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**Health Care Reform Newsmaker Series:
Sen. Orrin Hatch
Kaiser Family Foundation
May 7, 2009**

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MATT JAMES: Good morning to everyone. I am Matt James, senior vice president at the Henry J. Kaiser Family Foundation. I am pinch hitting here today for my boss Drew Altman. Drew is recovering from the flu which he insists way too much is of the non-swine variety [laughter], but he thought it best to avoid airplanes. Being the head of a health organization he felt it best he should avoid airplanes and not infect important senators or the DC Press Corps. I would like to welcome you to what I think is our fifth Families-NFIB- Kaiser Newsmaker Breakfast on Health Reform. Today we have Senator Orrin Hatch, whom we are delighted to have with us. Senator Hatch is an important player in the current health reform debate and we are looking forward to his comments.

Senator, Drew usually opens with a little health policy fact of the week and then he turns it over to Dan and to Ron for the more traditional introductions. But as he was preparing his remarks

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this time, he became fascinated with another part of your biography which may be a little bit less well known, but that is your career as a songwriter. So we are going to dispense with the health policy fact of the week for Drew's in-depth analysis of the heretofore unexamined link between Senator Hatch's song writing and health reform.

SEN. ORRIN HATCH (R-UTAH): I wouldn't call it a career however.

MATT JAMES: [Laughs] If you look at it, it is actually very clear. For example, his song *Everything and More* was obviously an unconscious appeal for universal coverage [laughter], though undoubtedly through market mechanisms. The band he managed, Free Agency, is no doubt what introduced him to the market approach in the first place, and his song *Heal Our Land* is an obvious appeal for bipartisan politics in Washington which is something we always need.

SEN. ORRIN HATCH (R-UTAH): And major health care. We want to heal everybody.

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MATT JAMES: Absolutely. And also to have had Frank Zappa compose a song about you, which the senator did, is certainly more than anyone else involved in the healthcare reform debate can claim. But here to actually talk about health reform is Ron Pollack. He is going to say a few words in introduction and then we will turn it over to Dan for what I am sure will be a much more conventional introduction here.

SEN. ORRIN HATCH (R-UTAH): Let me just introduce you to one other song because it would apply very much here and it is entitled *Are You Lonely Here With Me* [laughter]?

RON POLLACK: Well, following Matt's theme here, I thought with Dan's blessing who is going to give the real introduction, I would talk a little bit about the senator's prowess as a musician. I don't think I did as well with the senator during Tuesday's roundtable on using Medicaid to help low-income folks get coverage, but -

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SEN. ORRIN HATCH (R-UTAH): You gave the usual chivvy. That's all.

RON POLLACK: [Laughs] But I thought at least I could regale folks with a story that you probably haven't heard, but it follows from Matt's introductions. Almost two years ago we did a major event; Families USA was trying to build support for the Children's Health Insurance Program which Senator Hatch was obviously a leading proponent of. And on this particular occasion I invited my college classmate the singer and musical artist Paul Simon to join us in this event. Paul actually has a real history of working on children's health issues. He was the cofounder of the Children's Health Fund and he's a major funder for it. So we had this event in the capital - some of you attended that event, and Senator Hatch was the most significant speaker. We had others, the speaker of the house and Senate Majority Leader Reid -

After the event was over, Senator Hatch and Paul went over to the senator's office and they spent,

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on my estimate, about an hour-and-a-half together going over the senator's music. And after they were finished I took Paul out to lunch and I said well, Paul, what did you think of the senator's music? And Paul said, and this is in the privacy so he didn't have to flatter the senator and he said, "You know, he's actually pretty good. He's got some real talent." So I know that probably makes you feel as good as any of the -

SEN. ORRIN HATCH (R-UTAH): Well, if only he'd sing my stuff [laughter].

RON POLLACK: Well first, we are glad that you didn't change your daytime job, but I have to say, senator, I am actually going to go back to Paul and ask him to compose a song about using Medicaid for covering low-income families, and I hope he can entice you to do a duet.

SEN. ORRIN HATCH (R-UTAH): I think I could write that song -

RON POLLACK: [Laughs].

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SEN. ORRIN HATCH (R-UTAH): – and I might teach you a little bit about the deficiencies of Medicaid and Medicare, but we're going to work with you. Don't worry.

