

killed on the job, I believe, in Indiana. The three of them talked about how important Workers Memorial Day is. But, more importantly, they talked about how important it is that workers have better representation than provided by the Occupational Safety and Health Administration; that the families of victims or workers injured or killed on the job don't have the input into the Occupational Safety and Health Administration they should have. In fact, those workers complain—as did people who represented them today at this committee hearing—that too often during the last few years there has been a voluntary kind of compliance through OSHA, and voluntary compliance doesn't work to save lives and make the workplace safer. So I applaud what Secretary Solis is doing, and I applaud what Senator MURRAY is doing.

I close with this: One of my first Workers Memorial Days was in Lorraine, OH, arranged by local labor organizations. I was given this pin I wear. It is a depiction of a canary in a bird cage. The mine workers, as we know, 100 years ago used to take a canary down in the mines with them. If it died from lack of oxygen or toxic gas, the miner knew he had to get out of the mine immediately. In those days there were no unions strong enough to protect them, and they had no government that cared enough to protect them. Those days are behind us.

Back in 1970, the Occupational Health and Safety Agency was set up by the Government. It has made a huge difference, but nonetheless 100 people in this country show up for work and die on the job every single day on the average, and that is not counting workplace diseases.

So we have a lot of work to do so that by April 28 of next year we can commemorate Workers Memorial Day with significantly fewer workplace injuries and significantly fewer workplace deaths.

I yield the floor and thank the President.

EXECUTIVE SESSION

NOMINATION OF KATHLEEN SEBELIUS TO BE SECRETARY OF HEALTH AND HUMAN SERVICES—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will return to executive session to resume consideration of the Sebelius nomination.

RECESS

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

Whereupon, the Senate, at 12:35 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BURRIS).

EXECUTIVE SESSION

NOMINATION OF KATHLEEN SEBELIUS TO BE SECRETARY OF HEALTH AND HUMAN SERVICES—Continued

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Sr. Asst. Parliamentarian (Elizabeth MacDonough) proceeded to call the roll.

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. SHAHEEN. Mr. President, I rise in support of our nominee for Secretary of Health and Human Services, Gov. Kathleen Sebelius. I have known her for over 20 years. I believe she is an excellent nominee, one who brings a wealth of knowledge and skill to the position at a time when we need it the most.

As our country and the world begins to battle a very serious outbreak of the swine flu, we need Governor Sebelius's leadership now. Over 100 deaths have been reported in Mexico, and here in America we have confirmed cases in 5 States. It is urgent we have a leader in place at Health and Human Services who can respond to this threat.

Governor Sebelius is that person. She recognizes the need to work with experts and scientists on a global scale to make key public health decisions. Our citizens need and deserve to know that our Government is doing everything it possibly can to protect the public and to control this outbreak. We simply cannot afford to delay action in filling this important Cabinet post.

Also, as we embark on national health care reform, we need a leader who appreciates the importance of health care security to everyday people. Kathleen Sebelius is a common-sense leader who understands the complexities of our health care system. Through her experience as Governor of Kansas, State insurance commissioner, and President of the National Association of Insurance Commissioners, she has a broad and deep understanding of health care and will be an outstanding leader as we work to fix our broken system.

Governor Sebelius has worked tirelessly to improve the quality and affordability of health care for the people of Kansas, and she will do the same for all Americans.

As a former Governor, I understand the pressures of balancing a budget and working across party lines to get things done, and I commend Governor Sebelius for her track record of success. Upon taking office, she faced a projected \$1 billion deficit. So she implemented a top-to-bottom audit of State government that produced significant savings and efficiencies. Under

her leadership, Governor Sebelius expanded health care for children and worked to reduce the cost of prescription drugs. Working across the aisle, she was able to reorganize State health care programs to make health care more affordable by creating an independent State agency to control spending on health care and simplify the process of obtaining health care for her constituents.

Undoubtedly, Governor Sebelius brings a wealth of knowledge and leadership experience that will be critical in her new role as the Secretary of Health and Human Services.

I urge my colleagues to join me in supporting nominee Kathleen Sebelius for Secretary of Health and Human Services. She is the right choice at a time when we desperately need leadership at the Department of Health and Human Services.

Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise today to speak in support of the confirmation of Governor Kathleen Sebelius as Secretary of the Department of Health and Human Services.

This nomination comes at a transformational moment and at a monumental time—as the American people look to the Federal Government to achieve systemic change to ensure that all have affordable access to health care. The Senate Finance Committee, of which I am a member—along with the HELP Committee—is working mightily to craft reforms to address the current unacceptable reality of 70 million Americans lacking adequate coverage, and the increasingly unsustainable costs that undermine the health security of all Americans.

At the same time, our Nation faces the most severe economic distress we have witnessed since the Great Depression, with more than 2.6 million jobs lost last year. And it is the Department of Health and Human Services that stands at the forefront of helping to mitigate the consequences through our health and poverty programs. Therefore, there can be no doubt of the necessity for sound executive leadership at HHS.

Indeed, given both its prominence and its status as one of the largest departments in the Federal Government—which also oversees programs upon which nearly 1 in 3 Americans rely for their health care—our next Secretary of Health and Human Services should be a talented public official possessing a depth and breadth of experience as both a skilled administrator and manager, and a professional committed to systemic health reform. In that light, as former Kansas State Insurance Commissioner and now as Governor—and with her experience in tackling health care issues in her State—I believe Governor Sebelius possesses the knowledge and skills to meet the pressing demands facing our next leader of HHS.

In her work as Kansas State Insurance Commissioner she rightly recognized a takeover of her State's largest

health plan as a threat to affordable coverage and fought vigorously and successfully to maintain its independence. As Governor, she worked to reduce State government spending, and resisted tax increases until the Kansas State Supreme Court mandated a new school financing program. That is significant as, for health reform to succeed, we must ensure that every American is assured of affordable access to quality health coverage—but, of equal importance, we must reform health care to deliver better value and that requires a Secretary who will look first to cost savings and delivery reforms before we consider new revenue.

Moreover, HHS will be well-served by a Secretary who is committed to building the bipartisan consensus necessary to pass the best possible health reform legislation that will have the greatest level of credibility with the American people. And on that note, it is telling that Governor Sebelius was the first Democrat elected Kansas State Insurance Commissioner in more than 100 years, that in her gubernatorial campaigns she has twice chosen a Republican running mate, and that *Time Magazine* ranked her in 2005 as one of the five best Governors.

Given her history, I think the Governor understands the hazards of a politically polarized environment. Indeed, today, some propose that we craft the most significant health legislation in our history by undermining the very rules of the Senate which help ensure that this Chamber creates broad consensus—through the application of the budget reconciliation process. But to craft a complex reform of health care with this approach would be wholly inappropriate, as any bill it would produce would lack the broad support necessary to both enact and sustain such a momentous initiative. We should not be drawing lines in the sand up front in this debate. It is neither constructive nor conducive to the process, and Governor Sebelius should recognize that reconciliation threatens to simply increase polarization.

I also note that, while the Governor has enjoyed notable successes in Kansas, she has also experienced disappointments in her efforts to expand coverage, so she certainly comprehends the nature of the difficulties ahead. Certainly, there will be an intense struggle by myriad interests to protect the status quo. But the reality is clear. Unless we achieve an equitable, balanced approach, we cannot achieve sustainable health security for all.

That should mean a level playing field with regard to the competitive environment. We must ensure there is proper regulation and oversight—and at the same time, we must assure that real competition and innovation are facilitated among health plans—just as it exists between health care providers, and producers of drugs and medical devices. The creation of a public plan option certainly is no panacea to the problems of health coverage—it simply

does not address the fundamental market reforms required. In her Finance Committee confirmation hearing, I questioned Governor Sebelius on this issue, and she noted that proper standards and regulation, similar to the approach I have taken with Senator DURBIN in the Small Business Health Option Program Act, SHOP, to reform the small group market, is critical to making insurance markets work. I was pleased to see her willingness to examine this issue, as she noted, “It may be at the end of the day that the standards are effective enough that the competition from a public plan is not a valuable asset.” I look forward to working with Governor Sebelius to develop solutions to ensure that insurance markets do work effectively so we attain both the competitive pricing and choices in coverage which are so valued by Americans.

I know that several of my colleagues will oppose Governor Sebelius’ nomination over the issue of abortion rights in general and over campaign contributions from one doctor in particular. In that vein, Governor Sebelius has rightly noted that she should have consolidated reporting of all contributions from the doctor, his practice, and his family, both to her campaign and political action committees. Concurrently, it is important to note that all of these contributions were disclosed. And, in my view, there is no reason to believe this regrettable oversight was anything but unintentional.

Moreover, it would be unrealistic to deny that sharp divisions exist in our Nation regarding reproductive rights, and I certainly respect there are deeply held views on both sides. At the same time, it should not be surprising that a nominee of our current President would hold the views she has espoused and, in my view, that must not unduly detract from a thorough and comprehensive analysis of her qualifications.

Finally, the fact is that in this time of historic challenges—and especially given the concerning developments of this week, as we face the threat of an influenza epidemic—HHS should have a Secretary to lead the Department. While various units from CDC to the Department of Homeland Security have worked together to coordinate efforts and marshal resources to combat this outbreak, HHS leadership is vital to achieving optimal coordination of its agencies and effectively communicating to the public.

Today, Governor Sebelius comes before us as an individual who is highly capable, eminently qualified, and managerially prepared to assume the helm of the Department of Health and Human Services. She is fully cognizant of the daunting challenges ahead, and she will be an asset to this administration. I look forward to working with her this year to achieve health security for all Americans, and I encourage my colleagues to join with me in supporting the Governor’s confirmation.

Mr. McCAIN. Mr. President, I regret that I must oppose the nomination of Gov. Kathleen Sebelius to be the next Secretary of Health and Human Services, HHS. I reached this decision after examining her qualifications and positions on matters important to the health and well-being of the American public. I did not treat this decision lightly, only reaching it after very careful deliberation.

The next Secretary of HHS is expected to oversee an effort to overhaul our Nation’s health care system in the coming year, and Americans need to know that their rights as patients will be respected and protected by Washington. While I appreciate Governor Sebelius’s efforts to respond to some of my concerns about different health care proposals that the administration supports, her responses did not offer the assurances that I sought. Namely, I am concerned over her responses to questions posed to her by the Health, Education, Labor, and Pensions, HELP, Committee and Finance Committee members on the role of public health plans in health reform and over the role of comparative effectiveness and its potential role in dictating medical practice patterns.

