So people say: Well, gee, the Canadian system is not perfect; The British system is not perfect; The Danish system is not perfect. True enough. Neither is our system. And we spend twice as much per person on health care as does any other system.

Tonight, and in the coming few days, we are going to be focusing on the needs of our children. In the midst of a nation with 46 million uninsured, we have over 9 million children, one in nine, who are also uninsured. Every 46 seconds another baby is born uninsured in the United States.

I have heard a lot through my career in the U.S. Congress about family values. So let me be very clear and suggest that it is not a family value to live in a country in which 9 million children have no health insurance at all.

Uninsured children are almost 12 times as likely as insured children to have an untreated medical need, are four times as likely as insured children to have an unmet dental need.

The statistics go on. An estimated two-thirds of children and adolescents with mental health needs are not getting the care they need. Only one in five children with serious emotional disturbances receives specialized treatment. Given this sorry state of affairs, I find it ironic that we are having any debate about increasing health care coverage for children under the CHIP program. It seems to me that the very least this Nation should be doing is providing health insurance to every child in America—something, by the way, this bill does not do.

If this bill, in its current form, were to pass tomorrow, it would provide health insurance to approximately one-third of the children who are uninsured—one-third. In my opinion, as we move toward a national health care program guaranteeing health care to every man, woman, and child, the very least we should be doing is making sure all of our children are covered. That is why I have recently introduced S. 1564, the All Healthy Children Act of 2007.

This bill, in fact, would provide the opportunity for every child in America to have health care coverage. In addition, since insurance coverage alone does not guarantee access—in other words, you can have health insurance, but you cannot necessarily find a doctor or a dentist who will treat you—we must also make certain there is an adequate supply of health professionals and conveniently located sites of care.

Along with Senator MURKOWSKI, I have also introduced S. 941, the Community Health Centers Investment Act, to significantly expand the number of community-based, federally qualified centers, a proven cost-effective system of primary health care that is governed by the people who use it. These health care democracies serve all regardless of ability to pay and insurance status.

The issue we are dealing with in terms of health care is not only providing health insurance but making sure there are doctors and clinics and hospitals available to treat the people who need the help. One of the crises, of the many we are facing as a nation in terms of health care, is, believe it or not, we are not producing the doctors we need for today, especially in rural areas and primarily in primary health care. We are not producing the dentists we need. We are not producing the nurses we need. As our Nation becomes older, those problems will only become more severe.

In that regard, I have done what I could and will continue to move forward to significantly increase the funding for the National Health Service Corps, to provide scholarships and loan repayment to those choosing primary care specialties and agreeing to practice in underserved areas. I am happy we are on a path to increase funding for community health centers, but clearly we have a long way to go in order to fund the national health service.

While the debate on these initiatives awaits another day, we must pass a CHIP bill that matches the House bill in funding level. Accordingly, I will be cosponsoring the Kerry amendment to provide SCHIP with a $50 billion increased authorization over the next 5 years. At a minimum, though, I certainly hope the Senate passes the bill approved by the Senate Finance Committee.

I know some of the objections raised about expanding health care coverage for children come from people who think spending the amount of money proposed in this legislation is too much. I mention to those Members who, in many cases—certainly including the President of the United States—are supporting the repeal of the inheritance tax, the estate tax, to tell them that with the full repeal of the estate tax, one of the wealthiest families in America would receive in tax breaks almost as much money as we are attempting to spend right now to provide health care for over 3 million American children. So on the one hand, there are people—the President of the United States, among others—who say we have to repeal the inheritance tax, all of which benefits now will go to the wealthiest three-tenths of 1 percent. One family getting $32 billion, that is a good idea. But to provide $35 billion to provide health care for over 3 million American children, that is a bad idea. I think those priorities are a little bit backwards.

