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**ANNUAL CONFERENCE**

**REMARKS OF  
SENATOR JOHN ENSIGN (R-NV)**

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**MORNING SESSION**

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CHARLES N. “CHIP” KAHN: I want to welcome everybody this morning to the second day of our meeting. I hope that yesterday was fruitful for everyone. And sorry that we are starting a bit late but our speakers are here on the premises. And without further ado, we are going to get started with Senator Ensign and then go to Senator Clinton.

So let me first invite up to the podium Senator Ensign, the junior senator from Nevada. I have known John Ensign for many years. He was – when he was elected in 1994 to the House of Representatives, he served on the powerful Ways and Means Committee as a freshman – sort of an exceptional experience for him. He knows a lot about health. He is a veterinarian. He is a staunch believer in private markets and has had a lot of experience.

Now he is a senator. He focuses on our issues. He is the kind of Senator who has great respect for the private market, for-profit hospitals in the businesses that we’re all in. Let me bring Senator Ensign to the podium without further ado.

(Applause.)

SENATOR JOHN ENSIGN (R-NV): Well, thank you, Chip. It was a very nice introduction and I appreciate being here with you, Chip, and as well as all of you. I did – Chip mentioned that I was on the Ways and Means Committee, and anybody who was on the Ways and Means Committee always says “the powerful Ways and Means Committee,” and Chip was the staff director for the Health Subcommittee on Ways and Means. And I remember when I was first there, Chip was – here he was the staff director. I was a lowly freshman, and freshmen never got on the Ways and Means Committee.

Bill Thomas, who is now the chairman of the Ways and Means Committee was the – he was the subcommittee chairman at the time and he did not think that freshmen should be on the Ways and Means Committee, and so I went in with that type of an experience. And Chip was there to try to teach us all that he knew about healthcare issues and Medicare and all of the various acronyms.

And it wasn’t about a week before I was on that committee and we were in one of our first hearings, I was sitting next to a friend of mine, Jon Christensen – we were both freshmen. This was back in 1994 and the Republicans had just taken over and so we were in the majority. We were all excited. And in that first hearing, I remember hearing all of these various acronyms, and I leaned over Jon, and I said, well, what did that mean? And he looked at me and he said, I was going to ask you.

And so it was an interesting time to go back then. I knew about healthcare from a veterinary standpoint. I had owned and operated a 24-hour animal hospital in Las Vegas. But I didn't know anything about government-run healthcare and government-financed healthcare, and I had a lot to learn then, but thanks to Chip, we got up to speed in a very short fashion, and it's been a – it's been a fun thing to be involved in ever since when I was in the House and now the five years that I have been involved in the Senate.

We had some major challenges not just for those of you who are in the industry but for the American economy. It affects every single person in the United States, the cost of healthcare. It affects our competitiveness in the world and it is becoming an issue that is more and more important that we get a handle on, not only affordability but also availability in healthcare.

And there are several issues that I want to discuss today in that regard that we are going to be dealing with at the national level. I want to talk briefly about the small-business health plans. For those of you who have heard, they used to be called AHPs, now they are called small-business health plans because the term AHP fell out of favor. So we re-did it a little bit. Now we will call it small-business health plans.

I am going to talk a little bit about health savings accounts, the need for medical liability reform, the idea of best practices actually being practiced in medicine, and also talk about health information technology and how we can do a better job of implementing that across the country.

First of all, on the small-business health plans, tomorrow we are going to be marking up that legislation in the HELP Committee, which is the Health, Education, Labor, and Pensions Committee, of which I am a member. And Mike Enzi has taken that bill. He is the chairman. I think he has done a very good job with the bill. I had some real serious problems as it was originally drafted.

We have worked with Mike and has addressed I think most of the concerns – does not mean it will not be a controversial piece of legislation. There will still be problems with it as it goes through the process. But I think it is absolutely critical that we move the process forward because small businesses especially have difficulty having a large enough pool to be able to get the kind of pricing that they need.

And so it is important that we – a lot of the uninsured people that we have in America are through small businesses. The health savings accounts, the small business health plans are ways to get more and more people into the insurance market. And as you all know, a lot of those people who are not in the insurance market are healthy people. The more healthy people you bring into the insurance market, the costs comes down for the rest of us because you're spreading out the risk amongst healthier people.

And if only six people are in the health insurance market, well, you can see what happens to the costs. So it's important that we bring a lot of these uninsured people into the marketplace. And the more creative we can be about allowing them to come into it,

especially when we are looking at the private sector bringing them in, I think the better off our country is going to be.

As you know, in the provisions that we put in the – kind of the Medicare overhaul plan with the prescription drug plan that was put in, we put a provision in there called health savings accounts, and I think that health savings accounts are one of the most important provisions that was part of that piece of legislation. I personally think the legislation was too expensive – ended up voting against it. But the one real positive part of the legislation was the idea of the health savings account.