I believe that our Nation’s health system is broken and in order to fix it, we must address health insurance as part of the overall reform effort. However, I believe that reforms should invigorate the free market system and promote competition among health insurance plans to cover every individual. I do not think that our Nation can afford, as Governor Sebelius and President Obama suggest, a government-run health plan included in a National Health Insurance Exchange. Such a plan would have many unfair advantages over private plans, including having the weight of the Federal Government to potentially administratively set prices. Additionally, and more importantly, a recent Lewin Group study estimated that about 120 million Americans could lose their employer-based coverage and be pushed into a government-run plan—contradicting then Candidate Obama’s promise that if Americans like the insurance they have today, nothing will change. My fears that a public plan would be unfairly advantaged and be the start to a single-payer system were unfortunately not alleviated by Governor Sebelius’s responses.

I strongly oppose a European style approach to health care where care is effectively rationed. Americans deserve the best health care system in the world—and with appropriate reforms we can continue to assure everyone access to quality health care. I also understand that today’s medical research is increasingly focused on an individualized treatment approach for patients, and I believe that this treatment trend is threatened by efforts to embrace comparative effectiveness research. While I believe that comparative effectiveness research can provide

patients and doctors with the vital information necessary to make the right decisions in an individual's medical case, I am greatly concerned over how this research could be used by the Federal Government. One only need look at Great Britain where centralized authorities—rather than a patient's doctor—decide whether cancer patients can receive lifesaving care and which patients are denied access to beneficial treatment options to see why so many of us are alarmed. While Governor Sebelius said that the Medicare Modernization Act of 2003 prevented using comparative effectiveness research for coverage decisions, the National Institutes of Health appears to be moving in that direction by funding comparative effectiveness research that includes treatment cost comparisons. This trend is alarming and should be of concern to all individuals in vulnerable populations, such as minorities, women, or individuals with multiple conditions, who could be forced into a one-size-fits-all treatment model.

Overseeing health reform will be a herculean task and Americans need to be assured that they will not lose the private health coverage that they want to keep or that their treatment options will have to be approved by a government bureaucrat. Mr. President, while I respect the right of President Obama to nominate Governor Sebelius to be the next Secretary of HHS, she has failed to provide us with those assurances, and I regret that I cannot support her confirmation.

Mr. ENZI. Mr. President, I rise today in opposition to the nomination of Governor Kathleen Sebelius as the Secretary of Health and Human Services. As U.S. Senators, one of our most important responsibilities is confirming qualified, and, hopefully, superior nominees to lead our executive agencies. I am one of several Senators with strong reservations regarding the nomination of Governor Sebelius, and it is important to take this time to explain my opposition to this appointment.

In order to fulfill our responsibilities under the advice and consent clause properly, this institution has a process for vetting Presidential nominees. The nominee is required to complete a host of paperwork to the authorizing committee, in this case the Senate Finance Committee, accompanied by a sworn affidavit. I was very disappointed to learn that Governor Sebelius amended her paperwork to the Finance Committee as a result of unpaid taxes and understated campaign contributions.

The HELP Committee held a hearing on Governor Sebelius' nomination due to the high number of health and early learning statutes and programs that fall under the committee's jurisdiction. During this hearing, I asked Governor Sebelius her thoughts on using reconciliation to advance comprehensive health care reform legislation. Her response was to keep all options on the table.

I couldn't disagree more. But unfortunately it appears that is the direc-

tion health care reform will take this year. This week the Senate will vote on a conference agreement for the fiscal year 2010 budget resolution that includes reconciliation for health care reform. Using budget shortcuts—known inside the beltway as reconciliation—is the exact opposite of keeping all options on the table because it shuts out members of the minority party. It will also shut out many centrist Democrats, who want to see health care reform based on a competitive private market, which is fully paid for. That is not a formula for bipartisan success. An open, transparent process with a full debate is the best way to achieve a bipartisan product.

At both the Member and staff level, Senators on both sides of the aisle continue to meet regularly to discuss health care reform, and specifically what shape it will take. I believe that if we continue to negotiate in good faith, this process can lead to a bipartisan health reform bill that will enjoy broad bipartisan support now and in the future.

Ensuring access to affordable, quality and portable health care for every American is not a Republican or a Democrat issue—it is an American issue. Our health care system is broken, and fixing it is one area where I hope my 80 percent rule comes into play so commonsense reforms can be made. People who have worked with me over time know that the 80 percent rule is one of the main philosophies I follow to get things done. In applying this rule, I try to focus on the 80 percent of the issues the Senate generally agrees upon, while not fixating on the remaining 20 percent, which are divisive and can sometimes overwhelm the majority of issues that we agree on.

The next Secretary of HHS will undoubtedly have a critical seat at the table in the health care reform debate. For these reasons it is important to have a Secretary in place who supports an open, transparent process without the distraction of tax issues, misreported campaign contributions, and questionable affiliations.

I respect that the President is entitled to staff the executive branch with individuals of his choosing. We may not always agree on every issue. I am and will remain staunchly pro-life, and will continue to advocate for legislation to protect the rights of the unborn. However, if Governor Sebelius is confirmed, I will diligently work with her to overcome obstacles standing in the way of solutions to the health care problems facing America.

Prior to her hearing, I met with Governor Sebelius and we discussed the unique challenges that face rural and frontier states. People living in rural areas in Kansas, similar to those in Wyoming, face difficulties in access to primary care physicians and preventive services. Rural and frontier areas struggle to attract and retain doctors and other health care providers. In the 10-steps health care reform bill I intro-

duced last year, I emphasized the importance of access to affordable health care for people in rural and underserved areas. Governor Sebelius understands the challenges in this area—and I hope we can work together to find solutions for this common priority.

In closing, while I intend to vote no on this nomination, it is my hope and expectation that we will put aside our differences to find meaningful solutions that will make a positive difference in people's lives.

Mr. GRASSLEY. Mr. President, I am pleased to be here again to speak in support of the Fraud Enforcement Recovery Act. I urge my colleagues to join me in supporting this bill so we can pass this important legislation. I cosponsored this bill because I believe that we need to do something to show the American people that we are taking their tax dollars seriously and committed to rooting out fraud, waste, and abuse of Government programs.

The fraud enforcement tools and resources provided in this bill will help Federal agents and Federal prosecutors devote more resources to investigations into financial and mortgage frauds. The criminal fraud law updates in this bill will also help send a message to individuals in the future that fraud against homeowners and investors won't be tolerated. While it is true the criminal law provisions can't apply retroactively to conduct that led us the current financial and housing crises, they will help prosecutors in the future and will help to deter future criminal conduct.

Finally, and perhaps most importantly, this bill makes critical amendments to the Federal False Claims Act that will ensure those who rip off the Government can't hide behind judicial loopholes created in the law. These edits to the False Claims Act are important to ensure that the Justice Department and individual qui tam whistleblowers aren't blocked by some procedural hurdle put in place by judges. When I authored the 1986 amendments to the False Claims Act, I couldn't imagine the types of decisions we have seen from courts. These courts have read all sorts of new procedural and intent requirements into the false claims that were never imagined nor were they intended by Congress. These amendments will help restore the original intent of the False Claims Act and keep it working into the future so it can continue to add to the \$22 billion already recovered under this powerful law.

I urge my colleagues to join me in supporting this important legislation so we can show the taxpayers we are serious about fighting fraud against homeowners, investors, and the Federal Government.

Ms. MIKULSKI. Mr. President, I rise today to support the nomination of Kathleen Sebelius to be the Secretary of Health and Human Services.

I am pleased that the Senate today will finally confirm Governor Kathleen

Sebelius as the new Health and Human Services Secretary. Governor Sebelius brings much needed policy and management expertise to the job as our Nation Faces serious public health challenges. Our immediate concern is the effective coordination of our Nation's public health resources to combat the emerging swine flu pandemic. Sebelius and her team must immediately respond to contain this very serious threat.

I look forward to working with her as she helps fulfill President Obama's promise to enact comprehensive health reform. Governor Sebelius will add urgency, substance, and know-how to pass complicated health legislation that will benefit American families and businesses.

Governor Sebelius will serve as the effective CEO of HHS and ensure its agencies are well run and consumer focused. She has the difficult task of not only restoring the public's confidence in our Nation's health agencies, but also building the trust of HHS' committed workforce. Special effort must be made to listen and learn from the scientists at FDA who lacked effective leadership during the previous administration. Governor Sebelius' immediate leadership also will help guide the implementation of the economic recovery act that included several important health initiatives—particularly the development and adoption of interoperable health information technology standards. I am confident she will meet the intent and deadlines enacted by Congress.

Mr. DURBIN. Mr. President, I rise to speak on behalf of the nomination of Gov. Kathleen Sebelius as Secretary of Health and Human Services.

Just a few moments ago at lunch, we were briefed by Secretary Napolitano and a spokesperson from the Centers for Disease Control about the swine flu epidemic. It is a serious issue, much more serious in Mexico and other places than the United States, but it is being taken very seriously and watched closely by those in charge of our public health in America. That is why it is so important for us to fill this particular spot in the President's Cabinet. It is the last spot to be filled. The nominee, the Governor of Kansas, Kathleen Sebelius, is an extraordinarily good choice for this post of Secretary of the Department of Health and Human Services.

We consider so many health care issues. In fact, when the people of this country are asked about the priorities they identify, their highest priority is health care, as it should be. If we do not have our health, not much else matters.

We have tried during this Congress with this new President to do that which is important to address the public health concerns of Americans. We passed a children's health bill to provide health care coverage, insurance coverage for an additional 4 million kids. We passed an economic recovery

package that provides States with the resources they need to provide health care services to millions of low-income families and seniors on Medicaid. We passed a new law to help working families continue to pay for health insurance even after they lose their jobs. We also provided money in the Recovery and Reinvestment Act to fund investments in health information technology which can save the Nation billions of dollars and avoid costly and deadly medical errors. It has also provided assistance to community health centers, a resource in my home State of Illinois which is exceptional. It provides health care for those who have nowhere else to turn. It is some of the best care in America. In the Omnibus appropriations bill, we provided billions of dollars for medical research, infant and maternal health, and other health services for those least able to afford the care they need. We have a lot more to do, and that is why we need to fill this spot.

The current economic crisis has made health care reform more important. More than 47 million Americans, including 9 million American kids, do not have health insurance. Those families woke up this morning with children in their houses without the peace of mind that if there is an accident, a diagnosis, or some illness, they would have health insurance to guarantee they have quality care, good doctors and hospitals to turn to. A third of Americans under the age of 65 have experienced a period without health insurance in the past 2 years. That is one out of three Americans under the age of 65. Families and small businesses work harder than ever to provide health insurance, and the costs just keep going up.