Let me conclude by saying all of us are very proud to be Americans. We want this country to be No. 1 in many respects. It should not give any of us pride to know that in every other major country on Earth virtually all of the people have health insurance as a right, have lower cost prescription drugs than we do. The idea that today and tomorrow we will be debating whether we can afford to provide another 3 million children with health insurance suggests to me we have a long way to go in this debate. We should not only provide health insurance to 3 million children, we should provide health insurance to the over 9 million children who are without health insurance. We should provide health insurance not just to 9 million uninsured children but to 46 million uninsured Americans.

In my view, health care is a right, not a privilege. The idea that there are people today who are scared to death about what happens when they or their children become ill because of the high cost of health insurance is something that should not take place in this country. This bill is a small but important step forward.

At the end of the day, we have to join the rest of the industrialized world and make sure all of our people, regardless of income, have high quality health care.

MORNING BUSINESS

Mr. SANDERS. I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

NOMINATION OF LESLIE SOUTHWICK

Mr. HATCH. Madam President, I rise in strong support of Judge Leslie Southwick's nomination to the United States Court of Appeals for the Fifth Circuit.

The evaluations, hearings, and investigations are complete.

The American Bar Association's highest rating is in.

It is time for this body, the United States Senate, to decide whether to consent to this judicial nomination by voting up or down. That is our role and we should assert it rather than avoid it.

Vote yes or vote no, but it is time for this body to do its duty and vote on the Southwick nomination.

This Senator will proudly vote to confirm this excellent nominee.

Before looking specifically at the Southwick nomination, I must respond to some recent remarks made by my Democratic colleagues concerning the confirmation process.

Three of their claims require a response.

First, Democrats have said that the three appeals court nominees confirmed so far this year are ''three more than were confirmed in this similar year in the last Clinton term.''

That is a factual claim and it is either true or false.

An evaluation of this claim is simple:

We are in the third year of President Bush's second term and the Senate is controlled by the other party.

The third year of President Clinton's second term was 1999, when the Senate also was controlled by the other party.

Democrats, therefore, are claiming that the Senate confirmed no appeals court nominees in 1999.

That allegation is patently false.

In fact, and this is obviously a matter of public record, the Senate confirmed seven appeals court nominees in 1999, more than twice as many as the Senate has confirmed so far this year.

Now, to give my Democratic colleagues the benefit of the doubt, perhaps they intended to refer to a different year during the last Clinton term.

If so, the evaluation is the same with the same conclusion that their claim is patently false.

The Senate confirmed seven appeals court nominees in 1997, 13 in 1998, seven in 1999, and eight in 2000, a presidential election year.

That is an average of nine per year and seventeen per Congress.

It was my Democratic colleagues who used appeals court confirmations in President Clinton's second term as a benchmark for appeals court confirmations in President Bush's second term.

By my Democratic colleagues' own standard, they will have to pick up the appeals court confirmation pace to match what Republicans did during President Clinton's second term.

The second thing Democrats have claimed is that the judicial vacancy rate is at an all-time low.

Once again, that claim is false.

The judicial vacancy rate has been increasing each year since before President Bush's re-election.

Average vacancies this year are 35 percent higher than in 2004, and average district court vacancies are 62 percent higher.

I do not know where my colleagues get their information, but the judicial vacancy rate is on the way up, not at an all-time low.

The third Democratic claim is that the Republican-controlled Judiciary Committee did not give hearings to 70 of President Clinton's judicial nominees. This, they say, was a sign of great disrespect.

This is the judicial confirmation equivalent of an urban legend but, like other urban legends, constant repetition does not make it any more true.

We may be entitled to our own opinions, but we are not entitled to our own set of facts.

Not only does this claim, right off the bat, overstate the total by more than 20 percent but, more importantly, it ignores the fact that some judicial nominees do not receive hearings for a variety of perfectly legitimate and obvious reasons.

My Democratic colleagues, of course, know this but also know that most Americans will not know the difference and many in the media will not bother to sort it out.

President Clinton, for example, withdrew a dozen of his own nominees for various reasons, some involving significant and even embarrassing controversy. Was it disrespectful not to hold a hearing on nominees the President had withdrawn?