RON POLLACK: Dan?

DANIEL: Well thank you. It is my very great pleasure to introduce the fifth speaker in our series this morning. Senator Hatch is certainly no stranger to healthcare. As indicated earlier he serves on both finance and HELP committees. He has a long history dealing with health care as the architect and long-time supporter of the Children's Health Insurance Program. He is coauthor of legislation that significantly increased the availability of low-cost generic drugs. He's also no stranger to how to get things done, which is one of the reasons that we're so delighted that he's interested in this issue, and here's here this morning to talk to all of you and all of us about how to get something done. So thank you so much for being here, senator.

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SEN. ORRIN HATCH (R-UTAH): Well, thank you so much, and it is a privilege to be with all of you. I have got prepared remarks and then I hope we have enough time for some questions before we are going to have to leave for network TV, but it is just an opportunity to be with you today and I'm very grateful to be able to talk about health care reforms. Specifically, I want to talk about the need for health care reform, the principles that should guide it, and the value of bipartisan efforts. And I hope that everyone in this room recognizes that we have a real need for reform. We have a crisis in this country in health care and an opportunity, on behalf of the American people, to get it done. It is an opportunity like we have not had before. I think that if we're responsible and we strive for true bipartisanship, we can get meaningful reform done this year.

Now before talking about policy – let me talk a little bit about process. Health care reform is an important national priority that is too big for

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political gainsmanship. We are talking about an issue that makes up one-sixth of our American economy. Any successful health care reform proposal must be subject to the full scrutiny of both parties of the Senate and House of Representatives, and the American people. Using the budget reconciliation process in the Senate, for example, would limit debate to only 20 hours and restrict senators' abilities to amend and perfect a proposal that is intended to steer one-sixth of the economy of our nation in a new direction.

Now this would make it difficult, if not impossible, to gain broad bipartisan support for the effort. It would be, in my opinion, a tremendous disservice to the American people and to our nation. Plus, the majority side is quickly realizing that accomplishing the complex task of health care reform through the technical maze of the reconciliation process is very difficult.

Let me now focus on policy. At the outset it's always a good idea to identify the problems that

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we need to solve. Clearly, healthcare spending continues to grow too fast. This year will mark the biggest largest ever one-year jump in the health care share of our GDP. This is a full percentage point to 17.6-percent. Now you can think of this as a horse race between cost and the resources to cover those costs. The sad reality is that costs win year after year. Growing health care costs translate directly into higher coverage costs. In the past decade, the cost of health coverage has increased 120-percent, three times the growth of inflation and four times the growth of wages. It is not the only problem, but cost is a major reason why more than 45 million people do not have health insurance.

Now I believe we need to do more to insure that we achieve universal access to affordable and quality, and to the degree that we can, portable health care for every American. That is the bottom line. We spend too much, we cover too few, and we don't get our money's worth. And it's time for reform. And the

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American people are worried that we're going to place government, or should I say bureaucrats, between themselves and their doctors. It's a major concern.

Reform is about more than drafting legislation. It's about steering one-sixth of the American or US economy in a new direction to deliver better results for American families. I personally believe that a few simple principles can serve as a useful roadmap for the direction that we should go.

The first principle is that reform must control the burden of rising health care costs, including entitlement costs. Health care has to be affordable for the individual, the family, business, and taxpayers, and there simply cannot be any reform that does not first and foremost address the fundamental issue of cost containment. If you skip that step, any coverage reforms will ultimately unravel under the burden of higher costs.

Now this has been my biggest concern with the Massachusetts model. Coverage took such a central

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focus on that reform model that cost containment was not thoroughly addressed, and now we are seeing rising problems in the state of Massachusetts. This group is sophisticated enough to understand that there is no single silver bullet that will control costs. Instead we'll need to address the issue broadly and comprehensively.

For example, health care reform should include meaningful medical liability reform because wasteful defensive medicine costs our nation up to \$178 billion each year in additional costs according to most observers. Actually, I think it is much higher than that as a former medical liability defense lawyer. A lot of cases are frivolous cases brought just to get the defense costs which range between \$50-200,000 on the average cases, and you can make a lot of money as an attorney if you can just get the defense costs. And what insurance company wouldn't pay the defense costs rather than risk going to a runaway jury?

