

Hearing of the Senate Finance Committee

Subject: "Health Insurance Exchanges: An Update from the Administration"

Chaired by: Senator Max Baucus (D-MT)

Witnesses: Secretary of Health and Human Services Kathleen Sebelius

Location: 215 Dirksen Senate Office Building, Washington, D.C.

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SENATOR MAX BAUCUS (D-MT): (Sounds gavel.) Hearing will come to order.

In February 1958, against the backdrop of a divided nation, a junior senator from Massachusetts spoke at Loyola College in Baltimore. The young senator, named John Kennedy, said, and I quote, let us not despair but act. Let us not seek the Republican answer or the Democratic answer but the right answer. Let us not seek to fix the blame for the past, but let's accept our own responsibility for the future, end quote.

More than 55 years later JFK's advice still rings true. And it's important for us to remember now as we implement the Affordable Care Act.

Five weeks ago the administration launched healthcare.gov. The federal insurance website was to be the main vehicle for millions of Americans to sign up for coverage under the Affordable Care Act.

Needless to say, it has been a rocky rollout. Problems have plagued the website and limited the ability of Americans to buy the health insurance they need and deserve. Let me say right off the bat, this is unacceptable. It has been disappointing to hear members of the administration say they didn't see the problems coming.

Secretary Sebelius, the last time you came before this committee, I used two words to voice my concerns about the law's implementation. Since then, my words have been twisted and used to malign the Affordable Care Act. Make no mistake: I believe in this law. I spent two years of my life working on the Affordable Care Act. There is nothing I want more than for it to succeed.

But months ago I warned that if the implementation didn't improve, the marketplaces might struggle. Other senators on this committee voiced similar concerns. When we asked for updates on the marketplaces, the responses we got were totally unsatisfactory. We heard multiple times that everything was on track. We now know that was not the case. But that's in the past. Now it's time to move forward to figure out how to fix it.

Madame Secretary, you deserve credit for coming before Congress and the American people and accepting responsibility for the website's problems. Your focus is where it should be, on the future. And it's very clear to me that you're working as hard as you can to fix healthcare.gov. Keep at it.

When this law was created, we made a promise to the American people. We made a promise to fix a broken system. We made a promise to ensure that all Americans have access to quality, affordable health care. We made a promise to ensure that no one ever went broke just because they got sick. You, Madame Secretary, must make good on that promise.

Some people have called for your resignation. To borrow Kennedy's words, we cannot fix the blame for the past. You need to stay at HHS and help get the marketplaces working.

You said recently that you expect the website to be running smoothly for a majority of users by late November. There's no room for error. You must meet, and I prefer you beat, that deadline. Why? Because these marketplaces open the door to quality care for millions of Americans who lack health insurance.

The nonpartisan Congressional Budget Office estimated that 7 million Americans will get insurance from the marketplaces in 2014, and 10 years in, that number will grow to 24 million. There's no question that can't happen unless the marketplaces run at full speed. But I believe you will fix the problems because you know how critical the marketplaces are.

For the first time ever, they guarantee consumers will have access to high-quality, comprehensive insurance. Consumers will never be forced into bargain-basement plans who refuse to cover services like childbirth or cancer treatment. They'll never be denied coverage because of pre-existing conditions. They'll never be cut off because they hit an annual or lifetime limit.

We already have concrete examples of how the marketplaces are helping real people. Just consider these three stories from letters I've received since October 1.

Gary (sp) from Billings, Montana, wrote that the monthly premium he pays for his family of four is currently just over \$2,000. But thanks to the Affordable Care Act, his monthly premium for next year will be \$1,065. He'll save more than \$800 each month

Allison (sp) from Wolf Point, Montana, wrote in to say that thanks to the act, she will have access to affordable insurance for the first time in almost 20 years. Allison suffered an injury in college, and because of that pre-existing condition, the cost of insurance was prohibitive. Instead, she rationed visits to the doctor and cut back on outdoor activities that make living in Montana so great. No skiing, no hiking, no horseback riding. But now Allison (sp) will have access to high-quality coverage that she can afford. She wrote that she looks forward to being active again.

And Tony, a small-business owner from Bozeman, Montana, wrote in to express his excitement that getting insurance on the marketplace will save his small business \$10,000 a year. Tony wrote, and I quote him, "As a small-business owner, I can emphatically state that the Affordable Care Act is not only good for my business, it is the only way I can afford to continue to provide health insurance for my family and employee." Tony says he can re-invest the \$10,000 he saves into staffing and training and the hardware that his business needs to stay competitive. And he added, quote, "This is good for my company, myself, my employee, my family, Montana and our country."

That's a pretty impressive list. I have no doubt that stories like these will keep coming in over the weeks and months ahead, especially once the marketplaces are running at full speed.

Madam Secretary, I was glad to hear you set a target date -- have healthcare.gov fully operational. I look forward to hearing how you plan to meet that goal.

Want to make it clear that the purpose of this hearing is not to fix blame but instead to shed some light on where things stand and, more importantly, to learn what the administration is doing to correct these problems, and if there's a role for Congress to help, we want to be there. That's what matters right now.

So as President Kennedy said, "Let us not despair but act. Let us not seek the Republican answer or the Democratic answer but the right answer." Let's get this done.

Senator Hatch.

SENATOR ORRIN HATCH (R-UT): Well, thank you, Mr. Chairman. Thanks for scheduling today's hearing.

And thank you, Secretary Sebelius, for being here today. It's been nearly six months since you last appeared before the committee. Given all that has gone on during that time, particularly with the implementation of "Obamacare," I'd like to say that today's appearance is long past due.