President Clinton submitted other nominees too late in a Congressional session to permit proper evaluation. Was it a sign of great disrespect not to give a hearing to a nominee not yet ready for a hearing?

Other nominees did not receive hearings because they were opposed by their home-State Senators, a tradition of Senatorial courtesy dating well back into the last century. Are my Democratic colleagues arguing that respecting the wishes of home-State Senators, including some of them, was being disrespectful to the nominees?

There are even more reasons, but eliminating these three alone—Presidential withdrawals, late nominations, and home-State Senator opposition—raises the Democratic margin of error to more than 100 percent.

The Southwick nomination has none of the problems I just mentioned that prevented confirmation of some Clinton judicial nominees.

President Bush has obviously not withdrawn the nomination. He submitted this nomination on January 9, 2007, when the current 110th Congress convened, so there has been more than enough time for evaluation and confirmation.

In fact, last year the Judiciary Committee thoroughly vetted Judge Southwick when he was initially nominated to the U.S. District Court.

We looked at the same man with the same character, the same qualifications, and the same record. And we sent the nomination to the full Senate without any opposition, including from any of my Democratic colleagues who today are suddenly raising such a ruckus.

To be fair, in the name of full disclosure, I must candidly admit that two important things have changed since last fall, when the Judiciary Committee unanimously approved Judge Southwick's nomination.

First, Judge Southwick has been nominated to the appeals court rather than to the district court.

Second, the American Bar Association has rated Judge Southwick higher for his appointment to the appeals court than they did for his appointment to the district court.

It makes no sense to me, but I suppose someone somewhere might think that a higher rating justifies more opposition.

The higher rating means Judge Southwick gets even higher marks from the ABA for his compassion, open-mindedness, freedom from bias, and commitment to equal justice.

If someone can explain how that makes him less qualified for the Federal bench, I would like to hear it.

Unlike Clinton nominees who did not receive hearings, Judge Southwick has the strong support of both of his home-State Senators.

The Senators from Mississippi, Senators COCHRAN and LOTT, are senior and highly respected members of this body. Their support ought to mean something.

I have no doubt that if these two fine Senators objected to Judge Southwick receiving a hearing or an up or down vote, the Democrats who run this body would give them the respect they deserve and there would be no vote.

It seems, however, that today this traditional courtesy to esteemed home-State Senators is on its way to becoming a one-way street.

Both Mississippi Senators have been working with President Bush to fill this same seat for more than 5 years, and I think they deserve our respect and support just like we would seek theirs if the situation were reversed.

In the last few years of the Clinton administration, a Republican Senate confirmed a string of highly controversial appeals court nominees who nonetheless had the backing of their home-State Senators.

I supported them and today I urge my colleagues to do the same for our colleagues from Mississippi and for Judge Southwick.

When I came before this body a month ago, I explained why the tactics being used against Judge Southwick and other judicial nominees are illegitimate.

It is illegitimate to focus only on a few of the thousands of decisions in which Judge Southwick participated while on the Mississippi Court of Appeals.

It is illegitimate to ignore the facts and the law of those few cases.

It is illegitimate to ignore the standard of review that Judge Southwick had to follow as an appeals court judge.

It is illegitimate to look only at the political interests served by the results of those few cases.

It is illegitimate to create a distorted, twisted caricature of this nominee, a caricature that is simply unrecognizable by those who know him best and have worked with him most.

These are some of the illegitimate tactics being used against this fine nominee. I have a hard time believing that any of my colleagues would endorse these tactics or, worse yet, be persuaded by them.

As I said, the entire case against this highly qualified nominee rests on just two of the 7,000 cases in which he participated, each involving an opinion which he did not write.

If saying that is not enough to reject this empty case against Judge Southwick's confirmation, I fear for the confirmation process and this body's role in judicial appointments.

But let me take a minute and look at these two lone decisions that supposedly justify this tirade, this assault, this hatchet job against Judge Southwick.

The first is titled Richmond v. Mississippi Department of Human Resources.