And I know I am speaking to a very educated crowd here but for those of you who may not know exactly what a health savings account is, it's an account, either your employer or yourself or the government can put money into an account for you that can be used for healthcare expenses. You combine that with a high-deductible policy and it's one of those creative things in the marketplace that somebody who – for instance, my brother-in-law.

You know, he was in his '20s, had his own business thinking that he is indestructible; he really doesn't need healthcare, but when he saw this particular piece of legislation come forward, it was something that he thought, you know, well, I could justify doing something like that. And so here is one of those young people that was healthy, that got into the insurance market because of the idea of a health savings account.

And why I think it's so exciting, why I think a health-savings account idea, and why they need to be expanded – and I applaud the president for putting that in the State of the Union address and for putting that in his budget to expand the health savings accounts.

It really is this idea: Insurance, when we went to a first-dollar coverage in insurance, we stopped people from being accountable. We stopped them from shopping for healthcare. We stopped them from asking questions of their healthcare providers – you know, why do I need that test? Well, is there a place that I can get that test cheaper some place? People don't – the idea of transparency – all of those types of things kind of go away if the person that is receiving the care is not the person paying for the care.

And it is the health savings accounts I think that can help transform our whole healthcare system and bring the patient back into the accountability loop. As a practicing veterinarian, when you came to me with your animal, and let's say for instance, you had a ruptured cruciate or something, you know, that the knee – say a football player's injury. Well, dogs get those kind of things.

Well, I had to be able to lay out to you various plans to fix that. And maybe it was a certain specialist that was – that could do the surgery and there were various specialists that we had in the Las Vegas Valley that could do that surgery. I had to act as your advocate and lay out various plans and various costs of those plans for you. There

was that good doctor – in this case it was doctor-client, not doctor-patient communications, but I had to keep that open and I had to be your advocate.

And then you made the decisions based on quality. If one was more expensive, maybe you wanted the one that was better quality and – but I had to make sure you were informed of all of those things. Health savings accounts do the same thing. It is exactly how they are to operate because you have something at stake because if you don't spend the money in the health savings account, it can roll over tax-free, and then it can cover a higher part of your deductible and lower the cost of your – cost of your health insurance.

So I believe that the health savings accounts are a very exciting part of our healthcare system and it is critical I think in the future we continue to expand those.

I am going to turn my attention now to the idea of medical liability reform. It is something that I have been pushing for and we have tried time and time again when I was in the House of Representatives – we passed it three or four times – never could get it through the Senate. Well, now I am in the Senate and we still can't get it through the Senate. And it's – the American Trial Lawyers Association, a very powerful organization in the U.S. Senate, and they have a lot of allies.

I have introduced the Health Act. It is modeled after the California MICRA law. We have attempted to pass that several times in the last few years, and I am working right now with the Republican leadership to try to figure out our strategy for this year. The chances of passing serious medical liability reform are pretty slim this year. It's a real partisan – the Senate is very, very partisan right now. It has been partisan in the past but it's really reaching a new low, and it's a shame to say because I think that we need to put our party affiliations aside and put the American people first.

And when you look at – (applause) -- when you look at the issue of medical liability and the real crisis that I think that our country is in over this issue, I think it speaks to that issue of putting our party labels aside. I mean, when you see OBGYNs – and I have a lot of friends that are physicians, and my state is typical of many other states around the country -- when you have OBGYNs, and some of them are the absolute best OBGYNs that you have, and they are limited on the numbers of procedures that they can do, and not only that, they are limited on the number of difficult procedures that they can do. So you have just put an incentive up there to say, we're going to take our best and our brightest, and we are not going to have you do very many procedures. So we are going to have less competent people doing it. It's a crazy system. It is a system that is broken that needs to be fixed.

The level-one trauma center in Southern Nevada closed for 10 days. People in a 10,000-square-mile area had no level-one trauma center all because of liability. It was only after the state took it over and said we'll cover everybody in the level-one trauma center that it was able to reopen. And, you know, here the trial lawyers were blocking medical liability reform.

And the way that it opened is our state has a \$50,000 total cap – 50,000. That includes healthcare expenses, economic – everything is \$50,000 total. That is all you can sue the state for. That is a severe cap. But that is the only way it was able to reopen. I think that it is a national priority between all of the various places that the federal government funds – healthcare, Medicare, and Medicaid, and VA – close to 50 percent of all healthcare bills are paid by the federal government. It is a national priority that we get a good medical liability reform bill passed through the U.S. Senate because we know we can pass it in the House of Representatives.

And I want to next address an issue that is common to business, but it unfortunately is not as common to healthcare as it should be, and that is the idea of best practices. Almost all of the colleges have come up with various best practices for various diseases and various clinical situations. Unfortunately, the average practitioner out there – only about half of them are currently practicing best practices.

We need to drive best practices down to the level of the individual practitioner, which gets me to my next issue, and that is the health information technology issue that we know and everybody is talking about today. I believe that it is one of those issues that can help drive best practices, along with how we pay our bills at the federal level, how Medicaid, how Medicare reimburse the whole idea of paid-for performance.

