

wildlife, and wilderness resources on public land in the State of Nevada.

(3) FLIGHT PATH.—Except for safety reasons, any helicopter tour originating or concluding at the parcel of land described in subsection (e) that flies over the Conservation Area shall not fly—

(A) over any area in the Conservation Area except the area that is between 3 and 5 miles north of the latitude of the southernmost boundary of the Conservation Area;

(B) lower than 1,000 feet over the eastern segments of the boundary of the Conservation Area; or

(C) lower than 500 feet over the western segments of the boundary of the Conservation Area.

(4) REVERSION.—If the County ceases to use any of the land described in subsection (d) for the purpose described in paragraph (1)(A) and under the conditions stated in paragraphs (2) and (3)—

(A) title to the parcel shall revert to the United States, at the option of the United States; and

(B) the County shall be responsible for any reclamation necessary to revert the parcel to the United States.

(g) ADMINISTRATIVE COSTS.—The Secretary shall require, as a condition of the conveyance under subsection (d), that the County pay the administrative costs of the conveyance, including survey costs and any other costs associated with the transfer of title.

By Ms. SNOWE (for herself, Mr. TALENT, Mr. BOND, Mr. BYRD, Mrs. DOLE, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COLEMAN, Mr. VITTER, and Mr. MARTINEZ):

**S. 406. A bill to amend title I of the Employee Retirement Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; to the Committee on Health, Education, Labor, and Pensions.**

Ms. SNOWE. Mr. President, as Chair of the Committee on Small Business and Entrepreneurship, I rise to introduce the Small Business Health Fairness Act of 2005. I am joined in this bipartisan effort by Senators TALENT, BOND, BYRD, DOLE, MCCAIN, HUTCHISON, COLEMAN, VITTER and MARTINEZ.

This bill creates Association Health Plans (AHPs), also called Small Business Health Plans, that give small businesses the same market based advantages and leverage that large employers and unions currently enjoy when providing health insurance to their employees.

AHPs directly address one of the most critical issues facing small businesses nationwide: the crisis small businesses face trying to provide health insurance for their employees. No other issue has been mentioned so frequently or by so many of the small businesses with whom I have met since I became Chair. While the problem has been growing for years, the outcry has built so that now it is indeed a loud chorus of small businesses desperate for relief and demanding that something be done.

Without exception, every small business person who has approached me has asked me to do something about the crushing burden from increased health

insurance costs. The anecdotal accounts that I have heard have been confirmed by reports detailing how much health insurance costs are increasing across the board for all employers and especially for small businesses.

The Kaiser Family Foundation has reported that health insurance premiums increased between the spring of 2003 and spring of 2004 by 11.2 percent. This is the fourth such year of double digit increases and follows increases of 13.9 percent, 12.9 percent and 10.9 percent. In contrast, overall inflation during the last three years was 2.3 percent, 2.2 percent and 1.6 percent, wage gains for non-supervisory workers were similarly stable at 2.2 percent, 3.1 percent and 3.2 percent, respectively. This is an astonishing trend.

Not only are the costs for employers increasing, but these are now being passed onto the employees. As a result, the amount of premium employees pay for family coverage has increased almost 64 percent over the past 4 years, from \$1,619 to \$2,661. As I have heard from many small businesses, increases in insurance costs often mean employees do not get the benefit of salary and wage increases. Employers are rewarding employees with raises and then requiring them to pay more of their health insurance. These employers are disheartened that they are giving a raise with one hand and then turning around and taking it away with the other.

The Kaiser report also shows that this year, firms with 3 to 199 workers had premium increases of 9.1 percent and the smallest firms with 3 to 9 workers averaged 12.4 percent increases. So we see that as bad as things have gotten they're worse for the smallest businesses who are the source of as much as 75 percent of our country's new jobs. In my meetings with small businesses, they invariably report increases far greater than even these percentages, generally 30 percent, 40 percent or more.