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Well, we need ideas like physicians' safe harbors, specialized health courts, and sanctions for filing repeated frivolous predatory lawsuits. That's hard to do. The list could go on, but the point is simple. The first priority must be comprehensive efforts to control costs. Now the second principle is that reform should provide a solid path toward access to quality, affordable, and portable coverage for every American. The uninsured are a varied lot. About a quarter are eligible for public programs like Medicaid or SCHIP, but are not enrolled. They qualify, but they are not enrolled, and we need to reach out and find them and get them enrolled. And many are either students or relatively affluent, but simply choose to go without coverage.

As we move forward toward achieving affordable access for every American, we need to ensure that we build on the employer-based system. Now this system provides quality converge to more than 177 million Americans. Similarly, we have to ensure that we do not

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make it even more difficult for small businesses to survive and thrive in these incredibly tough times. Now as we move toward comprehensive reform, it is important to recognize that every state has its own unique mix of demographics and each state has developed its own institutions to address its challenges. And each has its own successes. There is an enormous reservoir of expertise, experience, and field-tested reform. We should take advantage of that by placing states at the center of efforts tailored to meet coverage and affordability goals so that we can use approaches that best reflect their unique needs and demographics. I think everybody can agree that Utah is not Massachusetts, and Massachusetts is not Utah. Some people in Massachusetts think that is a good idea. We in Utah know it's a good idea [laughter].

There will be an important role for the federal government, that it will have to give the states flexibility and financial assistance to meet coverage and affordability objectives. There's no

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reason why we should not take care of everybody in our society. Everybody should have health care.

Now we must not make the mistake of assuming that the federal government is the solution to all problems however. The focus should be on our families, not on Washington. We're all worried about placing bureaucrats in the middle of this equation between patients and doctors and Washington not only tends to do that, Washington does do that. Special focus needs to be given to small businesses. They're the job creating engine of our economy. As an ardent supporter of small-business health-plan legislation in the past, I want to assure that their unique needs are addressed. Everything from insurance market reforms to health insurance exchanges to small-business tax credits should be considered to make coverage more affordable for them.

Now I have very strong concerns about creating a new government health care plan. This is nothing more than a backdoor approach to a single-payer system.

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The new public plan will allow the federal government to create an unlevel playing field by setting price controls, just like they do in Medicare and Medicaid, while shifting all costs to the private sector.

Speaker Nancy Pelosi has already made it clear that the House version of health care reform legislation will contain a new government run, or should I say Washington-government run, public plan.

According to a recent study, a new public plan would cause almost 120 million Americans to lose their private coverage. Now this is almost three times the size of the entire Medicare program. I hope you got that point. Most important, families will actually see their premiums rise somewhere between \$1,500-2,000 a year, if we're lucky. And that's almost one half of an average family's total grocery bill for the full year.

Now a third principle is that reforms should transform the health care system to focus on value and quality. If we end up spending more, we should get our money's worth. It's as simple as that. Our system

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should continue to move toward paying for quality and coordinated outcomes. At every stage, we have the opportunity to use the Medicare payment system to reward value and quality rather than volume and overuse.

Right now, we have seniors who are seeing five to 10 different physicians and taking between 15 and 20 medications which often contradict each other. This is unacceptable, and it's wrong. The broken physician payment system which calls for a 21-percent cut in payments this year gives us the perfect opportunity to accomplish this. We must reform this broken system as a part of health care reform or any health care reform. This is a crucial and powerful lever to transform the practice of medicine. And we should have a zero-tolerance policy towards Medicare fraud and abuse, which is estimated at nearly 10-percent of total Medicare spending. By the way, Brent James, one of the leading health care economists – in fact, the leading one in the country who happens to come from Utah –

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almost everybody pays attention because of the good health care system in Utah. He indicates there may be as much as 50-percent waste in the whole process. Now that's a serious, serious situation. Waste, fraud, and abuse is something we have to do something about if we want to have health care really run in this country.

Now the best health care is health care that is not needed. The fourth principle is that the reform effort must focus on making prevention and wellness an integral part of not only our health care system, but our daily living. For example, several employers in the private sector, including Safeway and Pitney Bowes, are using financial incentives like reduced premiums and lower co-payments to encourage prevention and wellness behavior like weight loss and daily exercise. We should learn and build on these innovative approaches, as we move forward, to create a happy and healthier nation.