Last week, one of my Democratic colleagues said that this one lone decision creates a perception that Judge

Southwick will be not be fair in civil rights cases as well as in cases about what he called the rights of ordinary people.

I agree with the distinguished Judiciary Committee Ranking Minority Member, Senator SPECTER, who has said that this body should evaluate judicial nominees based on facts, not perceptions.

Perceptions, after all, can be created with one press release, sound bite, letter, interview, or floor speech. If all it takes to justify opposition is such a deliberately invented perception, a politically motivated innuendo is all it would takes to defeat a nominee and destroy a good man's reputation.

That is wrong, and is another sign that this judicial confirmation process is steadily degrading.

In the Richmond case, a State employee used a racial slur one time. The person to whom it was directed did not hear it and later accepted an offered apology. The State review board concluded that these circumstances did not require terminating the employee.

To hear the critics describe it, the issue on review before the Mississippi Court of Appeals was whether racial slurs are good or bad, whether racial slurs ought to be tolerated in the workplace.

To hear the critics describe it, the appeals court looked at this case from scratch, had all options open, and could have done anything it wanted.

The critics know that is not true, but they also know that most people will not know the difference.

Apparently, the political or partisan goal of attacking Judge Southwick justifies misleading people about what judges do in general, and about this case in particular.

The Mississippi Court of Appeals, on which Judge Southwick sat, was limited to reviewing this decision under a specific, narrow standard called the arbitrary and capricious standard.

The appeals court was required to affirm the review board's decision if there was any evidence to support it. That is a very deferential standard, and a judge's personal opinion is not enough to overcome it.

On appeal, the Mississippi Supreme Court agreed with Judge Southwick's court that the facts of this case did not require that the employee be terminated.

Let me make this very clear.

Judge Southwick's critics are not addressing what the court actually did in this case. They are attacking Judge Southwick because his court did not reach a decision it had no authority to reach. No matter what your personal feelings about the issue in the case, that is the wrong standard.

It is wrong to suggest that judges are not fair to parties simply because they rule against them.

It is wrong to suggest that judges should prefer politically correct results over legally correct results.

Judges do not exist to opine on social problems or address social trends, they exist to decide legal cases.

Judges do not exist to serve political interests or pursue policy agendas, they exist to settle legal disputes.

Judge Southwick apparently understands this much better than his critics. Properly understanding that judges must follow the law rather than their personal opinions is precisely why Judge Southwick should be confirmed.

Some have said that this decision shows Judge Southwick has hostile views on race.

It does not show his views on that issue one way or another.

But if any question remained about Judge Southwick's personal views, in his confirmation hearing before the Judiciary Committee—a more appropriate setting in which to do it—Judge Southwick made his views perfectly clear. He said that this particular slur is always offensive and inherently derogatory.

If some of my colleagues believe judges should ignore the law and decide cases based on personal views, they should say so.

If some of my colleagues believe judges should decide which side is going to win before a case even starts, they should say so.

If some of my colleagues really believe that litigants will get a fairer shake before judges who decide cases by personal opinions rather than the law, they should explain such a wrong-headed idea.

America's founders did not believe that, I do not believe that, and I think most Americans do not believe that.

The other case with which Judge Southwick's critics would indict him is titled S.B. v. L.W.

In this custody case, all of the relevant factors such as employment, income, home ownership, and community roots, weighted in favor of the father.

State statutes and State judicial precedents at the time also favored the heterosexual father over the bisexual mother.

The court's job was to review these factors, and the court upheld the decision to give custody to the father. That is what the law required, so that is what the court did.

So what is it about this decision that Judge Southwick's critics offer as the basis to oppose him? That an opinion he joined but did not write used the phrase ''homosexual lifestyle.''

I can accept that some people see this as a negative phrase.

But others might see it simply as a factual phrase.

The Mississippi Supreme Court used this phrase in the line of cases that Judge Southwick's court had to follow in its decision.