As unemployment has reached 8.5 percent nationwide, this rate has troubled us. In some areas, it is much higher. It is 9.1 percent in Illinois. With each 1 percent rise in the Nation's unemployment rate, the number of uninsured Americans increases by 1.1 million people.

One of the biggest worries I found among unemployed workers in Illinois is health insurance. I recently visited Richland Community College in Decatur. I sat down with a number of young men and women who lost their jobs, many of them with children. That was the first thing they brought up, whether their spouse was working and had health insurance, whether there was somewhere else they could turn. A growing number of businesses are backing away from health insurance because it is expensive.

We cannot wait for the economy to improve before tackling this health care issue. Too many Americans have needs that cannot wait.

There are no easy fixes to this, but I believe President Obama is right by stepping up and nominating Gov. Kathleen Sebelius to be Secretary of the Department of Health and Human Services.

Last week, the Senate Finance Committee approved her nomination. Earlier this month, I had the opportunity to sit down with her and talk about the issues firsthand. Her commitment to this issue is not just lipservice. She has shown an ability to overcome partisan politics in her home State for her people and represent the best interests we need in America.

During her two terms as Governor, Governor Sebelius and her administration have been notably bipartisan. She was elected to her first term with a former Republican businessman as her running mate. She ran a second time with the former State Republican chairman on her ticket. In a State where the opposition party holds strong majorities in both chambers, the Democratic Governor has been able to reach across the aisle to solve problems and help the people of Kansas.

Before being elected Governor, she was Kansas insurance commissioner from 1994 to 2002. During this time, she refused campaign contributions from insurance companies. She protected the people of her State from increases in premiums by blocking the sale of Blue Cross Blue Shield to an out-of-State company. She helped draft a proposed national bill of rights for patients and served as the president of the National Association of Insurance Commissioners. This critical experience prepares her well in her new role on the President's Cabinet dealing with health care reform, Medicare, and Medicaid. While she has also dealt with these broader health coverage issues, she has not lost sight of the role that prevention and public health must play in any health reform effort.

Through her Healthy Kansas initiative, Governor Sebelius encouraged Kansans to increase fiscal activity, choose a healthier diet, and avoid using tobacco products. As Governor, she made investments to help women avoid unintended pregnancies, increase health services for pregnant women, and provide support services for families. These are goals that I think most of us can certainly agree on.

We discussed the issue of food safety, which is very important, with the Food and Drug Administration under her supervision, when she is confirmed in this process, and she understands there is a parade of concerns, whether it is salmonella in peppers and peanut butter, melamine-spiked pet food and milk products from China, E. coli in spinach, and the list goes on and on. We can do better. Secretary of Agriculture Vilsack and Kathleen Sebelius, once she is confirmed, can work together to bring us the very best in food safety in America and to protect families who count on their Government to do the job.

I commend President Obama for his leadership on this issue, but with these two spots filled, with the Secretary of Health and Human Services and Agriculture, then we can step forward and get something done.

There is also a big question about this issue of comparative effectiveness, which has been raised by some on the other side in relation to this nomination. Congress and President Obama are committed to expanding America's access to high quality health care, and that is why we have made comparative effectiveness research a high priority. Through the economic recovery package, we committed over \$1 billion to funding research to compare the relative clinical risks and benefits of different treatments for the same illnesses.

Some of my colleagues argue this research should only focus on clinical effectiveness, without taking into account the cost of a treatment or procedure. However, I think addressing cost is a major concern of everyone, not just in Government but of the American people. They believe health care costs are too high and they are interested in any steps we can take to reduce waste and use health care dollars more efficiently. That effort is an important part of health care reform. We can't continue to spend as much as we have on health care without breaking the bank, leaving deficits for our children and basically bankrupting the American Treasury.

Part of the solution to our health care reform is reducing unnecessary cost and waste. Research may show that there are some treatments genuinely less effective than others in comparable populations. No one should be afraid of looking at the solid factual evidence to make these comparisons. Some of my colleagues oppose comparative effectiveness research and argue that Washington bureaucrats shouldn't interfere with a patient's right to choose treatment or substitute the Government's judgment for that of a physician. I don't argue with that premise, but let's get to the bottom line. When a decision is made about an illness affecting you or a member of your family, you want the most effective treatment. You want to be certain it is going to work. You want to have confidence that the person providing it is making the right choice.

We have a right to ask whether there is a more economical choice, one that can reach the same result without the same cost; whether it is the use of generic drugs, for example, which have been proven to be effective and lower cost than many brandname drugs, or whether it is a procedure that is going to have a lot more chance of success. Why are we afraid to look at this information? Some on the other side are. They shouldn't be. This is common sense that we would ask these questions and come up with this information so we can make the right decision.

I would add that Kathleen Sebelius has proven, as the executive in a major state in America, that she understands the responsibility of leadership and the accountability of those in leadership. Few challenges we face in America are as grave as our health care system and

its need for reform, but it is an effort we must undertake. Unsustainable health care costs are the one primary threat to our economic security.

The President said it: We are draining our Federal budget and placing at risk the financial well-being of America if we don't look at the real cost of health care. It is time for reform, and the first real step is to confirm Governor Kathleen Sebelius as our Nation's chief health official. Americans deserve someone they can trust to see this commitment through. She has shown this in her service in Kansas and her commitment to public life.

I hope my colleagues in the Senate will join me in supporting her nomination today. There are some who have raised a myriad of different issues that concern them; some are even beyond the reach of Kathleen Sebelius in her role as Governor. She was given Federal Court cases and Federal laws to follow, and she did as she was bound to do by her oath of office. But we should give her a chance now at the Federal level to help lead this country into a new day of health care reform.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KYL. Mr. President, Governor Sebelius is a talented public servant. Nonetheless, I will oppose her nomination for several reasons.

Others have emphasized her relationship with Dr. George Tiller, so I will address another matter—my concerns about the use of comparative effectiveness research under the administration's proposed health care plan to ration health care.

Comparative effective research is currently used to evaluate the strength and weaknesses of various medical interventions. If structured appropriately, it can be a great help to both physicians and patients, to help them make health care decisions. But without the appropriate safeguards, the Government can misuse it to deny or delay patient coverage and services based on factors such as age, relative health, or the number of people ahead in line for a particular treatment.

Unfortunately, Governor Sebelius's answers to my questions made clear that the administration and Health and Human Services under her watch would be unwilling to support patient safeguards. She did not provide any assurance that Health and Human Services, Federal health care programs, or any new Government entity, such as the Federal Coordinating Council, will not use this tool to ration or deny care. This should be a matter of concern for every American.

We must not enable a panel of Washington bureaucrats to decide who is eli-

gible for a particular treatment or when they can get it. In countries that have government-rationed health care, patients sit on long waiting lists to have procedures such as an MRI or dental surgery or hip replacement, to name a few.

I recently read an article in the Wall Street Journal by Nadeem Esmail, Director of Health System Performance Studies at the Fraser Institute in Calgary, in Alberta, Canada, entitled: "Too Old For Hip Surgery." The article recounted stories of our neighbors in Canada who routinely wait months and even years for a specialist's care. Many cross the border to see U.S. doctors to get the immediate treatment they need. Lawsuits tied to Canada's health care rationing system often wind up decided by their courts. Is this what we want in America?

Governor Sebelius's answers about comparative effectiveness research relied on two points, which were inaccurate and contradicted one another, raising more doubt rather than providing assurance. Let me briefly address those points.

When Governor Sebelius stated during her hearing, "The law prohibits Medicare from using comparative effectiveness research to deny coverage," she was referencing the 2003 drug bill which applies only to prescription drugs and not to any other aspect of medical treatment. So she is factually wrong to suggest that could be a future limitation on health care generally. Of course, the fact that we so limited it in the 2003 prescription drug bill makes the point that it does need to be limited.

In this regard she also said: "When authorizing comparative effectiveness research in both the Medicare Modernization Act and the American Recovery and Reinvestment Act, Congress did not impose any limits on it." That statement is true. It also is precisely the problem.

The National Institutes of Health is already taking the steps necessary to make cost-based research a priority and to use it to ration health care. A recent National Institutes of Health project description states:

Cost effectiveness research will provide accurate and objective information to guide future policies that support the allocation of health resources for the treatment of acute and chronic conditions.

Allocation of health resources is, of course, a euphemism for denying care based on cost. And Governor Sebelius will not agree to terminate this project.

There is no question that health care reform is badly needed, and I want to work toward that goal. All Americans, especially those who are unemployed or who work for a business that doesn't provide health insurance or who have a preexisting condition deserve a better approach. But rationing based on cost is neither a practical nor satisfactory route to achieve it; it will delay access to treatment that may be urgently

necessary and discourage the kind of research that leads to promising new treatments.

I believe every American has the right to choose the doctor, hospital, and health plan that best fits his or her needs. Flexibility is essential in medicine, and each patient should be cared for as an individual, with a treatment regimen crafted and tailored by his or her own physician, not by a Washington bureaucrat. So I oppose the nomination of Governor Sebelius to head the Health and Human Services Department, because I do not believe she is sufficiently committed to these same principles.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise to speak on behalf of the Sebelius nomination. And before he leaves the floor, I also want to say to my friend from Arizona that I think he knows I share many of his substantive concerns about what it is going to take to get bipartisan health reform legislation. For example, a key component of it will have to be malpractice reform. It will have to include the areas the Senator from Arizona has touched on—the question of comparative effectiveness. And I think in both of these areas there is a long way to go to get it right. It is my interest, particularly this afternoon, to assure the Senator from Arizona that there is going to be an effort to pull out all the stops to make this a bipartisan effort here in the Senate to fix America's health care, and I want to tell him I am looking forward to working with him on that.

To pick up on this point, many Senators have come to the floor to discuss the needs of tackling health care issues in the kind of bipartisan fashion that Senator KYL has talked about and I have mentioned. I strongly support the Senators who are making this a special focus of this discussion today when we consider Governor Sebelius's candidacy to head the Department of Health and Human Services.

For a bit of background, Senator BENNETT and I, in particular, have been working for several years in talking to most Members of the Senate. I personally have gone to see about 85 Senators in their office, to listen to them, to get their views about health care reform, all with an idea to make the issue of reconciliation on health care irrelevant. What we wish to do, Senator BENNETT and I, working closely with the chairs and ranking minority members of our key committees, is to find a way to get a very substantial bipartisan vote here in the Senate for health care reform. I think we are well on our way to doing that. I believe there is literally a philosophical truce on health care within the grasp of the Senate.