Now the fifth principle is that our health care infrastructure and workforce should reflect the

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realities of the 21st century. We absolutely must have access to the finest tools and the best trained providers. Our doctors are the best in the world, but sometimes we don't let them really be the best in the world. Patients and providers need better treatments. We must have proper funding for NIH and CDC to ensure that America remains the world leader in research and medical breakthroughs that won't just treat diseases, but prevent and cure them.

Special attention needs to be given to FDA modernization. I passed the FDA Modernization Act in 1992 to develop the whiteout plaza [misspelled?], and frankly, it's taken us until just recently to get that up and running, and it's only partially done now and won't be done probably until 2014 or 2015, at a cost of about six times more than it would have cost had we done it right back then.

Now like I say, we have to modernize FDA and attract our nation's best and brightest to the agency, that regulates up to 25-percent of all of our consumer

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goods. Let's understand something, that agency is very important, but it's very tough to attract the best scientists and physicians and PhDs to work for government at government rates when the private sector is willing to pay much more. But NIH doesn't have that problem quite as badly because it's a privilege to work at NIH and even if you only work at NIH for a few years, you are going to walk out and make a lot more money later, if money is your major concern. At FDA, we have had them deployed in something like over 30 different locations in the greater Washington area, not mentioning throughout the States, some of which are converted chicken coops, and to be honest with you there isn't the incentive to work for the FDA that there needs to be. When we get this complete most modern set of facilities out at FDA, I think we'll overcome some of that.

Finally, we have to create a workforce commission to provide recommendations to better coordinate the fragmented public private efforts, and

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provide us with comprehensive recommendations to eliminate workforce shortages.

Now the sixth principle is to provide our families and doctors with better and more useful information. Patients and providers should better understand their care and be confident of its efficacy. Clinical comparative effectiveness, if done right, can provide us with valuable information while protecting patient choice and medical innovation. The key is to focus on what works best for the individual patient and not what is simply the cheapest option. We should continue to build on and improve efforts like CMS's hospital-compare initiative. The growth of private information and safety taskforces at the point of care should also be encouraged.

Now the seventh principle, and possibly the most challenging; we must accomplish bipartisan entitlement reform. Social Security, Medicare, and Medicaid spending, will account for 9.5-percent of GDP by 2010, 18-percent of GDP by 2030, and 28.5-percent of

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GDP by 2050. If we allow that to happen, this will crowd out spending for everything, including national defense and education.

Now those are my seven broad principles for health care reform; address costs first, insure access to affordable and portable coverage for every American, move toward quality and value, promote prevention and wellness, modernize our health care infrastructure, empower patients and providers with better information, and finally, address the entitlement reform challenges in a bipartisan manner. They sound simple, but they will work if we can get together and do it in a bipartisan way.

The only way to effectively address this situation is by working together. Solidarity and resolve must replace partisanship and rhetoric to insure that future generations have the same opportunities to prosper in this great nation as all of us have had. So with that, I just thought that would be kind of a broad general outline of some of the

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thoughts that I have on this and why don't we just open this up to questions.

MATT JAMES: The senator is going to handle his own questions, please identify yourselves.

SEN. ORRIN HATCH (R-UTAH): I'll just start right down. We'll start with you and then you and then you. How's that?

FEMALE SPEAKER 1 [Julie Rovner, NPR]: Senator Hatch, at the roundtable the other day Karen Ignagni from AHIP was talking about, as a potential alternative to a public plan, perhaps having a very stringent federal regulation of the insurance industry, perhaps similar to what there is in some of the European countries; the Netherlands or even in the MDHBK. Is that something you think that might be grounds for a compromise on this obviously very thorny issue?

SEN. ORRIN HATCH (R-UTAH): Well it's a very thorny issue and we have a lot of regulations pertaining to that industry now. Look, the insurance industry is part of the problem here as well.

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Government's a big part of the problem, entitlements are a big part of the problem, the insurance companies are a big part of the problem. Let's be honest about it, we have incentives to insurers to insure those who are well and we penalize those who insure those who aren't well. Now that system has to change.