The increase in these costs can not be dismissed as just another cost of doing business and absorbed or passed on to customers, because we know small businesses often have lower profit margins for their goods and services than other businesses. These skyrocketing costs often mean the difference between the business expanding or struggling to survive.

The high cost of health insurance can even make the difference in whether a small business creates new jobs. Small businesses have told me that the high cost of providing health care is preventing small businesses from adding more employees because they can not afford the additional health insurance expenses. In other cases, employers are turning to temporary or part time employees, again to avoid paying outrageous health insurance costs.

The result of these higher costs is that, according to the U.S. Census Bureau, in 2003 there were 45 million peo-

ple without insurance, 1.4 million more than the year before and 3.8 million since 2001. This is being attributed to a decrease in the number of people covered by insurance through their employers—down 61 percent in 2004. Disturbingly, the Kaiser study says that only 52 percent of firms with 3 to 9 employees offer health benefits. Indeed, sometimes I wonder how small businesses can provide insurance at all. The fact that so many do is testimony to their recognition of how essential this is to their employees, and their determination to offer this benefit even in the face of constantly skyrocketing costs.

Last year's Kaiser report suggests that the greater increase in premiums for traditionally insured plans of 15.6 percent versus self insured plans at 12.4 percent "may indicate that part of the rise in health care premiums is due to insurers expanding their underwriting gains." They also say that one of the factors driving the high rate of premium growth appears to be "insurers' efforts to emphasize profitability in their pricing."

What these statements really mean is that insurance companies are getting as much as they can out of their small business customers because they know these customers have no other options. Large employers, unlike small businesses, have competition for their business because they have many employees through whom to spread the risks. This makes them attractive to insurance companies who compete for their business.

Large employers also have the option of self insuring under ERISA which is only practical for employers who are large enough to afford the costs. This approach, though, offers significant savings by eliminating the administrative costs of the middle man—the insurance companies. A study by SBA's Office of Advocacy has shown that these plans have administrative costs as much as 30 percent lower.

Small businesses from my home state of Maine have made it clear that they have only one choice for their health care. Even when they band together in local purchasing pools, they are unable to attract any other insurance carriers to provide them with less expensive and more flexible options. Right after small businesses tell me how high their rates are they tell me how they have no choices and in some cases are even lucky to have anyone offering them any coverage at all.

In response to this health care crisis facing the small business community, I am introducing the Small Business Health Fairness Act of 2005.

This bill creates national Association Health Plans which allow small businesses to pool their employees together under the auspices of their bona fide associations to get the same bulk purchasing and administrative efficiencies already enjoyed by large employers and unions with their health care plans. It builds on the success of the ERISA self

insurance plans used by large employers and the Taft-Hartley plans available to union employers. These two types of plans currently provide health benefits for 72 million people, more than half of the 130 million total people who get their health insurance through their employer.

It is ludicrous that we have a two tiered health insurance system in this country where one group of employers—large ones and those who are union employers—get preferential treatment over those who create over 75 percent of the new jobs. I am at a loss to understand why small businesses should be denied the same advantages that these other employers already have. This is a matter of basic fairness.

AHPs will be able to offer less expensive plans, and also greater flexibility because they will be exempt from the myriad state benefit regulations. Associations will be able to design their plans to meet the needs of their members and their employees. By administering one national plan, it will further reduce the administrative costs instead of trying to administer a plan subject to the mandates of each state.

Even though the benefit mandates will not be in effect, associations will need to design their plans so that enough members participate in them to attract the necessary employees to make them work. This means that they will naturally provide a full range of benefits similar to what many states currently require. In many cases, the plans offered by large employers and unions, which are also exempt from the state benefit mandates, are the most generous plans available. People will often stay in those jobs specifically to keep their health care coverage.

The bill would also provide extensive new protections to ensure that the health care coverage is there when employees need it. Associations sponsoring these plans would need to be established for at least three years for purposes other than providing health insurance—this is intended to prevent the current epidemic of fraud and abuse that is occurring through sham associations who take money from unsuspecting small businesses and then cease to exist when someone files a claim.