When one looks at this debate, both political parties have had valid points to make. My party, for example, is right on the idea that we cannot fix health care unless all Americans get good-quality, affordable coverage. The

reality is, we cannot begin to organize the market for health care unless we get everybody covered. Without covering everybody, there is too much cost shifting, there is not enough focus on prevention and wellness, and we have a real question about what to do about clogging up hospital emergency rooms—which is an issue in Colorado and Oregon and across the land.

So Democrats have been right on the point of saying to fix American health care all Americans have to have good-quality, affordable coverage. But our colleagues on the other side of the aisle—and Senator BENNETT has championed this; Senator GRASSLEY has championed this—have been right in saying there needs to be a significant role for the private sector in American health care as well. It is going to be important not to freeze innovation, to steer clear of price controls, to have a wide berth for the private sector to innovate and offer private sector choices as part of the solution to this challenge of fixing American health care. So we meld together these two points of view—Democrats who have been right on the idea that we have to cover everybody, Republicans who have had a valid point with respect to a role for the private sector—and, in my view, we are on our way to 68, 70, 72 votes in the Senate for comprehensive health reform.

So we very much need to tackle this in a bipartisan way. In my view, there are a few words that speak volumes about Governor Sebelius's outlook on the need for having bipartisanship in the health care arena. Those words were spoken by a former leader in the Senate, Bob Dole. I want to quote for the Senate a couple of the remarks made by Senator Dole when he came before us on the Senate Finance Committee.

Senator Dole said:

For more than 20 years, Kathleen Sebelius has served the State of Kansas as a legislator, insurance commissioner and Governor. All of her accomplishments required bipartisan approaches. Her work has earned her the respect of Democrats and Republicans.

Senator Dole goes on to note that one of our most respected former colleagues, Nancy Kassebaum Baker, has actually written Members of the Senate with respect to her support for Governor Sebelius.

Then Senator Dole goes even further, and he says:

Governor Sebelius and I are from different parties. We have different views on different issues, some highly controversial. But that is not the issue here today. Candidate Obama is now President Obama and gets to make the Cabinet selections. He has determined that she is well qualified and that she understands the importance of the enormous task before her when confirmed by the entire Senate. I agree and that's why I am here to support her nomination. We need a Secretary of Health and Human Services—

Said Senator Dole—

who has the skills, experience and courage to shape and guide this historic legislation

through Congress. It will not be easy but I know Governor Sebelius will never stop trying.

Those were the words of former Senator Dole, somebody to whom I look again and again for counsel on health care. I think it is fair to say a great many of our colleagues on the other side of the aisle look to him for counsel on health care.

Those who know Governor Sebelius best, such as Senator Bob Dole, have, in my view, said it better than any of us could. They know her, they have worked with her, they have watched her try to forge coalitions. As insurance commissioner, she has been a leader nationally in the insurance field with the National Association of Insurance Commissioners. I think she is going to be a pragmatic coalition builder who is going to work with a very specific focus toward trying to bring the Senate together to tackle this critical issue.

We know there are some particularly important challenges ahead of us. I have said one of the first priorities in health reform is to make sure those who have coverage today—in Colorado and Oregon and across the country—see that health reform works for them. Some writers have called that group the “contentedly covered,” the people who already have health care coverage in America today.

I think there are four important priorities for the Congress to address in making sure those who have health care coverage today see that the system works for them. Those priorities are, first of all, making sure they can keep the coverage they have. We have written it into the Healthy Americans legislation. Chairman BAUCUS has it in his white paper. It has to be a matter of law. Sometimes people joke about it: We can put it in the Pledge of Allegiance. It is vitally important that people be able to keep the coverage they have.

The second factor that is so important is to make sure people who have coverage have options to save some money on their health care in the future. They want to contain costs because they know right now they are not even getting an increase in take-home pay because health care gobbles up everything in sight. So let's make them wealthier in the process of health reform, and let's say that, if you want to have one of the additional choices, the private sector choices that are offered in health reform, and you can save some money by choosing one of those choices rather than keeping what you have, you get to keep the difference. That is something I think will be attractive to those who have coverage.

The third area we ought to zero in on is making sure folks with coverage have the opportunity to be healthier. I think it is well understood that much of American health care is more sick care than health care. So let's get some incentives in place so everybody has a

new focus on wellness. I personally would like to see those who are on Medicare who lower their blood pressure and lower their cholesterol get reduced premiums. It is called Out-patient Care, Part B premiums. Let's give them a lower premium when they lower their blood pressure and lower their cholesterol.

When there is a parent in Oregon or Colorado or across the country who enrolls a youngster in a wellness or prevention program—let's say for a weight problem—let's give the parent a reduction in their premium, again, to reward prevention. So we let people keep the coverage they have. They are going to be wealthier and they are going to be healthier.

Finally, one last big challenge for those who have coverage. If individuals want to leave their job or their job leaves them, let's make sure their coverage is portable, that they can take it from place to place. I think we understand that this economy is real different than what we had in the 1940s, when somebody went to work somewhere and stayed put for 30 years until they received a gold watch and a big retirement dinner.

The typical people in our States, Western States, now change their job 11 times by the time they are 40 years old, and they need portable health coverage. So let's make sure that coverage is something that fits the modern economy—again, consistent with an approach that let's them keep what they have and puts more money in their pocket and gives them the opportunity to be healthier.

I think that is a vision for bipartisan health reform. It certainly has been largely shared by Chairman BAUCUS and Senator GRASSLEY, and Senator BENNETT and I have talked about it in our efforts as well. But it is going to take somebody with the kind of talent that Bob Dole just described, in the words I have offered today, once again, before the Senate Finance Committee.

There is a reason that after 60 years of debate on health care reform in America that it has not actually gotten done. This is hard work, in terms of building a coalition. I put 6 years of my life into just the most recent effort and have visited with most of the Senate on it. I think there is a clear desire, given the importance to our economy.

The fact is, we cannot fix the economy unless we fix American health care. Most of the experts are saying a lot of these budgets we are dealing with right now, the various bailouts—those bailouts are going to look like a rounding error compared to American health care if we don't get on top of these escalating costs. It has to be done, both in terms of fixing the economy, ensuring quality of life for our people, and because now the country is looking to the Congress to work in a bipartisan way. They have watched a lot of the past squabbles, they have watched a lot of the bickering over issues in the past, and here is an oppor-

tunity, as Senator Dole has described, of having a person who wants to work in a bipartisan way around a number of the ideas that I have mentioned this afternoon.

I hope colleagues will support Governor Sebelius. I hope they will reflect on the words of Senator Dole because I think he said it best when he came before us on the Senate Finance Committee. I think there is an opportunity now for the Senate to show a country—and a country that is legitimately skeptical about Washington's ability to tackle big issues—the Senate now has an opportunity to show that on health care, Democrats and Republicans can come together. We are going to come together with individuals, leaders such as Governor Sebelius, who have shown the talent to work in a bipartisan fashion; and I, particularly, having listened to many of our Republican colleagues on the floor today talking about the Sebelius nomination, want to assure them that I agree with much of what they have said with respect to the need to avoid approaches that are partisan and jam one side or another.

In fact, I have devoted much of the last 6 years to making those kinds of approaches irrelevant, to making reconciliation irrelevant.

I think Governor Sebelius will work with us in a constructive way toward exactly that kind of result. Bob Dole has spoken about her ability to do just that before the Finance Committee, and I hope this nomination will now be approved expeditiously and Democrats and Republicans can work together tackling the premier domestic issue of our time: fixing American health care.

I yield the floor.

I suggest the absence of a quorum.

THE PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DODD. Mr. President, may I inquire, what is the business before the Senate?

THE PRESIDING OFFICER. The business before the Senate is the nomination of the Governor of Kansas, Kathleen Sebelius, to be the Secretary of Health and Human Services.

Mr. DODD. I would like to, if I may, spend a few minutes addressing that issue.

I rise in strong support of Governor Sebelius.

Let me thank the people of Kansas. This is a remarkable nominee. I know she has served the people of Kansas well during her tenure as Governor, insurance commissioner, State representative, and we are fortunate indeed that President Obama has asked the Governor of Kansas to come to our Nation's Capital to serve as the Secretary of Health and Human Services.

We owe her a debt of gratitude as well for being willing to accept this responsibility at a time that, with the exception of some 15 years ago, only the second time in more than half a century, this institution and this city will grapple with one of the compelling issues of our day; that is, to deal with a national health care crisis in America. Governor Sebelius has demonstrated a willingness to take on a very large issue which is highly complicated and brings out passionate responses from people across the political spectrum. So we are grateful. I am grateful to her for taking on this challenge. I am appreciative of the President for asking her to do so. I would hope our colleagues would come together.

There is always too much delay in a lot of nominations. I have been a Member of this body for many years. I think I can count on one or two hands the number of times, in more than two decades, that I have opposed nominees of either party. I have always been of the view that Presidents and elections mean things. If you are elected President of the United States, then a President ought to have an opportunity to carry out the mandates or the promises they have made as a candidate.

So those of us who are in the opposition from time to time, other than disagreeing with or deciding to vote against someone because maybe there is some serious problem that underlies that nomination—but I have never felt the views of a nominee ought to necessarily decide my vote in favor of or against them; that Presidents ought to be able to have people they believe will help carry out their wishes and campaign promises; that if we in the opposition try to guarantee that people who share our views are going to be in the Cabinet, that seems to be contrary to the will of the American people who have made a different choice on election day. I know that is disappointing to people from time to time. I know that when I have supported various nominees of President Reagan, President Bush, No. 41, and George Bush, his son, No. 43, voted in support of those nominees, there were those who were disappointed that I would cast a ballot for the nominee. But my answer always was that they were elected—obviously a very controversial election in the case of George W. Bush in 2000, but nonetheless ultimately he was the choice to be our President and as such deserved to be able to have the nominees in his Cabinet, the people he thought would best serve the country. There were occasions when I did vote against some nominees but never on the basis of what their views were. There may have been some other disqualifying factor, but there were very few over the years.

So at this hour, it has been since March 2 that the President nominated Kathleen Sebelius to be the Secretary of Health and Human Services. We are now ending the month of April and

going into the month of May. We have been told as a nation over the last several days that we are now potentially facing a pandemic issue in the swine flu problem. Having a Secretary of Health and Human Services, which is the job that would necessarily coordinate and lead the efforts both at home and working with Secretary of State Clinton and others, coordinate the effort internationally on this matter—it is time to move along.