Now, to the extent that we can't do a reasonable regulation to be able to help bring about where there's more equity and more evenness in the system, perhaps that might be good, but that's easier said than done. And I'm not sure I want a bunch of people in Washington, DC, as setting up a Washington health plan for everybody in America. I would prefer having 50 state laboratories. Because I can tell you right now, Utah is head and shoulders above most other states in the union. Rhode Island does some very good things. I just sat down with the senator from Rhode Island yesterday, Sheldon Whitehouse, and we had a very interesting discussion about their problems and their solutions up there.

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But you can't say that about every state in the union as you well know, and some of the larger states are disasters. We all know that. Now that's where a lot of people come out and say well, we need the federal government to come in and teach us how to do health care. I haven't seen the federal government do very well at teaching us how to do health care. So we have to look at this very carefully, and I would prefer to somehow or other give the states more flexibility and then watch what they do and then take the best of the states and then magnify and grow from there. I mean, these are, by necessity, short answers. I could go on for hours on that. Go ahead.

FEMALE SPEAKER: But the differences between the parties over this issue of a public plan is - I mean, the battle lines are going to be drawn over there. Is there a way to compromise? Is there a way to achieve bipartisanship and still compromise on this issue?

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SEN. ORRIN HATCH (R-UTAH): Well, let me just say this. This business of public plan is kind of withering away. I was just with a number of Democrats yesterday and they said that isn't going to happen. Well, I don't know. I think there's a great desire to have Washington-run health care. Now if we do that, I guarantee you, the people in this country aren't going to put up with it. They're going to be very, very unhappy. And let's be honest, I believe the public plan has been used as a hammer to try and get a number of things that the left would like to get into our health care system; more government controls, more government run, more Washington-run health care, more bureaucratic installments. They don't think those are bad. They think actually that would help the system. I don't. I don't see it.

And naturally there's a natural tendency – as my good friend Tom Daschle who wrote in his book, "We need to have a public plan option." Well, if you do that you're going to have a public-plan setting of

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price controls. And if that happens your - an already difficult private-insurance sector will have even more difficulty being competitive. So my answer is not more government. My answer is to get all these states working on the best programs they can. A lot of people would benefit a lot if they just looked at Utah and just see what we do there. And one reason why we're as good as we are is because of Brent James and Intermountain Healthcare. And I'm not trying to overdo that, because every health care system in Utah I think would rise to pretty well near the top in our country today.

Now naturally, parochially, I love Utah and I may be a little bit prejudiced, but most people will admit that we have a pretty good system out there, compared to most other states. She was next and then you and I will come up there.

MALE SPEAKER: [Inaudible] prejudice

[laughter].

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SEN. ORRIN HATCH (R-UTAH): Did you say fringes? I'm starting to worry about this just the way you - [laughter]. Go ahead.

MALE SPEAKER: We're on the right [laughter].

SEN. ORRIN HATCH (R-UTAH): You're on the right? Well then, of course. Go ahead.

FEMALE SPEAKER 2 [Susan Page, USA Today]: You talked in your very opening remarks about the dangers of using reconciliation rules to get health care through, and I know that many leading Democrats say they hope not to do that, but it's obviously a tool that's being reserved. If Democrats used reconciliation rules to get health care passed, what would be the consequences?

SEN. ORRIN HATCH (R-UTAH): Well first of all, most of them don't understand the complexities of trying to use reconciliation on a major substantive piece of legislation that affects one-sixth of the American economy. If they want to really get into that, they're going to look like fools because it's a

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very, very difficult thing. Who knows how the parliamentarians will rule, but they have been gradually eroding reconciliation over the years.

Now I think it's being used more as a hammer and there is a significant number of Democrats who really want to use reconciliation for a much more simple approach towards health care. And this will please you; they are trying to push more and more people into Medicare and Medicaid. And frankly, they're talking about 133-percent of the federal poverty level. Now think about it, Utah is standing at 74-percent of the federal poverty level. That would double our cost. The states would go nuts if they try to do something like that. And frankly – well, let's take New York. New York is at 100-percent of the federal poverty level, but to go up another 33-percent would be very, very difficult for them. They can't handle the 100-percent now. And not only that, but I believe that what would happen is that if they do do that then they will say well, we will cover everything,

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from the federal government's standpoint. Once you do that you've got Washington-run health care throughout the country, and we all know how efficient that's going to be. And I think that instead of having 50 state laboratories where we can pick and choose among the best programs in the country, we'd be stuck, with a Washington-run health care program with all the bureaucracy and all the difficulties we have.