In addition, self-funded AHPs would be required to have sufficient funds in reserve, specific stop-loss insurances, indemnification insurance, and other funding and certification requirements to make sure the insurance coverage would be available when needed. None of these requirements apply to any of the plans currently regulated by the Department of Labor, either the large employer plans under the Employee Retirement Income Security Act (ERISA), or the union plans under the Taft-Hartley Act.

Yet, the opponents of this bill have mis-characterized it in ways that make it sound like this would be the worst thing in the world for small businesses.

They have said that this bill would lead to “cherry picking”—where AHPs would only take young healthy people. There is language in the bill which explicitly states that an association which offers a plan must offer it to all of their members, and a member who participates in the plan must offer the plan to every employee. Violation of these requirements is subject to enforcement by the Department of Labor under ERISA.

They have said that the Department of Labor would not be able to handle their responsibilities under this bill. The Department of Labor is already overseeing 275,000 similarly structured plans. We do not hear employees complain about these plans, or that they are failing and leaving subscribers without coverage. The additional plans from AHPs would not add that much of a burden to their operations and the Secretary of Labor has testified before the Small Business Committee that sufficient resources would be available to make sure the Department fulfilled its obligations.

Opponents have claimed that AHPs would not be subject to any solvency protections or other insurance regulations. This is flat out not true. The bill specifies detailed solvency protections that self funded AHPs would have to implement which are far beyond anything current self funded large employer plans have to implement. In fact those plans are not required to have any solvency protections. Insurance companies that would provide the coverage for fully insured AHPs would continue to be subject to state solvency requirements, as well as other state protections in the same way as they are now.

Opponents of this bill are basically saying that small businesses do not need more options and that they should be satisfied with the few that they have. They want to preserve the status quo which does nothing for small businesses. This bill would create competition in the small group market where there currently is none. If we expect our small employers to provide health insurance to their employees, we must pass AHP legislation to give them the same advantages enjoyed by large employers and union employers.

Giving small businesses better and more affordable options for their health care will also have an impact on the larger problem of the uninsured. The latest Census Bureau figures indicate that in 2003 approximately 45 million people had no health insurance. We also know that about 60 percent of these uninsured work for a small business, or are in a family of someone who works for a small business. The CBO has estimated that 600,000 people would go from being uninsured to being insured if AHPs were available. There are other studies that show this number could be more like 4.5 million and possibly as high as 8.5 million. What is clear is that giving small businesses AHPs as an option will mean that more

of them who currently do not offer health insurance will be able to provide this benefit to their employees and their families.

This bill is supported by a large coalition of small business interests with approximately 12 million employers who represent about 80 million employees. President Bush included AHPs in the State of the Union and has made this part of his agenda for providing more health care options and helping small businesses. During the campaign he called for passage of this bill on almost a daily basis. And he continues to call for its passage. Our Majority Leader has indicated his support for taking up this bill. The House has passed the bill several times with strong bipartisan support and will pass it again this year. Significantly, the Senate Task Force on the Uninsured included AHPs among its recommendation for increasing coverage. The time has come to get this bill through the Senate. We must pass AHPs this session.

In the time I have been Chair of the Small Business Committee, I have come to understand even more that the entrepreneurial spirit burns bright throughout our nation. There are millions of people who seek a better life and personal satisfaction through starting and running small businesses. These folks are not looking for a hand-out, or preferential treatment. They are merely looking to us to recognize the absolutely essential role they play in our economy and to be treated accordingly and fairly. If we want more jobs, and better family lives, we must give small businesses the support they are seeking.

While this bill has passed the House with bipartisan support on several occasions, it has not been considered in the Senate. I intend to change that. I will work with Senator ENZI as the new chair of the HELP Committee, Senate Leaders, and others to find ways and develop enhancements to get this bill through the Senate. If there are changes that can be made, I am willing to consider them.

I believe we will see movement on this issue this Congress, and I look forward to working with my colleagues to bring relief and assistance to our nation's small businesses.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 406

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Small Business Health Fairness Act of 2005”.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Rules governing association health plans.