While I know there are those who have very strongly held views about various matters that will come before the Department of Health and Human Services, elections have consequences. President Obama won the election. This is his choice to lead that agency and to deal with the myriad of other problems we must grapple with as a country. I think it is time for this body to discuss these matters over the appropriate period of time and then to move along and to not delay for as long a time as we have seen already a nomination of this importance.

The HELP Committee, on which I serve—the Health Education, Labor, and Pensions Committee—and the Finance Committee held hearings on Governor Sebelius back at the end of the last month, and the majority leader attempted to get unanimous consent to move her nomination almost a week ago. Those efforts have been blocked by the minority party here. Now we find ourselves in the midst of what appears to be a global crisis, as I mentioned, and for no apparent reason that I can determine, other than maybe some politics, we still do not have the Secretary of Health and Human Services confirmed.

I believe most Americans, regardless of political party, would like to see someone leading this agency and helping us grapple with these issues. I do not think they are going to be pleased, even if they disagree with the politics of the nominee, to have that spot vacant at a time when we need leadership, particularly someone as highly qualified as Governor Sebelius is.

Again, I commend the Obama administration for its handling of the swine flu threat so far. It is clear that the various agencies in Government are working closely and collaboratively. As a result of the Health, Education, Labor, and Pensions Committee and many of my colleagues in the Senate, both Democrats and Republicans, we were able to pass and fund what was called the Pandemic and All-Hazards Preparedness Act and the predecessor bioterrorism legislation. The country as a whole has made great strides in surveillance, coordination, communications, and treatment capabilities.

Let me specifically thank several of our colleagues, because I was deeply involved in those negotiations on that legislation many years ago—well, several years ago. They include Richard Burr of North Carolina, a Republican Member, our colleague, who is deeply involved in the issue; then-Majority

Leader Frist of Tennessee was very involved; Senator Ted Kennedy of Massachusetts, and myself are the four, along with Judd Gregg of New Hampshire, involved from time to time in trying to craft that legislation dealing with the Pandemic and All-Hazards Preparedness Act and some of the bioterrorism legislation. My colleagues, on a bipartisan basis, put that together. Richard Burr was very deeply involved in that question, and we ought to thank him for his insistence so many years ago. So we have been involved in these issues on a bipartisan basis, and I would hope, again, this nomination can go forward on a similar basis.

The U.S. response to this current global threat is evidence that those efforts taken some years ago are paying off. But the lead agency in all of this, and other possible health threats, is the Health and Human Services Department. That Department lacks a leader today, and that is the reason we are still here a week later debating whether this nominee of incredibly impeccable credentials is being held up for as long as she is.

Having served on the so-called HELP Committee for many years, I cannot recall another time when the challenges facing the Secretary of Health and Human Services were so complex. I have already addressed some of those issues. Our economy is in the worst shape it has been in for decades. We have a health care system that is broken, impacting families, businesses, and our competitiveness as a nation.

The Department of Health and Human Services and the agencies within its purview are in need of attention and leadership. It is critical that the Department once again base its decisions on the best available science, not the political ideology of the moment. President Obama has already made tremendous progress in this respect with the signing of an Executive order overturning the previous administration's harmful restrictions on embryonic stem cell research and the signing of a Presidential memorandum on scientific integrity. I commend him for it.

He has moved quickly to appoint highly qualified candidates such as Governor Sebelius to key positions within the Department, such as the FDA Commissioner and the head of the Health Resources and Services Administration.

Governor Sebelius brings a wealth of experience I have referenced already, working in a bipartisan fashion to improve the lives of families in her State. The outpouring of support, on a bipartisan basis, ought to be welcome and celebrated. Rarely do you see someone bring that much support across the political spectrum that Governor Sebelius has to this, the nomination to head this Department.

The knowledge and expertise she gained as Governor, the insurance commissioner of her State, and the State representative will be instrumental in

achieving comprehensive health care reform—reform that at long last will bring affordable quality health care, we hope, to all Americans.

The case for reform of our health care system has never been stronger or more urgent, and I happen to be one who is optimistic about the prospects of achieving health care reform this year under the leadership of MAX BAUCUS, the chairman of the Finance Committee; Senator TED KENNEDY, the chairman of the HELP Committee; and the respective leadership on the House side along with, obviously, President Obama; the participation of other people—our colleagues, such as ORRIN HATCH, MIKE ENZI of Wyoming, certainly CHUCK GRASSLEY, the Republican former chairman of the Finance Committee, now the Republican ranking member, and many others with whom we have had extensive meetings already trying to achieve what our majority leader has called for, and that is a strong, bipartisan effort here to put together a national health reform package. So a lot of good people are already buying in, trying to achieve that result. What we have been missing in all of this is the head of the Health and Human Services Department, to help pull that piece of the puzzle together for us as well.

We are in such a different place than we were 15 years ago on this issue. Then we had a host of opposition lined up. Today, those who organized to torpedo those efforts 15 years ago, frankly, are at the table today anxious for us to share and put together a proposal that would enjoy that kind of support I mentioned a moment ago.

The economics of our country are certainly in a much different place than they were in 1993 and 1994. Today, health care accounts for over 16 percent of the gross domestic product of our country—health care costs. According to the Office of Management and Budget, by the year 2018—not that far away—national health spending, if unabated, could account for a fifth, more than 20 percent of our gross domestic product. There are those who believe that within 10 years that figure of 16 percent could double to more than 30 percent of our gross domestic product. That is unacceptable.

If you are not motivated by the morality and ethics of having 45 million Americans without any health care, of which 9 million in that number are children, today we rank among the lowest scores or the worst scores of infant mortality among industrialized nations. There are 100,000 people a year who die in this country from avoidable medical errors. Those are not the kinds of statistics we want to associate with our great country. So, in addition to the moral, the health care issues, the ethical questions, the economics of this issue demand attention.

If you are not impressed by any other motivation on why we ought to achieve universal, quality, affordable health care, founded on the notion of prevention, then the economic justification

ought to persuade you. The health care system we have today puts personal finances at risk, threatens our global competitiveness. General Motors, to give you one example, estimates that health care costs add over \$1,500 to the selling price of each automobile it produces, and it paid \$5.2 billion in health benefits in 2004. That is more than it paid for steel. That will give you an idea why that company is facing as much pressure as it is, as well as other automobile manufacturers.

Look at the foreclosure issue. There are 10,000 people today who will be at risk of losing their homes. That is true every day in our country in the midst of this major economic crisis. There are 20,000 people a day, on average, who are losing their jobs in the United States. So when you are losing your job, you may lose your home and retirement. Remember this: Almost half of all of those foreclosures that will occur today are partly caused by the financial crisis stemming from medical costs. I will repeat that. Almost half—50 percent of those 10,000 foreclosures that will occur today are partly caused by the financial crisis stemming from health care costs.

As chairman of the Banking Committee and a 26-year veteran on the HELP Committee, I share the President's belief that fixing the health care crisis is essential to fixing our economy.

We can talk about all the other issues dealing with availability of credit and what is happening to banks and to the financial stability of the Nation, but we cannot have a conversation about all that and disregard the issue of health care. Twenty-eight million Americans who work for small businesses are without health care. Premiums on average are 18 percent higher than they were a few years ago. In Connecticut, premium costs have gone up 42 percent in 8 years. Imagine what that has done at a time when wages and salaries have not increased anything remotely close to that. Premiums and out-of-pocket costs for health care and individuals continue to skyrocket.

Chairmen KENNEDY and BAUCUS of the respective HELP and Finance Committees are working closely together on this process, trying to fashion a timeline and policy that will fit together. Both chairmen have stated a shared goal of marking up health care legislation in early June. I strongly believe that timetable is achievable. But we need to have a Secretary of Health and Human Services, if we are going to mark up a bill in June. We have had this nomination pending for more than a month, have spent a week debating it, and we are in the month of May. Most Americans want the petty politics put aside and the people in place we need to lead this effort. They care about health care. They understand what happens: When one loses their job, they lose their health care.

Last year one in three Americans, between 2007 and 2008, had a gap where

they had no health care for one reason or another. Lord forbid someone is in that gap and something happens to them or their spouse or a child and they end up having to pay out-of-pocket expenses for the care of that individual. That is a fear everyone has who faces that possibility or is in that situation today.

I say this respectfully. It is time to get the people in place who can help us get this job done. Delaying this nomination because you don't agree with everything that Kathleen Sebelius says or supports is not justification for denying this administration and, more importantly, the American people a leader at the Department of HHS to move forward.

I wish to say a quick word about the comparative effectiveness research which has been mentioned as a reason for holding up the nomination. This effort is about expanding Americans' access to health care, not restricting it. We also want to give patients and their doctors the tools they need to make the right decisions about care. That is what comparative effectiveness research is all about, empowering patients and medical providers. It is not about rationing care. Comparative effectiveness research is about helping patients and providers figure out together which therapies and treatments work best for them. It is not about restricting or limiting health care options but, rather, about helping them understand their health care better and more accurately chart a course of treatment. The President has made such research a high priority by having invested in it through the recovery act's \$10 billion for the National Institutes of Health and \$1.1 billion for comparative effectiveness research.

I support the President and Governor Sebelius in this effort to inform patients and providers. This is the moment for health care reform. Failure is not an option for our Nation. I look forward to working with Governor Sebelius to make meaningful, lasting change to our Nation's health care system.

While health care reform is a top priority, I also wish to address quickly another vitally important issue to the responsibility of the department; that is, early childhood education and development. This is an issue that has long been near and dear to my heart, since 1981, when I started the children's caucus in the Senate almost 30 years ago with ARLEN SPECTER of Pennsylvania, who was a new Senator as well that year, along with people such as Patrick Moynihan, Bob Dole, and Bill Bradley. Each brought a deepening interest in what was happening to one out of four Americans who are children. As a result of our efforts over the years, we have made a difference.

I am encouraged by the commitment of President Obama to early childhood education. I look forward to working on new proposals as well as strengthening current programs such as Head

Start and the CCDBG for childcare to benefit children and families. An investment in our youngest Americans pays off in their readiness for school, their health, and job creation now and in the future and the need for fewer social services later in the child's life.

Now is the time to put partisan politics aside, confirm Governor Sebelius so we can have the kind of leader most Americans are looking for and provide the guidance the Department of Health and Human Services will need if we are going to succeed in this effort.