When you were here back in April, you assured us that the implementation was on track, that it was all going smoothly, and that the exchanges would be ready to go by October 1st. Now it appears that your statements from the previous hearings were at best misinformed. From where I sit, things do not seem to be going smoothly at all. In fact, I think we would all agree that thus far the implementation of the so-called Affordable Care Act has been an absolute debacle. You admitted as much last week when you testified before the House Energy and Commerce Committee when you said, quote, "hold me accountable for the debacle. I'm responsible," unquote.

Madam Secretary, while I'm glad that you are accepting responsibility for this disastrous rollout, I would have preferred that you and the rest of the administration were honest with us to begin with. Perhaps in April you really did believe that things were on track, but you had to have several indications before October 1st that there were problems with the website and with the exchanges. It is simply inexcusable that the members of this committee were not told earlier that these problems were occurring.

And it -- and it wasn't for want of asking. I personally sent you a number of letters asking for details on the information and implementation of the health care law, many of which were ignored entirely. This cavalier attitude toward a Senate committee with oversight jurisdiction over your agency is, to put it simply, appalling and needs to be rectified.

If the past month has been any indication, there are likely to be numerous additional problems ahead. That being the case, I think it's only proper that you provide this committee with more regular updates on the issues with which you are dealing. In fact, I would ask that you come here once a month for the next six months to provide this committee with status updates on the implementation of "Obamacare," and I hope you will agree to do so.

Like I said, Madam Secretary, it's clear that the problems you've encountered thus far were not unforeseen. Two separate reports, one from the Government Accountability Office in June and another from the Department of Health and Human Services Office of Inspector General in August, identified significant implementation challenges months ahead of the October 1st deadline. Yet there is no indication that the warnings from these two independent nonpartisan government watchdogs were heeded by the administration or that any thought was given to delaying the start-up date as a result.

When you were here in April 1st, I raised concerns about whether adequate testing was occurring to ensure that privacy controls were in place for the exchanges. In fact, I specifically asked you about having an independent entity review the entire system before it went live to ensure that all appropriate privacy and security controls were in place. You assured me that all testing protocols were being followed and that privacy issues were a high priority.

However, we now know that no end-to-end testing of the system occurred before the system went live -- none. In fact, key CMS officials knew on September 27th that there was a high security risk to the system if it went up as planned. My colleagues and I have sent several letters since the spring asking for full -- more information on what privacy controls were being instituted as part of the exchange infrastructure and asking for details about whether or not testing was being done to address the privacy and security concerns we have raised.

To date we have not received any answers to those questions. So not only can millions of Americans not log into the website successfully, but those who have actually succeeded can now find themselves at the

mercy of identity thieves across the globe. I'm going to call this a less than ideal situation for all of our constituents.

That brings us to another set of issues that I hope you'll be able to shed some light on today. Let me start with a simple premise: Words matter. We have all heard the golden saying, honesty is the best policy. Unfortunately, this age-old wisdom doesn't seem to apply to the "Obamacare" pledges. More and more promises made at this time -- or made at the time this law was passed are now crumbling under the weight of reality on a daily basis.

Let's start with the famous pledge that health reform would reduce cost by \$2,500 for the average family. The truth is with all the new mandates going into effect, the cost of health insurance in this country is projected to rise at a remarkable rate. Some studies, including one from the Manhattan Institute, estimate that individual market premiums will increase by as much as 99 percent for males -- for men and 62 percent for women nationwide.

Then of course there was President Obama's promise when the law was passed that, quote, if you like your health care plan, you can keep it, unquote, and that, quote, if you like your doctor, you will be able to keep your doctor, unquote. This, to put it bluntly, is simply untrue. And that's why the Washington Post gave him four Pinocchios. In fact, the Washington Post -- this was on October 30th -- gave it four Pinocchios, which represents the highest level of untruthfulness. You really have to try to get four -- you really have to try hard to get four Pinocchios. You don't simply get it for making a misstatement. Yet it wasn't until the last few weeks that people in the administration and the White House started trying to rewrite what the president said.

And let's be candid. It wasn't a newfound honest streak that changed the administration's tone. It was the fact that Americans started receiving cancelation notices from their insurers. According to the Associated Press, 3.5 million people have received such notices thus far, and the same fate is certain to befall millions more before all is said and done.

Put simply, there is a long track record of broken promises and untruthful answers to both this committee and the American people with respect to how this law should work or would work and the impact it would have. Now, I hope that that will stop today. No more caveats. No more excuses. No more spin. Just give us the truth. Answers like "We don't know" and "We were wrong" are perfectly acceptable, as long as that is the truth.

I want to thank you again, Mr. Chairman, for holding this hearing. As you can see, we have a lot to discuss.

And I want to thank you, Madam Secretary, for being here. I know it's not the most pleasant thing you can do. But the fact of the matter is these are real, legitimate questions that really have to be answered by you and others who are in charge of these programs.

And I haven't even gone into -- I expect you're going to be able to get this -- the IT problem solved, the information technology problem solved. That doesn't even begin to answer the questions about why small businesses won't -- are now employing people for 30 hours or less or why they won't employ more than 49 people because they get triggered a huge, huge expense under this, I think, very poor bill that wasn't well-thought-out to begin with.

Thank you, Mr. Chairman.

SEN. BAUCUS: Thank you, Senator.

Now please introduce our witness, Secretary Sebelius. Thank you very much, Madam Secretary, for appearing today. We appreciate you taking the time and explaining what's going on here. Obviously, your

statement will be included in the record, and as you know -- you know the drill. Your -- like you to speak, summarize for about five, six minutes. Take as long as you want. I mean, this a very important matter. So tell us what you want to say.

SECRETARY KATHLEEN SEBELIUS: Well, thank you, Chairman Baucus and Ranking Member Hatch, members of the committee.

I do appreciate the opportunity to update the committee on the final implementation phase of the Affordable Care Act. The law, which passed both houses of Congress, was signed by the president and upheld by the Supreme Court, gives millions of Americans an opportunity to obtain affordable health coverage. This is the first opportunity for many Americans to get covered, including people living in pain with chronic illnesses, young adults whose employers don't offer insurance and parents struggling to keep up with mounting bills.