The phrase has been used in hundreds of court decisions, on both the State and federal level, all across this country. This includes the Supreme Court's decision in Lawrence v. Texas, which Judge Southwick's critics no doubt would applaud.

It is hardly a stretch to see that this phrase is relevant in a custody case where applicable law makes lifestyle patterns and home life decisions important.

This, I say to my colleagues, is the case against Judge Southwick: two decisions, two opinions he did not write, with results some people do not like but which followed applicable law and stuck to the job the appeals court had to do.

That so-called case against Judge Southwick is less than unpersuasive, it is no case at all.

Before I close, I want to repeat a point I made the last time I addressed this body about this excellent nominee.

In their letter opposing Judge Southwick, the Congressional Black Caucus said that we ''should be impressed by the frequency with which Southwick's opinions and concurrences have been overruled.''

That is the standard the Congressional Black Caucus recommends that we apply to this nomination.

Judge Southwick authored 927 opinions and concurrences while on the Mississippi Court of Appeals.

Only 21 of those 927 opinions and concurrences, or just 2.3 percent, have been either reversed or even criticized by the Mississippi Supreme Court in 12 years.

As the Congressional Black Caucus said I should be, I am indeed impressed by the frequency with which Judge Southwick's opinions and concurrences have been overruled. A reversal rate so low is a sign that he is a balanced jurist whose work is highly respected and holds up under scrutiny.

This is yet another reason why this excellent nominee should be confirmed.

Mr. President, the majority of Americans who disapprove of our job performance has been growing all year, from 56 percent in March and April to nearly 65 percent today.

A record low of 14 percent of Americans have confidence in Congress.

Perhaps, just perhaps, illegitimate tactics and unfair treatment of good people and outstanding nominees such as Judge Southwick contribute to this dismal picture.

I hope that changes, not only for the nominees but also for the vitality and integrity of this institution.

The Southwick nomination is ready for the Senate to decide whether to give its consent by voting up or down.

The background checks are done.

The ABA's highest rating is in.

The questionnaire is complete.

The hearings have been conducted.

The distinguished home-State Senators have given this nominee their strongest endorsement.

None of the factors that stopped, held up, or slowed down past nominees exist in this case.

There are no reasons or excuses for further delay.

The Judiciary Committee and the full Senate should promptly approve this excellent nominee.

I yield the floor.

CHANGES TO S. CON. RES. 21

Mr. CONRAD. Madam President, section 301 of S. Con. Res. 21, the 2008 budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other appropriate levels for legislation that reauthorizes the State Children's Health Insurance Program, SCHIP. Section 301 authorizes the revisions provided that certain conditions are met, including that the legislation not result in more than $50 billion in outlays over the period of fiscal years 2007 through 2012 and that the legislation not worsen the deficit over the period of fiscal years 2007 through 2012 or the period of fiscal years 2007 through 2017.

I find that S. 1893, which was reported to the Senate on July 27, 2007, and will be offered as a complete substitute to H.R. 976, satisfies the conditions of the deficit-neutral reserve fund for SCHIP legislation. Therefore, pursuant to section 301, I am adjusting the aggregates in the 2008 budget resolution, as well as the allocation provided to the Senate Finance Committee.

I ask unanimous consent to have the following revisions to S. Con. Res. 21 printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In billions of dollars]

SECTION 101	
(1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	2,022.084
FY 2009	2,121.502
FY 2010	2,176.951
FY 2011	2,357.680
FY 2012	2,494.753
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−28.712
FY 2009	14.576
FY 2010	13.230
FY 2011	−36.870
FY 2012	−102.343
(2) New Budget Authority:	
FY 2007	2,376.360
FY 2008	2,503.290
FY 2009	2,524.710
FY 2010	2,577.981
FY 2011	2,695.425
FY 2012	2,732.230
(3) Budget Outlays:	
FY 2007	2,299.752
FY 2008	2,470.369
FY 2009	2,570.622
FY 2010	2,607.048
FY 2011	2,701.083
FY 2012	2,713.960