I urge confirmation of this remarkable individual who has offered her services to the country, who is making the kind of sacrifice to come forward and serve our Nation at a critical moment. That is to be celebrated. That is patriotism. I hope my colleagues will quickly confirm this nominee and allow us to begin the critical work of fashioning a national health care reform package.

I yield the floor and suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. MCCASKILL. Mr. President, I rise this afternoon in support of an incredibly gifted public servant. I don't normally stand up and sing the praises of Kansas. I am not a huge fan of Kansas. I am a Missourian, and we have issues between Kansas and Missouri—usually between our basketball teams and our football teams.

During the last decade, I have had an opportunity to get to know Kathleen Sebelius as a person, as a mother, as a wife, as a Governor, and as a friend. I want my colleagues to know that they are voting to confirm an extraordinary individual who will do an excellent job as Secretary of Health and Human Services in the United States.

Kathleen Sebelius has shown courage and guts many times in her career. Frankly, running for Kansas's Governor as a Democrat shows guts and courage. We are talking about a State that is not warm and fuzzy about Democrats. We are talking about a State that is as red as Dorothy's ruby slippers. But she ran for Governor after she had served as commissioner of insurance in Kansas. So why was it that all these Republicans got excited about voting for Kathleen Sebelius? It was because she demonstrated, when she was commissioner of insurance in Kansas, that she was about fighting for them. It happened over an insurance company. Everyone needs to realize this is an experience she has had that relates directly to what we need right now as Secretary of Health and Human Services as we embark upon the most aggressive and ambitious health care

reform agenda this country has ever faced.

When the largest health insurance company in Kansas wanted to sell—this was a mutual company owned by the policyholders of Kansas and covered 70 percent of Kansans—all Kathleen Sebelius, the insurance commissioner, had to do under the law was sign off on it and say no harm would be done. But she took a look at it and said, wait a minute, I don't think the test should be that no harm is going to be done. I want to know what this sale is going to do to make things better for Kansans. She took on a titan—a big, huge insurance company. That is what we need right now, someone willing to take on the calcified silos of profit in our health care system and blow them up in order to deliver a better product. She said: I want to make sure this sale is going to reflect a better environment for health insurance for the people of Kansas.

She fought them all the way to the Supreme Court of Kansas and eventually she won and was able to block the sale of this company. She said at the time that bigger is not always better, and unless they could show how this was going to be better for the people of Kansas, she would continue to fight them toe to toe. It was that kind of fighting spirit on behalf of regular people who don't have the tools to fight big insurance companies that uniquely qualifies her to be at the head of this important agency as we embark on the health care reform agenda.

Not only did she have the guts to run for Governor—she won, which was remarkable. Here is an even more remarkable part. She went to Topeka, the capital, and began working with the Republicans. As President Obama has said over and over again, she said: I want to work with you. And she did. She wrestled with a senate and a house that was dominated by the Republican party in Kansas and, at the end of 4 years, what did the people of Kansas do? Did they say they were sick of the gridlock and didn't want this liberal Kansas woman anymore from the Democratic party as Governor? Oh, no, they did not; they reelected her by a wide margin.

It is a remarkable thing, when you think about it, because this is a State that our former President won by 20, 30 points. Yet the people of Kansas realized they had a fighter. They looked past the party label to her courage, integrity, intelligence, and her willingness to go toe to toe with the big guys for them. I am proud she has been nominated. I know there have been some distortions about her record. I can assure my colleagues that she will make us all proud in this job. She will work with every one of us to try to find that common ground. She will leave no opinion behind as they consider the best way to move forward on this health care reform agenda.

I am pleased to be able to stand for a few minutes and tell everyone in Amer-

ica to celebrate today, because we are about to confirm a fighter—someone who will fight for you and deliver the kind of health care in America that we deserve, at a price we can afford.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. LANDRIEU. Mr. President, I wish to speak for up to 10 minutes, maybe slightly longer, about the nomination of Gov. Kathleen Sebelius to be the Secretary of the Department of Health and Human Services. I wish to speak on behalf of the Governor because I think she is such an outstanding candidate for this particular job.

As I look across the country, as many of my colleagues, and think who could fill this position, I have to say I was very pleased with the President's action to tap her for this important position because right now this Secretary is going to be charged with fulfilling the President's idea that all Americans should have health coverage. This is an idea that other Presidents have shared and about which many leaders in Congress, both Republicans and Democrats, have thought. It would be remarkable and wonderful for our country, the extraordinarily developed Nation that we are, to find a way—a cost-effective way, in my view; hopefully, a market-based approach—to solving one of the great challenges of our time, which is to provide health insurance, good coverage, for workers in the most productive Nation on Earth.

It really is a failing, in my view, of our organized society and our Government that we have not in over 240 years been able to accomplish that. We have accomplished so many things that are a credit to our country, but this has eluded us.

When President Obama ran in his campaign, and as I heard him speak even here and in the House Chamber for a joint session, he again expressed his passion for trying to find a solution. One of the first steps to finding a solution is finding a leader who has a good record of finding solutions on their own, a good record of working across party lines to get difficult jobs done. So in his action to achieve this goal, he has made a great first step to at least present to the Senate for our consideration a person who does not have a weak record but a strong record in this effort.

I submit that as a Democratic Governor of Kansas, you have to be pretty good as a Democrat, first of all, to get elected in Kansas because, like Louisiana, it tends to be a more conservative State on some issues. Obviously, I think this Governor has dem-

onstrated over and over, as insurance commissioner and as Governor of Kansas, the ability to get the job done. She was tapped before she was Governor by a Governor of Kansas to help actually implement and lead the children's health program. Her record is clear in the success of this program.

She, as insurance commissioner, had a great deal of interaction with health insurers in that State and others that indicates to us she has the experience and the ability to do this. Working with the Federal Government during her time as Governor on all of these health care matters leads me to the conclusion that she is the right person to help us get this job done. The sooner we confirm her the better.

I was very impressed to hear—I do not serve on this committee—that at her hearing, Senator ROBERTS, our colleague who is of the other party, spoke in her favor and voted for her. Even more impressive to me was that former Senator Bob Dole testified for her.

This is not at all a typical partisan appointment. This is a person who has demonstrated through her leadership for many years in the State of Kansas the ability to tackle the toughest jobs and bring people from various viewpoints together. That is the kind of leadership I think America is looking for right now.

I might add that in the most recent days, the outbreak of the swine flu in our country should compel the Members of this body to know this is not a job that should have a vacancy sign on the door right now. There could potentially be a pandemic. The Government is hoping for the best but preparing for the worst. While Secretary Napalitano has been charged with the task to coordinate Federal agencies, frankly I do not feel very comfortable having this job vacant. The faster we can get her in this position with her extraordinary credentials the better.

I would like to make a few other points. As the chair of the Small Business Committee, I have to say again for the record—and I think Senator SNOWE from Maine, my ranking member and long-serving member of this committee, would say the same thing if she were here—that no matter what we call a meeting on in the Small Business Committee—it could be on procurement, it could be a hearing on credit markets, it could be a hearing, which we have had, on the Small Business Administration itself, as I am standing here, every small business person, almost to the man or woman, will say: Senators, before I leave, or, Senators, I know this isn't the subject of this hearing, but could I please say I can't afford my health insurance; can I please say that it is very important for this country to find a way for small business entrepreneurs to get health insurance.

Just for the record, for small businesses that employ the vast majority of people in this country, the percentage of coverage has dropped in the last

7 years from 68 percent of those businesses providing coverage down to 59 percent. I know in my personal experience dozens of people who would say: You know, Mary, I would like to start a business. I think I have a good idea, and actually I have some money to start it, but I can't give up my health insurance because I have a preexisting condition or I have a son with leukemia or I have a daughter who has a compromised immune system.

I cannot tell you how strongly I feel that our country is actually not only throwing cold water but almost freezing water on the entrepreneurial spirit because we can't seem to figure out how to provide health insurance—and not just for big companies but for medium companies and for emerging companies—and to have that coverage be portable and available when people want to leave a company and take a risk. They might risk their business, but they are not going to risk their life. That is a little too much risk to ask in order to start a business. You may risk your home, you may risk your fortune, but to ask people to risk their life is a little ridiculous. Yet that is where we are. So the faster we can get someone in this position who can help put their shoulder to the wheel and help our small businesses come up with a way, the better off we will be.

Finally, I wish to mention two issues briefly. We concentrate a lot in this department on health care and that, of course, is the President's priority and it is our priority, but I don't want to fail to mention that I believe this Governor would be an extraordinary advocate for foster care children. There are 500,000 of these children, many of them with 4.0 grade point averages, amazingly. Many of them are the most extraordinary children. I have gotten to meet many of these young people as chairman of the Adoption Caucus and an advocate for foster care. This is despite the fact that some of them have spent several years of their youth living in an automobile.

One of these children said to me one day that she got so hungry she would just eat paper. The only thing that made it edible was that she would pour salt on it, just to try to put something in her stomach. These 500,000 children and young people need someone such as Governor Sebelius because these are people in the custody of the Government. The U.S. Government, along with partners in our 50 States, have an obligation to these children for their health, for their education, and to try to help them launch successfully in life. Once we have terminated their parental rights—in many instances for good cause—we then have an obligation to be their parents and to reconnect them through adoption, if possible, or to long-term guardianship. We need somebody in this position who can do that.

I know of Governor Sebelius's heart for foster care, for orphans, and for adoption. I think she will be a wonder-

ful advocate to keep our adoption tax credit in place and to help Senator GRASSLEY and I—we have been working on this with many other Members—find a way to reform the financing mechanism and the way we fund our foster care adoption system in this country, which right now funds the system and not the child. We want the money to support the decision of that good, solid judge who has a plan for the child. The problem is there is no money for the child because we are giving the money to the system instead of tying the money to the child. Senator GRASSLEY and I have a vision to make that better.

I hope we can confirm Governor Sebelius, knowing she has a proven record of governing her State, which is not easy for a Democrat, and remained very popular. That takes a great deal of effort in this day and age, given the partisan nature of our politics. We need to have a "position filled" sign as opposed to a "vacancy" sign in this position, and we need somebody who understands the commonsense practical approach to governing that is going to deliver for this President and for us—for the American people—a health care system we can depend on, that we can afford, and that promotes risk-taking and entrepreneurship, which is the founding principle, in many ways, of this wonderful country.