In the last five weeks, access to HealthCare.gov has been a miserably frustrating experience for far too many of these Americans.

It's unacceptable. I am focused on fixing it, and I'm accountable.

I recognize that there is an even higher level of accountability, accountability to the sick, the vulnerable, the struggling Americans who deserve better health care. The impact on the lives of everyday people is getting lost. I know this because I hear their stories, as I'm sure many of you do.

We do have a team of experts working on an aggressive schedule so that the consumer experience on the web gets better every day. And as the chairman has said, by the end of November we are committed to having a site working smoothly for the vast majority of users.

While we don't have the fully functioning system yet that consumers need and deserve, we do have a plan in place to identify, prioritize and manage the remaining fixes across the system. We have reinforced our team with dozens of key personnel from both government and the private sector, including respected expert engineers, technology managers and software developers, designers and analysts from companies like Oracle (ph) and Redhead (ph). They are helping diagnose problems, making quick decisions (to ?) its developers and vendors to analyze, troubleshoot, prioritize and resolve issues in real time.

As this work continues, we know that Americans are shopping for plans, signing up and enrolling online, on paper, on the phone and in person. In fact, more than 2 million have already called at the call center, with average wait times of less than 30 seconds.

But I want to share with the committee a few indications of our progress, what we've improved and what we intend to fix the problems that remain.

Our two major areas of focus are performance, (which feels ?) with speed and reliability, and functionality, fixing the bugs and other problems in the system.

In the first few weeks after healthcare.gov launched, users had to wait an average of eight seconds for pages to load. Today it typically takes less than a second. A month ago viewing and filtering health plans took minutes. Today it takes seconds.

Many consumers used to see a blank screen at the end of their application process. Today they see whether they're eligible for financial assistance, which is the next step in the process.

Users are receiving far fewer error messages and time-outs. And we're now able to process nearly 17,000 registrants per hour with almost no errors.

We've made more than a dozen additional fixes this weekend, correcting information provided to insurers that allow applications to be processed and consumers to complete their payments, improving the "save and continue" function and upgrading hardware so the system can handle more users with greater stability.

Last night we installed more upgrades, focusing on direct enrollment and improving the consumer experience, and those upgrades will continue on an aggressive schedule between now and the end of November.

We are making progress, but there is still a lot of work to do.

Now, some have asked why not just delay implementation of the new law until all of the problems are fixed. And there is a pretty straightforward answer. Delaying the Affordable Care Act wouldn't delay people's cancer or diabetes or Parkinson, didn't delay the need for mental health services or cholesterol screenings or prenatal care. Delaying the Affordable Care Act doesn't delay the foreclosure notices for families forced into bankruptcy by unpayable medical bills. It doesn't delay the higher cost all of us pay when uninsured Americans are left with no choice but to rely on emergency rooms for care.

So for millions of Americans, delay is not an option. People's lives depend on this. Too many hardworking people have been waiting for too long for the ability to obtain affordable health insurance. We want to save families from going bankrupt if we want to save the lives of more of our friends and neighbors by allowing them to detect medical issues early. If we want to keep prices down, delay is not an option.

We are still at the beginning of a six-month open enrollment, which ends at the end of March. And there is plenty of time to sign up for the new plans.

And I want to put this into perspective, Mr. Chairman: The average private insurance open enrollment is about two weeks in a work site. Many public plans allow for four weeks of open enrollment.

In Medicare the yearly open enrollment which is underway right now is six weeks long. The new marketplace was specifically designed for a long open enrollment, a 26-week period. And those who enroll by December 15th will be able to access their benefits on day one.

I am accountable to this committee and to the American public for getting the fixes in place. And we are committed to getting healthcare.gov fixed so millions of Americans can finally obtain the health and financial security they've been waiting for. Thank you, Mr. Chairman, and I'd be happy to answer questions.

SEN. BAUCUS: Thank you, Madam Secretary. You addressed a principal question I was going to ask, namely many people think that the site should be shut down until its totally fixed and asked that question: Why just keep limping along? Why not just shut it down and put all of -- and put it together the way it should be put together?

Many have pointed out that your one-off fixes tend to have unintended consequences down the road, that is in some other part of the system. There's no end-to-end running of the whole system after all the fixes have been made. And people ask why hasn't that happened? I'd point out also that every day when there's a story that somebody didn't get on -- get a blank page or there's a security program -- that's a -- that's a -- that's a bad media campaign.

It's negative. It hurts. It doesn't help you. So why not just have one bad story, you're shut down, and fix it all and everything's working. And beginning however long it takes -- several weeks, a month, who knows -- and then look back on -- at that date when we're up and running and it's working well. I mean, you've indicated that delays health care for a lot of people. And that's a -- that's a -- I appreciate that. But one more time, why not just get it done right?

I've got this little -- I have a series of rules in my office -- I won't go through the whole rules -- but one of them is do it now and the second rule is do it right the first time. Why not shut down and do it right?

SEC. SEBELIUS: Well, Mr. Chairman, I'm relying on the advice of not only the inside team and contractors but a lot of the outside experts who have come in to take a look at the system. And they did a number of things along the way. They did a series of diagnostics, looked at the entire system and determined at the outset that healthcare.gov is fixable, that it isn't fatally flawed, which was the initial report out of many people.

Secondly, we have asked that question a number of times: Would it just be helpful to take the whole system down and make fixes along the way? We've been advised that that actually doesn't help, that it is better to do routine upgrades, some of which are hot patches which can be done while the system is fully running, others are better to be done in the maintenance period between 1:00 a.m. and 5:00 a.m. when the user experience is pretty low and we actually take the system down for periods of time.