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,078,905
FY 2008 Outlays	1,079,914
FY 2008–2012 Budget Authority	6,017,379
FY 2008–2012 Outlays	6,021,710
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	7,237
FY 2008 Outlays	2,055
FY 2008–2012 Budget Authority	47,405
FY 2008–2012 Outlays	35,191
Revised Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,086,142
FY 2008 Outlays	1,081,969
FY 2008–2012 Budget Authority	6,064.784
FY 2008–2012 Outlays	6,056,901

HOMELAND SECURITY APPROPRIATIONS

Mr. BAUCUS. Madam President, last week when the Senate considered the Homeland Security Appropriations Bill, I offered an amendment, numbered 2406, with my good friend and partner from Montana, JON TESTER. Our amendment would bar funds appropriated in the Homeland Security appropriations bill from being used to establish a national ID card.

Benjamin Franklin once said, ''They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.''

Generations of Americans have fought for both our liberty and safety.

America's Founders sought the freedom to lead their lives as they chose—freedom of religion, speech, and assembly. Freedom, above all other motives, led them to cross the ocean find a new home in America.

Whether defending our liberty from British colonial governors, Nazi aggression, or today's Islamic radicals, Americans have never tired in their effort to stand up in defense of our liberty.

But sometimes the threat to liberty is not as obvious as a red-coated army or a German panzer division. Sometimes, the threat is much harder to see but just as dangerous.

The threat I speak of today is a national ID card.

A national ID card may sound harmless to some. Indeed, a number of politicians have called for giving every citizen a national ID card. They argue that a national identification card would make it harder for terrorists to use fake identification to enter the country.

But a national ID card has the potential to be abused. Such a card could become a system of identity papers, databases, status and identity checks, and Federal surveillance used to track and control individuals' movements and activities. It could, in effect, create an internal U.S. passport.

Some have argued that a national ID is essential to protecting Americans from terrorism. I strongly disagree.

In response to the 9/11 Commission's recommendations, Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004. This act provided a number of improvements to our Nation's driver's licenses.

I support these reasonable efforts to secure our State driver's licenses from terrorists. However, a national ID card would just give Government bureaucrats another chance to meddle in the private lives of regular law-abiding Americans.

Just to get on a plane, go in a Federal building, or drive down the road, you would have to have the permission of some bureaucrat in Washington.

If a national ID card were established, we would be right back here on the Senate floor debating whether citizens would be required to carry them at all times or pondering what citizens are allowed to do without a national ID card.

A National ID card would be a terrible loss of freedom in this country.

Foreign countries with the worst civil liberties records in the world require their citizens to carry a national ID at all times. They have legal punishments for people caught without their IDs.

Take Zimbabwe, for example. They passed a law in November which required all citizens to carry a national ID. Citizens face a fine or imprisonment if they refuse to carry the ID.

History has taught us that national ID cards can lead to dangerous and destructive government policies. National ID cards played important roles in the genocides of both Nazi Germany and Rwanda.

The apartheid-era Government of South Africa used national identification documents as internal passports to oppress the country's native population.

Clearly, a national ID would be wrong for the United States. I am proud to say my home State of Montana would be the first to reject any effort to impose this sort of system.

Montana's leadership has spoken, and I have heard them loud and clear; get the Federal Government out of the business of telling the States how to produce driver's licenses and ID cards.

My friend, Montana's Governor Brian Schweitzer, signed a law in April that bans Montana's Department of Motor Vehicles from enforcing the requirements of the Real ID act. Republicans and Democrats alike in Montana's Legislature have voted unanimously to reject Real ID. I am proud of Montana's vigilant stand against the Federal Government's encroachment.

It is wrong for politicians in Washington to burden State authorities with excessive regulations. We must allow our States to take initiatives as well. We should never try to micromanage them. They know how to do their job.

Mr. President this is not a partisan issue. Organizations from the left, the ACLU, join hands with groups from the right, the NRA, and raise serious concerns about the establishment of a national ID card.