Right now on Medicaid down in Texas – in certain areas of Texas, only 17-percent of the doctors will take those Medicare patients. I mean that's a matter of great concern. And then they're talking about bundling and everything else, so I've had doctors say I'm through. If they do that, I'm quitting. And as you all know, we have a primary-care problem in this country that is second to none and we've got to find ways of incentivizing private care. We also need to do more – one thing that can work pretty well would be community health centers, but we've got to work on

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making those more effective. I could go on and on, but

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FEMALE SPEAKER 2: But if Democrats, in the end, if they used reconciliation and got a program they liked, wouldn't some Democrats say okay, we had to use this tool, but I wonder if there would be any downside there.

SEN. ORRIN HATCH (R-UTAH): Well I guarantee you, if they use reconciliation, you won't have a program you'll like five years from now. I mean, it'll wreck the system. Now they may do that, but I was with the chairman of the Finance Committee last night and he said don't worry about it, we're not going to do that. I really think they've got to think that through. A reconciliation bill could make health care look like Swiss cheese with all kinds of holes in it. So maybe that's not the best metaphor, but I kind of like it and it's probably more accurate than I even mean it.

The partisan part of me says, oh I hope they'll do that, because they'll have to live with

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every stinking problem that comes up over the next number of years and there is going to be a myriad of problems that they never even contemplated. Take it from me, I've worked in the health care field basically all my professional life and certainly as a senator, and helped author everything from the Orphan Drug Bill to Hatch-Waxman to CHIP to you name it, but I'm very concerned about it. But they can do it if they really want to and there is a significant number of liberal Democrats who want to do that because they feel like some Republicans won't be cooperative in getting what they want to have done.

I guess you were next and then I'll go to you two. Okay, go ahead. I'll try to answer a little less.

MALE SPEAKER 1: You said that you've never seen the federal government do a great innovation in health care, but one thing that seems to be working well is the Medicare drug benefit, and I was wondering

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if you could talk a little bit about through what you could learn -

SEN. ORRIN HATCH (R-UTAH): Well, the Medicare drug benefit was working well - yes, I'm sorry.

MALE SPEAKER 1: - [interposing] a total reform [inaudible].

SEN. ORRIN HATCH (R-UTAH): Well, I'm not saying the federal government has no role. I mean let's face it, a lot of the money has to come from the federal government. But I am saying, let's not let them setup the system or monitor and manage the system, because I've found that in almost every case you have plenty of deficiencies. Now you can point to some good things too, so I don't mean to just sound totally sour.

MALE SPEAKER 1: I wasn't trying to challenge you. I was trying to -

SEN. ORRIN HATCH (R-UTAH): No. I understand. There's a role for the federal government, that's pretty apparent. And one of the most important roles is to help with the money.

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MALE SPEAKER 1: How would a structure of the overall health care reform – how should it be different than the Medicare drug benefit that has been enacted?

SEN. ORRIN HATCH (R-UTAH): Well, you can't do away with Medicare and Medicaid. I mean, they're functioning important programs that the American people have come to rely on. On the other hand, do you want to expand them at the expense of a more effective people-run program when there's a real question of whether the money's there? Plus the fact that when you go to a public plan – the last time I heard it was 120 million people would lose their health insurance, and that would put some real problems on the whole country. I think I have got that right – about 120 million people

MALE SPEAKER: That is a rough estimate.

SEN. ORRIN HATCH (R-UTAH): Yeah. That's a rough estimate. Well, like I say it has been – you're next.

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CRAIG PALMER: Yes, senator. Craig Palmer, ADA News. Let's go to your seven principles. I think we can see a rough prioritization, at least starting from the top.

SEN. ORRIN HATCH (R-UTAH): Right.

CRAIG PALMER: But let's look at it a different way. Where is your give? Everybody is going to have to give something here and where are you able to give?

SEN. ORRIN HATCH (R-UTAH): You'll have to watch and learn because I'm not going to say what my give is [laughter]. No. I'm not trying to be superficial here, I'm just saying that we're in the middle of negotiations. We're in the middle of trying to come up with this and there naturally will have to be some gives, there's no question about it. Because there are two sides to this – well, there are many more than two sides, but two major sides, the left and the right. And it's very difficult to bring them together. So I'm not trying to avoid your question, I just think

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it's better for me to not get into that type of detail right now. Yes?