But given the fact that the various fixes, particularly the functionality fixes, the codes, have to be written in batches, it's been advised that you don't gain much from just taking the whole system down for a week, a couple of weeks. It's better to do this on an ongoing basis than -- (inaudible).

SEN. BAUCUS: Now, Jeff Zients said -- Jeff Zients, who I think is somewhat in charge of fixing some of this near as I can tell, said he has a punch list. And we're going to punch them out one by one. How many of the items are there on that punch list? And which of them have been punched out. And when do you expect them all to be punched out? When do you expect to do the end-to-end testing after each one's punched out?

SEC. SEBELIUS: Well, Jeff has come in to help manage the operations between the contractors and the CMS team and the aggressive fix schedule. He'll be with us hopefully through this process. And he has been enormously helpful in being a management lieutenant with Marilyn Tavenner, the CMS administrator. I would say there are a couple of hundred functional fixes that have been identified. And they are in priority grouping. The first series of them have been underway.

We're making -- and it depends on the night. It's hard to give you a moment-by-moment snapshot. There were a number that were done last night. Hardware, additional installations were done over the weekend. At 5:00 or 6:00 each day it's really identified whether or not the testing for the individual coding fix can be actually applied that night, so the list changes. But we will get you, Mr. Chairman, an update. And I would say we are into the list. We're not where we need to be. It's a pretty aggressive schedule to get to the entire punch list by the end of November.

SEN. BAUCUS: OK. Are you going to do it end to end after you go through all the couple hundred items on the punch list?

SEC. SEBELIUS: Well, actually, because the site is running, it is end to end daily. People are coming into the system and going all the way through the system every day, and that helps identify some of what we're seeing. So we are actually doing with live time end-to-end testing that then can go back and inform the tech team what else needs to happen.

SEN. BAUCUS: OK. Well, speaking for myself, I want this to work and I want to do what I can to help you make it work, but it means you also have to -- it's a two-way street -- you've got to tell us what's going on, candidly, fully, totally --

SEC. SEBELIUS: Yes.

SEN. BAUCUS: -- so we don't wake up into November, lo and behold we're still not there yet.

Senator Hatch.

SENATOR HATCH: Thank you, Mr. Chairman.

Secretary Sebelius, as you know, for months I've expressed concerns about the privacy and security controls being implemented as part of this federally facilitated -- facilitated marketplace. We now know that key officials in the administration knew that there were privacy and security risks as well as serious operational issues that might occur if the exchanges went live on October 1st; yet a decision was still made not to delay the launch until those issues were fully addressed.

Many people, including myself, have called for an independent entity such as the Government Accounting Office, for example, to conduct an end-to-end review of the marketplace to ensure adequate privacy and security controls were in place before it went live. So I have a number of questions about why you made the decision to go forward even when you knew there were serious security risks and operational issues that would likely occur.

Number one, when did you find out about the potential security risks to users of the website?

SEC. SEBELIUS: Sir, I would say that the August preliminary report from an independent --

SEN. HATCH: So in August.

SEC. SEBELIUS: -- reviewer, MITRE, identified that there were risks. GAO had identified that there -- the risks with every system that goes live, and we took those risks very seriously.

SEN. HATCH: OK. So by August you knew.

Who briefed you on the potential security risks if the launch went forward as planned?

SEC. SEBELIUS: Again, Senator, I --

SEN. HATCH: Did anybody brief you on the security risks?

SEC. SEBELIUS: We discussed security as part of the overall operations on a regular basis with the operations team, but no one, I would say, suggested that the risks outweighed the importance of moving forward, including our independent evaluator, MITRE, who made recommendations to CMS as is required.

SEN. HATCH: Well, I've been suggesting that since April.

You've stated that you felt strongly that the launch needed to proceed on October 1st for the millions of Americans who did not have health insurance so they could get coverage as soon as possible. However, how did you balance that need with the risk that those same Americans might then fall victim to identity theft or have their personal information compromised by insufficient privacy and security controls? How did you -- how did you balance that?

SEC. SEBELIUS: Well, I share your concerns about individual privacy. And I would say the site was developed with the highest standards in mind. It is FISMA-certified, which is the federal standard. It meets the NIST standards. And we took very seriously the -- information in the hub was specifically designed so that the federal government wasn't storing privacy information. It actually accessed other secure government websites, but we tried to store the minimum possible information. We don't collect any personal health information, which is typically done by --

SEN. HATCH: But you do collect Social Security numbers.

SEC. SEBELIUS: -- insurance companies -- (inaudible) -- we don't have that at all.

SEN. HATCH: You do collect Social Security numbers.

SEC. SEBELIUS: We don't -- sir, we don't collect them.

They -- the hub is a router function that actually identifies a Social Security number, verifies it with the Social Security Administration. But that information is not kept and stored.

SEN. HATCH: But don't they have to give their family income and other personal data?

SEC. SEBELIUS: And that is verified by the IRS. It's -- Homeland Security verifies it.

SEN. HATCH: But it's also on the hub, is what I'm saying. So these identity thieves can --

SEC. SEBELIUS: But the hub is just a router. It's pinging the Homeland Security database, it's pinging the IRS database and it's pinging Social Security database. It is not storing unique information.

SEN. HATCH: Well, what were the trade offs with launching the exchange on October 1st rather than waiting until a later date? Could other pieces of the marketplace have been delayed rather than launch the marketplace with insufficient privacy and security controls?

SEC. SEBELIUS: Again, Senator, I would say that the standards that have been set out for security controls were met. You mentioned end-to-end testing, and there were features of the system that were loaded very close to launch date. And that is why I think the administrator chose to authorize a temporary authorization to operate and not a permanent, because you can't permanently authorize an authorization until you have the entire system.