I thank the Presiding Officer for the opportunity to speak on behalf of the Governor, and I urge my colleagues to not wait any longer and to confirm this nominee and give her the support she needs. Do not apply any litmus test on any particular issue, but give her the chance I think she wants to have—I am confident she wants to have—to do a good job for us all.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CORNYN. I ask unanimous consent to speak up to 15 minutes on the pending nomination.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CORNYN. Mr. President, Governor Sebelius, who has been nominated to be Secretary of Health and Human Services, testified before the Senate Finance Committee that she would not refuse to use certain comparative effectiveness research as a tool to deny or delay American citizens' access to health care. Said another way, a concern about comparative effectiveness research, \$1.1 billion of which was funded in the stimulus program, can be used both for benign purposes, purposes that are completely understandable, as well as those most Americans would find repugnant; that

is, for rationing of access to health care.

Comparative effectiveness research is the comparison of various treatments or approaches to garner better data on what works best and/or what costs the least. Comparative effectiveness research can be helpful and beneficial if it is used to inform health care decisions and individual health care decisionmaking and as a guide to evidence-based medicine. Without appropriate safeguards—and these were the safeguards Governor Sebelius refused to embrace—the Government could actually use comparative effectiveness research to delay treatment and to deny care based on a one-size-fits-all approach to health care.

The economic stimulus package included \$1.1 billion for comparative effectiveness research. This research should only be used to better inform individualized decisionmaking; that is, a patient talking to their doctor and deciding what is in that patient's best interests. It should not be used for the Government to say: Patient, we will not pay your doctor for that procedure unless it meets our cookbook medicine model that is generated by comparative effectiveness research. Despite assurances that the stimulus money would not be used to evaluate the relative cost effectiveness of various medical treatments, the National Institutes of Health is already undertaking steps to use the stimulus money to conduct that kind of cost-based research.

As I indicated, Governor Sebelius was asked before the Finance Committee how she plans to use comparative effectiveness research. As Secretary of HHS, she will be in the driver's seat in large part to determine how the policies of this administration and of this Congress will be implemented. My colleague Senator KYL from Arizona expressed his concern before the Finance Committee vote in these words, with which I agree:

Unfortunately, Governor Sebelius' answers made it clear that the Administration is unwilling to support pro-patient safeguards. She left me with no assurance that HHS, federal health care programs, or any new entity—such as the Federal Coordinating Council—will not use comparative effectiveness research as a tool to deny care. And this should be of concern to all of us.

Instead of allowing the Federal Government to intrude further into personal decisionmaking and medical care, I believe that health care reform should enhance the individual relationships between doctors and their patients. I am concerned that using comparative effectiveness research to justify treatment denials based on cost will significantly limit patients' ability to choose health care services for individual needs. It will also reduce—and this is important—medical innovation and quality of care.

When asked, Governor Sebelius did not have any convincing answers to what is one of the most important questions in the health care debate,

and that is, how do we contain rising health care costs, something that is going to render the Medicare Program insolvent in the next decade? As any employer will tell us, it makes it increasingly more difficult for employers to provide health care to their employees.

According to the Congressional Budget Office, spending on health care will account for nearly 17 percent of the gross domestic product of the United States. In 2009, that will be as much as \$2.6 trillion. America spends more than twice what other industrialized nations spend per capita on health care. Can we claim our health care product is twice as good as anywhere else in the world based on this increased spending? I doubt it, even though American health care is very good. But I don't think we could say we get our money's worth by spending twice as much as any other industrialized nation per capita on health care. Health care insurance premiums have risen much faster than workers' wages in recent years which means lower take-home pay for American workers. Health care reforms must ensure that this trend is reversed or we will have failed in one of the most important missions of health care reform.

In the Finance Committee, I asked Governor Sebelius her specific ideas, other than delaying treatment and denying care, on how to contain costs. In my office I asked her, what about health care liability reform which, in my State of Texas, has made health care much more accessible by moderating the growth of medical malpractice insurance premiums, providing a more level playing field when it comes to doctors and hospitals being sued. She basically did not have much of an answer for whether that should be included. I happen to believe it is one of the cost drivers in health care cost and has to be addressed. I submit, with no little modesty, that the State of Texas has experience in this regard that the Federal Government could learn from. While I don't doubt some of the cost containment proposals in her answers could be worthy of pursuing, Governor Sebelius failed to prove that they will provide substantial savings in a \$2.4 trillion health care system. The Congressional Budget Office is also skeptical that the proposals she mentioned will result in any substantial savings.

Finally—and this should cause all of us to be concerned about whether there actually will be cost containment or cost savings in health care reform—I am puzzled by the fact that President Obama's budget actually asks for more money, \$634 billion. That is not the total price; that is for a downpayment. In my State, as well as the State of the Presiding Officer, before people are accustomed to making a downpayment, they usually want to know what they are buying. But the budget proposal by the President called for \$634 billion of additional spending as a downpayment

in order to control costs in the long run, which is based on nothing more than hope, and that is hardly a strategy.

We know we are already facing an unprecedented level of national debt. Unfortunately, Congress, under the new administration, has contributed greatly to the fact that we have seen more spending in the last 90 days than we have seen in Iraq, Afghanistan, and in Hurricane Katrina recovery. We know we have \$36 trillion more in unfunded liabilities in the Medicare Program alone. So at a time when we need to figure out how we deal with unfunded obligations of the Federal Government, how do we more efficiently spend the 17 percent of gross domestic product that makes us spend twice as much as any other country in the world per capita, we are ignoring some of the huge unfunded liabilities of the Federal Government, and we are asked to take as a matter of faith that these proposals will result in savings without any concrete plan which can be analyzed and evaluated in the light of day.

I firmly believe this country is spending enough money on health care today. What we need are innovative ideas about how to spend it more wisely. I have not heard any innovative ideas from Governor Sebelius or the current administration.

What causes me even more concern is Governor Sebelius has made it clear that she supports a new government-run "public plan" for health care that is unequivocally a gateway to a single payer system. A new government-run public plan option will devastate private insurance markets by acting as a competitor, regulator, and funder. How in the world can the private market compete when the Federal Government comes in and sets prices which will cause employers to give up their employer-provided health insurance coverage to allow their employees to get coverage under the public plan? Indeed, the public plan, much like Medicare today, can be relied upon to use denial or delay or treatment rationing of health care in order to contain costs.

The independent Lewin Group analysis found that a new public plan could mean that 118 million Americans will lose their current health care coverage, and 130 million Americans could end up on a government-run health care plan. That is what I mean as a "gateway" to a single payer system through this so-called innocuous sounding public plan which will run competition out, will undercut it, and make it impossible to have the benefits of a competitive market, as we have seen on Medicare Part D, the prescription drug coverage plan, which actually, in an amazing feat, has a high public satisfaction and came in under proposed cost, mainly through a market-based mechanism that creates a market for insurance companies to provide prescription drug coverage. That is the kind of model we should be looking at to learn from in order to contain cost, not by Government de-

laying or denying access to health care under the guise of a "public plan."

The Wall Street Journal recently wrote:

Because federal officials will run not only the new plan but also the "market" in which it "competes" with private programs—like playing both umpire and one of the teams on the field—they will crowd out private alternatives and gradually assume a health-care monopoly.

A public plan will also increase the cost of private health care. A report by the actuary Milliman estimated the "hidden tax" commercial payers pay to subsidize the costs of Medicare and Medicaid equals roughly \$88.8 billion per year. This means that the average health care premium is \$1,512, or 10.6 percent, more annually per family than it would be without the cost shift. A new so-called public plan option, which is a government-run program, would exacerbate the cost shift and drive up the cost of private health care at a time when we must seek to lower health care costs.

Then there is the Washington Post that wrote on April 27:

[President Obama's] nominee for secretary of health and human services, Kathleen Sebelius, said that she wants a public plan to "challenge private insurers to compete on cost and quality" but "recognizes the importance of a level playing field between plans and ensuring that private insurance plans are not disadvantaged."

The Washington Post said:

We disagree. It is difficult to imagine a truly level playing field that would simultaneously produce benefits from a government-run system.

I ask unanimous consent that this editorial from the Washington Post be printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. CORNYN. Throughout the campaign last year, the President promised Americans care such as Members of Congress receive. The irony is that Members of Congress do not have access to a public plan. As a matter of fact, we don't need one because there are private plans that provide the coverage we receive.

I am concerned that Governor Sebelius is not up to the challenge of finding—and this is my final point—more than \$90 billion of waste, fraud, and abuse in the Medicare-Medicaid Program each year.

There are some who have said that what we need is Medicare for all. Well, right now Medicare, as I indicated, and Medicaid have roughly \$90 billion in fraud, abuse, and waste. I hope that is not what they mean—that we need to carry over that kind of waste, fraud, and abuse into a Medicare or a single-payer system. According to an article in the Washington Post last year, more than \$60 billion is lost each year to Medicare fraud alone. That is just Medicare—\$60 billion of money that could go to provide services to Medicare recipients that is lost to people

who cheat and steal the Federal taxpayer. Medicaid services last year were estimated to be about \$32.7 billion similarly lost to fraud, waste, and abuse. Medicare and Medicaid fraud drive up the cost of health care and, I believe, represent an unacceptable mismanagement of taxpayer dollars.

When I asked Governor Sebelius about how she planned to fight fraud in our public programs, she only gave the vaguest of answers to my questions. Additionally, her record as Governor tells me that she is not yet ready to tackle that kind of fraud, waste, and abuse as Secretary of Health and Human Services.

The Kansas State Legislature is planning to have hearings on whether Governor Sebelius was involved in a decision to provide more than \$700,000 in "extraordinary" Medicaid funds to an organization linked to a number of her supporters. An article by the Kansas Health Institute said that:

Regardless of the Medicaid question, which isn't likely to be answered any time soon, many believe [the Medicaid Director's] decision was based on the political connections of those most closely involved.

The article goes on to say:

Some Kansas officials are debating whether State oversight of [Kansas'] Medicaid program was strong enough. The debate focuses on the inspector general's office, created in 2007 within the Kansas Health Policy Authority to ferret out potential problems in Medicaid. The first inspector general left in October and has told legislators the authority hindered her work . . . The scrutiny came after a legislative audit described \$13 million in "suspicious claims" paid by Medicaid in 2005 and 2006, before the authority took over the bulk of the program. In one case, auditors said the program paid a doctor \$941 for a Cesarean section when the patient was an 8-year-old boy.

Republicans and, indeed, all of us, I believe, want a new HHS Secretary to be someone committed to work with them to reform the health care system in a bipartisan process that will reach the best result for the American public. Unfortunately, with a sense of foreboding, I read accounts that Democratic leadership wants to use the budget reconciliation process to jam a partisan health care reform bill through on an expedited basis without adequate debate or deliberation. I think that would be the worst of all possible outcomes. This is a serious enough issue that we need true bipartisan buy-in and contribution to workable health care reform.