MALE SPEAKER 2: Thank you, Senator Hatch.

You just mentioned that you favor the states to be the source of innovation, yet at the same time to build on the employer-based system about health care and it seems a bit contradictory because the Florida-based state may rest on ERISA, which is a federal regulatory regime and we have, over the last two years, ERISA preempting, or in serious conflict, with state reform innovation. In other words, ERISA is still in a position to block the state innovation. Would you favor working around ERISA, radically revising ERISA, and so what would the fate of ERISA be? And by the way, we have an open seat on the Supreme Court and do you think that might become an issue in confirmation?

SEN. ORRIN HATCH (R-UTAH): Well, you raise a very important point. Keep in mind, when I say I'd like 50 state laboratories working on this, this is going to be a federal program that hopefully will rely

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or give incentives to the states and some flexibility to be able to make these programs work. Having worked with ERISA for most of my Senate service, I have to tell you, it's a very, very difficult program to amend or to modify. And in many ways, it works. So that all has to be taken into consideration. This is a complex thing. If we can do overall health care reform, it's not going to be some itty-bitty one-size fits all approach to everything. That's why it has to be bipartisan. But you can't ignore laws that are already on the books and to the extent that they have to be modified, we shouldn't be afraid to do so, but that's a complex set of questions that you've raised there. That's not just one question. Yes, you next and I'll come back this way.

ANNA EDNEY: Yes, senator. Anna Edney at CongressDaily. You mentioned that the insurance industry needs reform, but you don't want to see Washington get more involved. So who does it and what are you looking for exactly?

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SEN. ORRIN HATCH (R-UTAH): Well, I didn't quite say I don't want Washington to be more involved. Washington is going to be involved, that's what we're talking about. But I'd like to see the states have more flexibility to help resolve the real questions that arise. Like I say, and like I said in my prepared remarks, Utah is not Massachusetts and neither is California Massachusetts, or New York. And Texas is unlike any of them, just to mention a few states of significance. They're all significant in this business and that's the point.

We have different demographics, we have different needs, and some states actually operate a lot better than others, and I'd cite Utah as a good example of a state that really seems to be on top of things. And by the way, we're so efficient that we get a lot less reimbursement on a lot of things than other states, which is not very fair. I mean, we ought to be rewarding efficiency and cost savings and especially above all, quality. And we don't do that. We tend to

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just throw money to the states that aren't doing the job or don't do it as well - we'll put it that way.

So these are all matters of real concern to me and they're not easy matters to resolve. Yes?

FEMALE SPEAKER 3: Senator, I'm sorry. I hate to make you go backwards, but can I follow up on that? Exactly what kind of state flexibility are you looking for? What exactly do we need to give the states in the way of flexibility so that they can't -

SEN. ORRIN HATCH (R-UTAH): Well broadly speaking, I would hope that the states would be able to resolve their own internal problems of health care because they are - like I say, there are different demographics. Most states have different problems from other states. Small states have tremendously different problems from most of the large states and some of the large states have almost insurmountable problems, and I'll just cite New Jersey as an illustration.

FEMALE SPEAKER 3: Are you just talking about the insurance market here?

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SEN. ORRIN HATCH (R-UTAH): No. I'm talking about the overall health care reform. And see, it may be that one of the big functions of the federal government is to provide the necessary, or at least additional funding, that will help this system to go. Now look, funding is a big problem as I've been indicating in my remarks. We're spending approximately \$2 trillion now on health care. If the president gets his way under his program, and it would be a Washington program, you're talking about \$1-1.5 trillion more. And we're already talking over the next 10 years of a \$9.3 trillion federal deficit on top of that. So if you look at that, we've got to find ways of getting the states to help us with efficiencies, with quality, with deliverability, with inter-operability and all of those things. And I think that can be done.

Now will some states mess it up? Yeah. But most states would take it very seriously. I think they'd all take it seriously, but most states would run a system a lot better than that would be run here in

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Washington, we'll put it that way, by a bunch of Washington bureaucrats who don't understand the respective problems of the state.

I don't want to get into the details because the federal government is certainly going to have a pretty huge role here. Is it time?