We knew we had features in the system which we had chosen not to apply from the outset. The shopping feature --

SEN. HATCH: Could you tell the committee --

SEC. SEBELIUS: -- the Spanish website. Again, those need to be tested before the system can be fully authorized.

SEN. HATCH: Can you -- could you tell the committee how many people have signed up for healthcare under the current system?

SEC. SEBELIUS: Senator, we will have enrollment numbers out next week. We are still working on, particularly, the 834s, which is the enrollment piece with insurers, and we want to make sure we give you valid, accurate numbers.

SEN. HATCH: My time is up, Mr. Chairman.

SEN. BAUCUS: Thank you, Senator. Senator Wyden.

SENATOR RON WYDEN (D-OR): Thank you, Mr. Chairman. Madam Secretary, at community meetings at home, Oregonians tell me to do everything I can to stop what they see as ridiculous, petty bickering here in Washington and help get results by working cooperatively.

So in that spirit, as I told you, I'm going to pass this morning on the blame game and for a few minutes -- for this moment, even -- let's just say Democrats and Republicans are going to try to find some real common ground on this.

Now, the Affordable Care Act we discuss today focuses on expanding coverage, financial help to those who can't afford insurance and more private sector choices for patients. Before the Affordable Care Act, the last health care reform was the expansion of Medicare to provide prescription drugs to America's senior citizens. Known as Medicare Part D, it was enacted during the Bush administration, and like the Affordable Care Act, it zeroed in on the same concerns: expanding coverage, financial assistance to the needy, increased marketplace choices.

Medicare Part D has been a huge success, and anyone who doubts it ought to think about the terrific hearing Chairman Nelson held in the Aging Committee just a few weeks ago where Democrats and Republicans all made this a point. The Medicare prescription drug program has been a godsend to millions of seniors by offering lifesaving medicine, and it has cost 30 percent less than the Congressional Budget Office had predicted.

But the Medicare prescription drug program, as you know, didn't start out so hot. The reality of the first few months of that prescription drug program was pretty much bedlam. So I went back and looked at the newspapers from that time, and I'll just describe a few of the headlines.

Quote, "Glitches in Drug Plan Upset Seniors," read one paper. "Medicare Drug Program is a Wasteful Disaster," read another. "Medicare Blunders Become a Monster," read a third. These headlines about the Medicare prescription drug program that Democrats and Republicans now together say are a success, the headlines of the Medicare prescription drug program are exactly the type of headlines that have been written about the Affordable Care Act in recent weeks.

Now fortunately, the Medicare prescription drug program got fixed, and it got the chance to get off the ground. If it had been repealed, millions of seniors today wouldn't have access to lifesaving drugs, and not a single member of this committee wants that.

So my question to you is, what, in your view, Madam Secretary, could Democratic and Republican senators here on the Finance Committee do to make the latest health reforms a success the way the Medicare prescription drug program has been?

SEC. SEBELIUS: Well, Senator, I think that it is always welcome to have elected officials in their home states give information to constituents about what the law says, what their options are, what their benefits could be, what choices they have and how to access the process. That would be enormously helpful, particularly to constituents who may not be Web-savvy, who may not know about the law, who may not be following this but whose families need the benefits.

I do feel that there is no excuse for what has been a miserable five weeks. I am committed to the fix of the website. On the other hand, I do know that people are using it every day, and the experience is getting better every day. So again, encouraging folks to use the website, use the call center, enroll in person at a health center, find a navigator in the neighborhood is also enormously helpful.

And I think working -- we would love to work with the committee on the issues that look down the road, not just at the marketplace that we're talking about but really the impact of having the opportunity to look at delivery system changes. I know the committee has just come up with a bipartisan proposal around the SGR, a huge issue for Medicare seniors, but looking at those kinds of frameworks that actually encourage higher-value, lower-cost care as we move forward with more Americans insured, I think, is one effort that should have a lot of bipartisan support. The SGR framework did, and I would be encouraged to -- as you know, the Affordable Care Act has a lot of features in it that deal with delivery system changes, how we get a better value for the medical dollars we're spending, how people -- how access to preventive care could

actually change health profile for millions of Americans. So those kinds of opportunities, which are finally here thanks to the Affordable Care Act, are all ones -- (inaudible).

SEN. BAUCUS: Thank you, Senator. Thank you, Senator, very much.

Senator Stabenow.

SENATOR DEBBIE STABENOW (D-MI): Thank you very much, Mr. Chairman.

And welcome, Madam Secretary. Let me just say there's no question this website needs to get fixed. You know, there's no words that can really describe the frustration that all of us have.

What I want to focus on is the real demand for affordable insurance that's out there and the response that the public has had, wanting to get on the website, wanting to get information because they need health care, they need health insurance.

And so I want to share some stories with you, and then I would, because of the time, like to just move quickly, ask you a few questions, and if you can do yes, no or something short, that'd be great.

Let me first share with you a story from Michigan that was highlighted in an article in the L.A. Times that talked about a woman named Judith. She's 48 years old, works in a department store, had an insurance plan that cost her \$65 a month. It was affordable. She thought she had insurance.

Then she was diagnosed with cancer and found out that her plan had a \$2,000 annual limit for hospital services, which would give her about one day in the hospital. So she delayed her care. Her cancer got worse, and she was in a very difficult, difficult situation.

Madam Secretary, after January 1, will Judith or face a cap on their coverage for breast cancer treatment?

SEC. SEBELIUS: No.

SEN. STABENOW: After January 1, will Judith or any other woman be charged more or denied insurance just for being a woman?

SEC. SEBELIUS: No.

SEN. STABENOW: After January 1st, will Judith or any other woman have to fear being rejected for coverage by her insurance company because of her breast cancer?

SEC. SEBELIUS: No, she won't.

