input on regulations. In fact, I hear often that patients and providers believe they do not have a voice in the regulatory process.

More specifically, I hear that a number of regulations are currently being issued through a shortened process which allows limited or no input from those most affected by the regulations prior to their implementation—that is wrong—and they may result in an even greater confusion and burden which then results in greater costs and economic impact, especially if changes are necessary based on later comments that the administration does receive.

It is my understanding the PPACA rules that have been issued as interim final rules and, therefore, with limited input—and they will probably become final—are the national provider identifier, Web portal requirements, Early Retiree Reinsurance Program, coverage of children to age 26. Underserved rural communities, grandfathered health plans, preexisting condition exclusions, preventive services, internal claims/appeals and external review processes, Pre-existing Condition Insurance Plan Program, amendment to grandfathered health plans rule, and medical lost ratio requirements. That is a bunch of them—all regulations through a shortened process.

While there may have been instances in which a shortened process was necessary or appropriate, this lengthy list is why passage of my legislation is so critically important.

I ask the Presiding Officer if I have exceeded my time. If I have, I would like 2 additional minutes to close.

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. ROBERTS. May I have 2 additional minutes, and I will close.

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

Mr. ROBERTS. In my letter to the President today, I have encouraged the administration to limit the use of this shortened regulatory process and take every available opportunity to get feedback from those who would be most affected by these regulations—that just makes sense—and allow for ample time to review and consider that feedback prior to implementing the future regulatory priorities. We are going to have better regulations if, in fact, you ask folks: Is this going to work? Maybe tweak it, maybe repeal it. Who knows. The President himself said that.

In addition, I have encouraged the administration to review any comments received on these regulations

that have already been issued for any concerns that indicate a potential to further our economic problems and crises.

In closing, I invite my friends on both sides of the aisle to sign on as a cosponsor of my legislation, realizing the immense opportunities it creates for meaningful review and possible revocation of regulations counter to our Nation's growth.

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

The PRESIDING OFFICER. Will the Senator withhold his suggestion of the absence of a quorum?

Mr. ROBERTS. I will be delighted to.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF MAX OLIVER COGBURN, JR., TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Max Oliver Cogburn, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I wish to talk about Max Oliver Cogburn, Jr., judicial nominee for the U.S. district court in the Western District of North Carolina.

Judge Cogburn was nominated for the second time by President Obama on January 25, 2011, and was favorably reported out of the Judiciary Committee by voice vote on February 3, 2011.

It is extremely important to me that North Carolina has highly capable representation on our Federal courts. Judge Cogburn is exactly the type of legal mind we need as a judge on North Carolina's Western District Court.

Since coming to the Senate, I have worked to increase the number of North Carolinians on the Federal judiciary. Unfortunately, it has turned out to be a rather slow and arduous process. After months of making the case that North Carolina deserves more representation on the Fourth Circuit last year, Judges Jim Wynn and Al Diaz were confirmed unanimously by the Senate.

North Carolina is better off because Judges Jim Wynn and Al Diaz—highly qualified, experienced, and fairminded judges—are now serving on the Fourth Circuit. It is my hope that very soon North Carolina will have another Federal judge with the confirmation of