MALE SPEAKER: It's your time.

SEN. ORRIN HATCH (R-UTAH): I'll let it go at that and then I'll take one or two more.

DOUG TRAPP: Doug Trapp, American Medical News. Is the Senate HELP Committee making any progress when it comes to Medicare?

SEN. ORRIN HATCH (R-UTAH): Well let me say, this is one of the problems – you've got two major committees in the Senate and only God knows what you have in the House, we'll put it that way. And I'm not sure even he knows sometimes because of the nature of free will and thinking. But let me just say this, Senator Kennedy wants to move ahead with health care in the HELP Committee, but I think it's pretty tough to

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fully do that because the money is in the Finance Committee. Now health is very important, and I happen to sit on both committees so we'll be working in both areas. And both committees are important because both committees - basically HELP handles the public-health aspects and finance almost everything else. But that's where we are, and I think we've got to coordinate our work together.

Now I will say this, both Senator Kennedy and Senator Baucus, Senator Enzi, and Senator Grassley - they have been trying to work together, and I believe so far we've had a fairly good rapport. I'm going to just have to quit here, but I'll take -

DOUG TRAPP: Do you see the HELP Committee as doing anything on Medicare position payment reform? In the HELP Committee are they doing their own solution or is it just the Finance Committee?

SEN. ORRIN HATCH (R-UTAH): Yeah. I think they want to come up with their own solution and they may make it and we may have something different in the

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Finance Committee. Keep in mind, both Enzi and I are on the HELP Committee. Enzi is the ranking member on HELP. I used to chair HELP. I get along with both. I'm going to have to let you be the last one - I hate to leave and frankly I'd rather spend another hour with you.

JANET ADAMY: Janet Adamy of the *Wall Street Journal*. Senator, Senator Grassley said yesterday in an interview with Iowa Radio that he was at the White House and in a discussion with the president he indicated that because of the threat of reconciliation he said, and I'll just quote him, that it "put him into the position of negotiating at the same time a Republican alternative." Is there a Republican alternative plan being negotiated? And if that isn't happening already, do you anticipate that happening soon?

SEN. ORRIN HATCH (R-UTAH): Well, Republicans are certainly working on alternatives as we speak and my office has done extensive work on what we think

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ought to be done, mainly to assist everybody here. But I think, and I hope we have a few more plans out there. I'll compliment Senator Wyden and Senator Bennett. Theirs is the only written plan that's out there. Now, I can't support that, but I think there are some good ideas in that plan. But at least they came up with something and I think it's not a bad thing for Republicans to come up with what they think would be good and then Democrats come up with what they think and then work together to try and resolve these problems.

JANET ADAMY: Just to be clear, do you think there needs to be a Republican backup plan?

SEN. ORRIN HATCH (R-UTAH): Well, there always needs to be - yeah. I would like to see that because I believe that to the extent that we're not making headway, we ought to come up with our own plan. On the other hand, we all know that to have this really work it has to be bipartisan and we have to work with Democrats as well. And I think it's good to get the

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plans out there and then you can play off of the plans and gradually narrow down the areas where we can work together.

Right now – and let me just say this in closing. I see a pretty good spirit of bipartisanship on the two committees in the Senate. In the House – I can't speak for the House, but I've mentioned that I think Speaker Pelosi and others want to come up with a total Democrat plan, and that's something that may fit within their idea of using reconciliation, but I would caution them that that's not an easy thing to do and it would be far better to work in a bipartisan manner as we did on CHIP. We didn't do it on the CHIP this year, but the CHIP bill that worked amazingly well, that was a bipartisan bill and they did take a lot of the former CHIP bill, but I think messed it up a little bit with some of the decisions that they did make.

Well, I'm going to have to run and I apologize because I really do enjoy this and I wish I could spend more time with you and you'll have to forgive me for –

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MATT JAMES: Well, senator, we'd certainly love to have you come back if you have the opportunity to.

SEN. ORRIN HATCH (R-UTAH): I'd love to do it.

MATT JAMES: We're not working to try and schedule Secretary Sebelius. Senator Baucus also will be coming back. Sorry we didn't get to questions from the fringes and senator, thank you for being here today.

SEN. ORRIN HATCH (R-UTAH): I apologize to the fringes, I really do [laughter].

[END RECORDING]

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