SEN. STABENOW: These are all good things. Certainly people in Michigan think so. This past week I've heard from Greg (sp) in Bloomfield Hills. And he wrote me a letter that said: My wife Barbara (sp) and I had a policy which covered our son. In the first week of October of this year we received a notice our insurer was -- that our -- that our son's policy was being cancelled because it was not compliant with the ACA. It had a high-deductible, paid only one doctor visit a year, no preventative care, very limited prescription drug coverage.

In fairness, our insurer advised us to go to the health care exchange to obtain a new policy. We had no problem accessing the exchange or navigating through their various policy alternatives with much greater coverage than the old policy. We certainly want to hear more of that. Thank you for passing "Obamacare." After January 1, will Greg (sp) son's insurance policy be guaranteed to cover prescription drugs?

SEC. SEBELIUS: Yes.

SEN. STABENOW: After January 1, will Greg's son's insurance be guaranteed to cover important preventative screenings without out-of-pocket costs for the family?

SEC. SEBELIUS: Yes.

SEN. STABENOW: I think these are good things. Yesterday I heard from Crystal (sp), a small business owner in Pontiac, Michigan who has not been able to afford insurance for three years as a small business owner. She admitted that before the Affordable Care Act she was one of the people who was using the emergency room and adding to the costs of everybody else and everybody else's insurance when she got sick.

Last month, she went to healthcare.gov, was able to secure health insurance quickly and uninterrupted. In fact, she got a plan for \$163 a month. And she said to me: It's a payment I can live with. And I can't tell you how happy I am to finally have health insurance, especially at my age.

Madam Secretary, we've heard concerns about small businesses for years that have struggled to afford insurance. I certainly at every meeting for years and years, that's the only thing anybody wanted to talk about. Can you discuss how pooling together small business owners, like Crystal (sp), in the marketplace is going to continue to help them afford insurance?

SEC. SEBELIUS: Well, Senator, small business owners under the law -- employers will less than 50 full-time employees have no obligation to provide coverage. But many of them want to. It's a way they keep and recruit and retain their best employees. They've often been in a market where they pay higher rates and have exorbitant costs if one of their employees gets sick or has a diagnosis.

So having an option -- and small business owners can shop in or outside the marketplace -- but there will be new options for small business owners in the market with plans specifically for them and for the employers with fewer than 25 employees and low-income workers, they may actually qualify for a new tax credit to provide that coverage -- up to 50 percent of the cost of insurance -- so that there are not only more choices, more features, a larger pool but, for some, a significant tax incentive for employer coverage.

SEN. STABENOW: Thank you.

SEN. BAUCUS: Thank you, Senator. Senator Grassley.

SENATOR CHARLES GRASSLEY (R-IA): Now, thank you for joining us, Madam Secretary. You know of my interest in the False Claims Act that has brought 30 (billion dollars) to \$40 billion back into the federal treasury and is one of the best tools against fraud.

So I start by referring to a letter you sent to Congressman McDermott October 30th. The letter states that the department, quote, "does not consider qualified health benefits, other programs related to federally facilitated marketplace and other programs under "Obamacare" to be federal health care programs," end of quote.

If that interpretation stands, it would have serious consequences. Your letter calls into question whether vital enforcement and oversight tools that ban rebates, kickbacks and bribes would be available to your agency to fight fraud. It weakens the ability to use the False Claims Act. I don't understand why you are giving insurers within the exchanges a blanket exemption from years of civil and criminal laws and regulations including anti-kickback and stark law violations, just to name a few.

This is not about my position on the underlying law, Madam Secretary. You and I disagree on that. However, we can both agree, I hope, that you're moving forward with implementation no matter how badly it goes and how many promises are broken along the way. And right now, it is not going very well.

Trying to exempt "Obamacare" from a host of criminal and civil laws designed to protect taxpayer dollars from fraud just adds insult to industry (sic). These laws were put in place to stop aggressive practices that ripped off taxpayers. You shouldn't be able to just exempt "Obamacare" from these protections with a stroke of the pen.

So a few questions. Was this exemption requested by any providers? And if so, who requested it?

SEC. SEBELIUS: No, sir, not to my knowledge. This was a legal discussion in our department. And because these are private insurance plans, they are not government programs, the legal interpretation was that the insurance companies offering plans on the marketplace and offering plans off the marketplace should be treated the same. These are not government insurance programs; they're private plans.

SEN. GRASSLEY: Did you have any discussion about this issue with any providers that are offering these plans prior to their decision to join?

SEC. SEBELIUS: No, sir.

SEN. GRASSLEY: And finally, would you make the lawyers who review this decision available to my staff so that we can ask follow-up questions to better understand why the decision was made to greatly weaken the ability to use available statutes to protect taxpayer dollars?

SEC. SEBELIUS: Senator, I'd be glad to do that. Again, we haven't given up any authority over fraud. Our department continues to have careful monitoring. We have -- we can decertify plans from being in the marketplace. We can work with the attorney general. The state insurance departments throughout the country are the regulators of these private insurance plans and private companies. They have a very aggressive anti-fraud effort. It was just a legal determination, since these are private companies -- these are not dollars being paid for out of the Medicare trust fund or others; these are private companies and private premiums -- that they should not be declared to be government health plans.

SEN. GRASSLEY: The Medicare Advantage plan is the same, and so it's covered.

SEC. SEBELIUS: Actually, it is not quite the same, Senator. It is a private insurance plan, but federal dollars are paid directly out of the Medicare trust fund to the Medicare Advantage plans. This is very different. These are individuals who are paying premiums to a private plan on the marketplace.

SEN. GRASSLEY: Yeah. Mr. Chairman, my next question's so long, I'll -- can I reserve my time for a second round?

SEN. BAUCUS: Yes, you may. You may, absolutely.

OK, Senator Crapo.

SENATOR MICHAEL CRAPO (R-ID): Thank you, Mr. Chairman.