Unfortunately, Governor Sebelius backed a highly partisan process for health care reform that excludes representatives of 50 percent of the American people: the use of budget reconciliation that I mentioned. Governor Sebelius refused to say that she would not support the use of reconciliation to pass health care reform. In her response to committee questions, she wrote:

There are many tools available and none of those tools, including reconciliation, should be taken off the table.

I am very concerned that using a partisan procedural trick to reform a sys-

tem that comprises 17 percent of our gross domestic product is not in the best interests of the American people. The American people deserve open and full and honest debate about how to improve our health care system, not this kind of partisanship.

Then, finally—and this is my final point—Governor Sebelius failed to disclose relevant information to the Finance Committee during the consideration of her nomination. Not only was there the matter of her tax returns—something that, unfortunately, has become a trend, it seems, in this administration's nominees—she also failed to disclose contributions from a controversial abortion provider until pressed by the media.

The Associated Press wrote that:

When the discrepancy became public Sebelius acknowledged getting an additional \$23,000 from Tiller and his abortion clinic beyond the \$12,450 she initially reported.

While I appreciate her apology and her mention that it was only an inadvertent error, I am concerned that a Cabinet Secretary should be held to a much higher and more transparent standard.

So I am sad to say I will not be able to support Governor Sebelius's nomination for Secretary of Health and Human Services.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Apr. 27, 2009]

REFORMING HEALTH CARE

Of the many possible issues that could snarl health-care reform, one of the biggest is whether the measure should include a government-run health plan to compete with private insurers. The public plan has become an unfortunate litmus test for both sides. The opposition to a public plan option is understandable; conservatives, health insurers, health-care providers and others see it as a slippery step down the slope to a single-payer system because, they contend, the government's built-in advantages will allow it to unfairly squash competitors.

For liberals, labor unions and others pushing to make health care available to all Americans, however, the fixation on a public plan is bizarre and counterproductive. Their position elevates the public plan way out of proportion to its importance in fixing health care. It is entirely possible to imagine effective health-care reform—changes that would expand coverage and help control costs—without a public option.

President Obama has said that he favors a public option but has been sketchy on details. His nominee for secretary of health and human services, Kathleen Sebelius, said that she wants a public plan to "challenge private insurers to compete on cost and quality" but "recognizes the importance of a level playing field between plans and ensuring that private insurance plans are not disadvantaged."

The argument for a public plan is that, without the need to extensively market itself or make a profit, it would do a better job of providing good health care at a reasonable cost, setting an important benchmark against which private insurers would be forced to compete. Even in a system where insurers are required to take all applicants, public plan advocates argue, incentives will remain for private plans to discourage the less healthy from signing up; a public plan is

a necessary backstop. Moreover, if the playing field is level, public plan advocates argue, private insurers—and those who extol the virtues of a competitive marketplace—should have nothing to fear.

We disagree. It is difficult to imagine a truly level playing field that would simultaneously produce benefits from a government-run system. While prescription drugs are not a perfect comparison, the experience of competing plans in the Medicare prescription drug arena suggests that a government-run option is not essential to energize a competitive system that has turned out to cost less than expected. Insurers and private companies have been at least as innovative as the federal government in recent years in finding ways to provide quality care at lower costs. Medicare keeps costs under control in part because of its 800-pound-gorilla capacity to dictate prices—in effect, to force the private sector to subsidize it. Such power, if exercised in a public health option, eventually would produce a single-payer system; if that's where the country wants to go, it should do so explicitly, not by default. If the chief advantage of a public option is to set a benchmark for private competitors, that could be achieved in other ways, for example, by providing for the entry of a public plan in case the private marketplace did not perform as expected.

Maybe we're wrong. Maybe it's possible to design a public option that aids consumers without undermining competition. If so, we certainly wouldn't oppose a program that included a public component. But it would be a huge mistake for the left to torpedo reform over this question.

Mr. REID. Mr. President, the hole we have inherited is a deep one. We are all in it together, and together is the only way we will be able to climb out of it.

One step that will put us back on the path to prosperity is reforming our broken health care system.

We will soon begin debating the best way to give all Americans the access to quality, affordable health care that they deserve. We will begin to lay the groundwork for creating health care jobs that not will not only improve the health of our economy but of Americans everywhere.

It will not be an easy task. It will take the cooperation of both Republicans and Democrats. It will take the collaboration of both the White House and the Congress. But right now, the President is playing shorthanded.

Governor Sebelius will be a key player on his team. President Obama will benefit from having her experience and temperament in his Cabinet, and all Americans will benefit from her extraordinary leadership.

Governor Sebelius has worked hard for the people of Kansas for more than 20 years—the first 8 in the State legislature, then as the State's insurance commissioner for another 8 years. It is safe to say she knows a thing or two about the complexities of insuring all Americans and the urgency with which we must do so.

On her way to becoming insurance commissioner, Kathleen Sebelius refused to take campaign contributions from insurance companies. Once she got there, she made her mark by cracking down on HMOs and saving taxpayers money.

For the last 6 years, she has served as the Democratic Governor of a bright red State. One doesn't succeed—let alone get reelected—in that environment without knowing how to put people ahead of partisanship. Governor Sebelius did just that—she expanded health care for children and made both health care and prescription drugs more affordable for everyone.

Her integrity is beyond reproach, her expertise is essential, and her confirmation is long overdue.

The only way for our economy to fully recover is by making the critical investment of reforming health care. The stakes are too high and the cost of inaction is too great.

If we are going to start digging out of this hole, we must start by filling the hole over at HHS. And if we are going to fix our broken health care system, who is better equipped to lead that effort than Kathleen Sebelius?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The nomination of Kathleen Sebelius.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that any remaining debate time be yielded back and the Senate then proceed to vote on confirmation of the nomination of Kathleen Sebelius to be Secretary of Health and Human Services; that upon confirmation, the other provisions of the April 23 order remain in effect.

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

Mr. BINGAMAN. 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, Will the Senate advise and consent to the nomination of Kathleen Sebelius, of Kansas, to be Secretary of Health and Human Services?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote "yea."

Mr. KYL. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

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

The yeas and nays resulted—yeas 65, nays 31, as follows:

[Rollcall Vote No. 172 Ex.]

YEAS—65

Akaka	Bingaman	Burr
Baucus	Bond	Byrd
Bayh	Boxer	Cantwell
Begich	Brown	Cardin
Bennet	Brownback	Carper

Casey	Kohl
Collins	Landrieu
Conrad	Lautenberg
Dodd	Leahy
Dorgan	Levin
Durbin	Lieberman
Feingold	Lincoln
Feinstein	Lugar
Gillibrand	McCaskill
Gregg	Menendez
Hagan	Merkeley
Harkin	Mikulski
Inouye	Murray
Johnson	Nelson (NE)
Kaufman	Nelson (FL)
Kerry	Pryor
Klobuchar	Reed

NAYS—31

Alexander	DeMint	Martinez
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bunning	Graham	Murkowski
Burr	Grassley	Risch
Chambliss	Hatch	Shelby
Coburn	Hutchison	Thune
Cochran	Inhofe	Vitter
Corker	Isakson	Wicker
Cornyn	Johanns	
Crapo	Kyl	

NOT VOTING—3

Kennedy	Rockefeller	Sessions
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The PRESIDING OFFICER. On this vote, the yeas are 65, the nays are 31. Under the previous order requiring 60 votes, the nomination is confirmed. The motion to reconsider is laid upon the table, and the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak for up to 10 minutes each.

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

The Senator from Pennsylvania.

FOCUS ON AFGHANISTAN AND PAKISTAN

Mr. CASEY. Madam President, I rise to convey this afternoon some brief remarks on the new strategy of the United States for Afghanistan and Pakistan announced by President Obama last month. I applaud his statement, and I applaud the sharpening of focus this new administration has brought to our mission in this critical region of the world. For too long, our policy in both Afghanistan and Pakistan has drifted—overly reliant on support for individual leaders, excessively ambitious in our goals for the region, and, finally, lacking any constraints or accountability for the billions of tax dollars of the United States spent in both countries.

President Obama made clear during the campaign last year that we could no longer pair grandiose rhetoric with paltry resources when it comes to U.S. policy toward those two nations.

Accordingly, in one of his first national security decisions, he established a 60-day comprehensive review of our entire policy. He asked the respected Bruce Riedel to take leave from the Brookings Institution and oversee this review.

The policy review is now complete. With the full support of Admiral Mullen and General Petraeus, the President is dispatching an additional 4,000 troops to train and advise the Afghan Army as it grows in size and scope to shoulder the burden of securing Afghanistan on its own.

The President is dramatically increasing our civilian presence in Afghanistan, recognizing that we cannot win this conflict on military terms alone but must provide a robust development and diplomatic capability to complement our brave fighting men and women.

Finally, the Obama administration recognizes we cannot separate Afghanistan and Pakistan, to pretend as if they were two separate challenges. Nothing could be further from the truth.

Following the successful offensive of the United States in Afghanistan in 2001 and 2002, hard-line Taliban and al-Qaida elements successfully relocated to western Pakistan. From there, they have created a sanctuary to attack troops of the United States, to destabilize eastern and southern Afghanistan, and to launch attacks on Pakistani military units and civilian installations.

Moreover, these radical elements are beginning to move westward within Pakistan, threatening the stability of the Pakistani state. I am extremely concerned by the speed with which the Taliban is gaining ground, especially in the areas close to Islamabad, the capital. I know the administration is working with our partners in Pakistan to prevent the situation from deteriorating even further. We must continue to work with the Government of Pakistan to prevent these radical groups from destabilizing the Pakistani State and the region. As we all know, Pakistan has a nuclear arsenal which would pose a grave threat should it fall under the control of extremists.

The recent gains of the Taliban show how interrelated the threats in Pakistan and Afghanistan are. The threat in Afghanistan feeds off the threat in Pakistan and vice versa. We must treat this for what it is: one theater that requires a unified approach.

The President laid out, in vivid terms, why this is so important that we achieve success in our mission in both countries. Let me quote from his speech laying out the new strategy. I am quoting President Obama:

Multiple intelligence estimates have warned that Al Qaeda is actively planning attacks on the U.S. homeland from its safe-haven in Pakistan. And if the Afghan government falls to the Taliban—or allows Al Qaeda to go unchallenged—that country will again be a base for terrorists who want to kill as many of our people as they possibly can.