When you combine those with health information technology, I think that it is something that we can help drive best practices down to the practitioner level. So what is the role of the federal government when it comes to health information technology? Should we mandate the type of platforms that you all have out there, the type of systems?

We look at the VA and the reason the VA is exploding in costs today is because the VA has become one of the best healthcare systems. I mean, it used to be a real second-class system, but it has become a first-class system, and a big part of that is because the VA has a great health information technology system. The technology is now older, the software that it is written on is now older, but as far as the way the system works within itself functions very well.

The problem is the VA system doesn't talk to any other system. Any of the systems that you all are developing talk to very few other systems, and that is the main problem when it comes to health information technology, and where I believe that the biggest role that we need to play at the federal level.

There are some issues with HIPPA, as you all know, and privacy. There are some issues with some of the Stark laws that are out there that we have to change to make sure that the systems will be compatible, that they will be able to talk to each other. Currently today on the Internet, if you were putting a video on the Internet, or you are putting music or information, it is written so that things are compatible, so that they are interoperable. You know that there are standards written out there that if you put something out there, it has to be written, too.

That is the idea behind what the federal government has to do for health information technology, is we have to develop these inter-operability standards so that if you're buying a system, you know it is going to be compatible with other systems. Now, it doesn't mean that some of this stuff can't go forward until we develop these inter-operability standards, but I think the biggest breakthrough is going to be when we finally develop these interoperability standards. It isn't that Congress is going to do that. Obviously that has a great deal to do with the administration.

I am the chairman of the Republican High-Tech Taskforce in the Senate, and also subcommittee chairman on the Commerce Committee that deals with a lot of high-tech issues. And I have been holding hearings, and I'm going to continue to hold hearings on this particular issue and how we move it forward. Frankly, it's an area that not a lot of senators, not a lot of members of Congress have a lot of knowledge in and so we have to educate our colleagues a little bit so that we can move forward.

We have passed a piece of legislation. It's the beginning piece of legislation on this issue through the HELP Committee, and it pass unanimously in the Senate. It is awaiting action in the House now, and it is a good first start as far as health information technology is concerned.

And the reason I am so excited about this and so passionate about getting health information technology out there is cost estimates as high as 35- to 40-percent savings, if we get health information technology out there – you know, people say, well, that sounds a little high and it might be high. But listen, if you get 10-percent savings, 10-percent savings would be fairly significant when you think about the amount of money that we spend in our healthcare systems today.

So even if the cost estimates are high, if we come in low, we still saved a huge, huge amount of money. The idea of electronic health records and electronic prescriptions, eliminating errors – the whole medical liability issue comes back into play once again – the idea of people getting better care.

I was just in an auto accident about a month ago. It was a head-on collision and I was taken away on one of those neck things, and one – the paramedics put me on one of those boards and took me to a trauma center, one of the trauma centers in Las Vegas. And, by the way, I don't know if you have ever been on one of those boards but they have got to design something better because those things – I think that was the most painful part of the accident.

But I went to the – it was Sunrise Hospital in Las Vegas, and it was absolutely fabulous care, was as good as an experience I guess as you can have when you have just been in a head-on collision. But the idea that, you know, while you're strapped to a board that you are having to fill out all kinds of medical forms instead of having an electronic health record, and the idea that every single time you go to a doctor you are filling out paperwork, and, you know, they have to have somebody then take that paperwork and enter it into something.

And if you – the amount of money in bureaucracy alone, private bureaucracy that could be saved with electronic health records is just unbelievable. The amount of errors that can be saved – I mean, I went to a veterinary school and they taught us the same thing they teach physicians about how not to be able to read our handwriting, and prescriptions that are handwritten, it boggles the mind today that we have handwritten prescriptions.

I think I have seen some studies that show as high as a 16-percent error rate in filling prescriptions because of the handwriting, and not only that, if it's handwritten and if the system is not right – if you don't have all of these things tied together – if you have three or four different physicians writing prescriptions and if they are not – if the systems are not talking to each other, you get drugs that are contraindicated against each other. You end up with medical complications and they come and end up in the hospital.

So it drives up the costs all the way across the country. And that is why I think that the idea of electronic health records, and the idea of technology coming together is a very exciting place where we can save some money.

Listen, it's been great to be with you this morning. I want to close with this: Healthcare, as I mentioned at the very beginning is an issue that affects every family in America; it affects every business in America. The solutions are out there. We need you to come lobby us – lobbying in the pure sense of the word – educating us on the issues of the day, and try to talk to us about laying our partisanship aside so that we really can accomplish something good for the United States.

The opportunity is there. I am excited about working on these issues, and with people like you involved, I really do think that we can do some great things for America. Thank you very much.

(Applause.)

MR. KAHN: Thank you, John. Well, that was a great beginning to our morning, and now we will move to our next speaker.

(END)