And Secretary Sebelius, I've read your testimony and listened to it carefully today and appreciate your commitment to making the website work. I'm concerned, though, that a lot of the discussion in your testimony and a lot of the discussion that we're in seems to imply that the problem we're dealing with is that we fouled up on the website, and we've, you know, hired a lot of experts, we're going to go get the website fixed, and then everything's going to be great.

And as the chairman asked you whether it wouldn't be better to hold off until we can get the website fixed - I want to expand a little beyond that because I'm more concerned, frankly, not that you'll get the website fixed or not but that we'll get the law fixed. And as I see it, we are now finding that the concerns that many of us raised before about whether the law was properly laid out and that the promises made about the law were real. Our concerns about that are coming through.

The president said if you like your plan, you can keep it. And not because the website isn't working but because of the way the law was put together, we now see that for millions of Americans, at least 3 1/2 million that we know today, they're getting canceled, a hundred thousand in Idaho, which is way more percentage-wise than the percentages that the president is now talking about. The president promised if you like your doctor, you can keep your doctor. Again, millions of Americans are finding out they can't keep their doctor.

The president promised we can cut the average family's premium by about \$2,500 a year. And although I read your testimony where you talk about premiums going down, I don't know what data sets you are using because the data that I'm aware of show that the premiums in the individual market are skyrocketing. They're not going down; they're going up, and they're going up faster than they were projected before the law.

The president promised if you -- if your family makes -- or earns less than \$250,000 a year, a quarter of a million dollars, you will not see your taxes increased a single dime -- I repeat, not one single dime. And yet we have, as we discussed then, somewhere between 800 billion (dollars) and over a trillion dollars of new taxes that were delayed in their implementation but are now starting to hit and squarely hit the middle class.

My question to you is isn't it time for a timeout? The law is not working as it was promised. The website's not working? Fine, let's fix it. But the law is not working. Isn't it time for a timeout so that we can go in and start finding out why we are seeing premiums go up, not down; why we are seeing people cancelled, not being protected in their healthcare; why we are seeing the failure of the promised operation of the law to occur.

SEC. SEBELIUS: Well, Senator, I would respectfully disagree with your assessment about the law working. In the last three-and-a-half years, there are millions of Americans who have actually received benefits under the law. There are 7 million young adults who have insurance now who were uninsured because they're now covered on their parents' plan. There are seniors who are experiencing not only additional benefits in their Medicare plan, but despite all of the accusations that somehow Medicare Advantage would cease to exist, we have a stronger and less expensive program today than we did.

We have a 50 percent discount for seniors in their prescription drugs if they fell into the doughnut hole. Millions and millions of Americans who have private employer coverage now have no copays and no coinsurance for preventive care, everything from cancer screenings to immunizations. Those are all part of the law. And we have the lowest healthcare cost increases in decades in the private insurance market, in Medicare, in Medicaid.

Costs are at an all-time lower rate of --

SEN. CRAPO: But Secretary Sebelius, you can -- you can go through those points and for those data sets that you're talking about, some of those developments have occurred. But on the flipside, we are seeing millions of Americans lose their healthcare, millions and millions more see their healthcare premiums going up and the price for some of these fixes that you are talking about is phenomenally higher than we understood or was represented.

Isn't it time to go in and take a look at the areas of the law that are simply failing?

SEC. SEBELIUS: Actually, Senator, the -- in the marketplace, the rates have come in about 16 percent lower than what the Congressional Budget Office projected those rates to be when they --

SEN. CRAPO: That's the projection after -- that's not lower than actual fact.

SEC. SEBELIUS: I think those were the projections of the rates, so the rates are lower. Much like we just heard Senator Wyden talk about the projections around Medicare Part D, the rates came in significantly lower --

SEN. CRAPO: So are you saying that in the individual market, insurance rates are going down?

SEC. SEBELIUS: I didn't say they're going down, I said the rates are lower than was predicted. And for millions of people in the market, they will actually for the first time ever have some financial help paying for their health insurance.

SEN. BAUCUS: We're going to have to move on here. Thank you very much, Senator. Senator Nelson.

SENATOR BILL NELSON (D-FL): Mr. Chairman, one of the toughest public service jobs that I ever had was the elected insurance commissioner of Florida, and one of the most bedeviling insurance markets was the individual insurance policy because what would happen is people would be enticed to come in to cheap health insurance and then over time, as the group got older and sicker, there was no control on rates. They'd go up and then they found limited, limited health insurance.

Now that's what the Affordable Care Act is trying to address, and we're talking about the individual insurance policies, not the group policies. And in this particular case, we now have no lifetime limits, we don't have pre-existing conditions. And you can each look in your states and find many examples where the so-called cancellation has occurred, but in fact, they're going into a policy that is going to give them protections because of the 10 things that are required in the Affordable Care Act individual health insurance policies.

And so I would ask my colleagues as they look at this, please consider, for example, a lady in Florida.

She had a policy that was \$54 a month. That sounds great. That's being cancelled. But when you got into the internals, as reported by CBS, lo and behold, she didn't have much coverage at all. And had she gotten a disease like cancer, she would have virtually had no coverage. She's going to have that coverage under the policies in the individual market that are covered under the ACA.

Now, I want to say one thing about what's going on in the states. Take a state like Kentucky. They did their work. And in the first month, they've signed up 30,000 people. Look at my state. It's one of 27 states, basically I think because of politics, that they decided not to do anything about set up. Wouldn't accept money to set up. Not going to expand Medicaid. And look at the difficulty that now the federal government has had to set up this exchange in 27 states. Why couldn't we have been like Kentucky and be way ahead of the game?

And finally, I would say obviously there's no excuse for the website not working. Madam Secretary, I'm one of the ones that said -- and as, Mr. Chairman, I heard you say that people have twisted your words when you criticized the fact that the website wasn't working. And certainly is one that said it's inexcusable and people ought to be held to account. So Madam Secretary, what legal authority do you all have to guarantee that the contractors that are responsible for this thing not working are going to be held to account?

SEC. SEBELIUS: Well, Senator, we have significant contracts with a number of key outside entities -- CGI and QSSI are two of them. We have paid out I'd say portion of the money that has been encumbered

for the website build. It clearly is not up and running at a sufficient level at this point. And we have new management with QSSI, one of our key contractors, sort of driving part of this fix.

And we will make sure that the funding that has been provided delivers on the product that was promised. It is not there yet, and that's a commitment. We're working with our auditors and our teams to make sure that as bills come in they are clearly reviewed and that we have the opportunity to make sure that the product that we need and have committed to is delivered.

SEN. NELSON: Mr. Chairman, I'll just make a final statement. As someone who has fought and bled for this and who sincerely thinks that it's going to work in the long run, I want you to hold them to account, I want you to burn their fingers and make them pay for not being responsible and producing a product that all of us could be proud. Thank you, Mr. Chairman.

SEN. BAUCUS: Thank you, Senator. Senator Roberts.

SENATOR PAT ROBERTS (R-KS): Madam Secretary, I want to remind everyone again how we got here today. Over a year ago, staff or members of this committee requested information on the rollout of the exchanges. Instead of details, we only received assurances that everything would go smoothly.

In March of this year, we started hearing people directly involved with the development and implementation of the exchanges were deeply worried about the website's launch. In June the Government Accountability Office issued a report and should have served as a warning to you as it highlighted implementation challenges that we now know were never addressed. I want to stress, it certainly was a warning to me.

But July it was clear to me that your department was being less than transparent about whether the exchanges would be ready by October 1. As a result, I introduced the Exchange Sunset Act of 2013. My bill would have sunset the exchanges and the individual mandate if beneficiaries were unable to enroll starting October 1, as promised.

In August, the HHS Office of Inspector General identified privacy and security vulnerabilities and determined that, quote, "Critical tasks remain to be completed in a short period of time."

In early September, your main website contractor, CGI, warned CMS that they were falling behind on their highest-priority items. The warning included they may not have enough time in the schedule for testing and that services were intermittently unavailable. And yet several days later, the White House announced that the data hub was, quote, ready for operation.

In mid-September, CMS ordered a contractor to make a significant change to the system to require people to submit their personal information before viewing any plans or associated costs.

On September 26, mere days before the launch, testing showed that a few hundred visitors crashed the site. The very next day, the decision was made to move forward with the launch of HealthCare.gov, knowing that there was a high security risk during testing.

In short, Madam Secretary, I believe you were given advice, counsel and warning from experts inside your agency and out that the health care exchanges were not going to be ready. Furthermore, I believe to protect the administration, you chose to ignore these warnings, and as a result, you have put our entire health care system and one-sixth of our economy in jeopardy.

Now, people are angry. Millions of Americans are scared. They don't know whether they are going to have coverage in a matter of weeks. They don't know what their coverage will include. They now are getting

letters from their insurance companies they don't understand. In fact, more people are losing their insurance than are signing up on the website, and they are being directed to a website that doesn't even work.

Now, we don't often talk about life and death in the context it deserves. But at this time, it is real, and it means the difference between life and death for many Americans who are at a loss -- at a loss for what to do. And we know, Madam Secretary, that fixing the website won't ever fix the uncertainty and the ramifications that result from this law.

So I have to wonder if you have any regrets, any regrets at all that you failed to heed the warnings, that you ignored the calls from members of Congress. You proceeded to open the exchanges on October 1, immediately followed by a taxpayer-funded promotional tour to tell everyone, quote, it's sort of a great problem to have.

Well, Kansans don't think these are great problems to have. From your hometown of Topeka, Steven (sp) wrote, "I am completely disgusted. I have spent the last two days trying to get my application through. This would not be a critical issue, except the insurance coverage that I currently have is going away because of the new federal requirements, though we were promised if you like your current coverage, you can keep it."

Madam Secretary, you yourself know that this law has serious problems. You delayed over half of the mandate deadlines. You did it for employers, for unions and for small business, but not for the exchanges and not for Steven (sp) nor for millions of other Americans who are losing their health care. And their worry and their fear are palpable. Your main goal should have been to protect Americans, to lessen their risk and to ensure their safety. But in your zeal to implement this law, not warnings, not advice, not counsel would deter you from implementing the exchanges.

You have said America should hold you for -- accountable, which is why today, Madam Secretary, I repeat my request for you to resign.

Thank you, Mr. Chairman.

SEN. BAUCUS: Thank you, Senator.

Senator Menendez.

SENATOR ROBERT MENENDEZ (D-NJ): Thank you, Mr. Chairman.

Madam Secretary, thank you for joining us this morning.

You know, while the problems we're facing with the marketplace website are substantial, unacceptable -- you yourself described it that way -- and need to be fixed immediately, I'd like to take a second and put things in a historical perspective.

"Social Security Act's old-age insurance plan facing hurdles." "Problems beset Social Security." "Social Security setup insane." "Medicare facing trouble." "Crisis for Medicare." "New problems in Medicare drug benefit." "The Medicare drug mess." Those were headlines of the '30s, '60s and early of this decade about major programs that have become beloved in terms of the social safety net in this country and health care security. So while this is unexcusable, by the same token, it is a challenge that has been faced time and time when any major program has been unveiled.

Now, I find it amazing that those who seek to ascribe blame are the same folks who have spent every waking hour of the last four years working to dismantle, destroy, obstruct and impede the success of the Affordable Care Act. They're concerned not about its failure; they're concerned about its success. And so I hope that what we'll focus on is how do we succeed.

Now, I want to get a sense when those of us on the committee worked to put this bill together, I guess we were on the faulty assumption that states controlled by Republican legislatures or governors would put a higher premium on their love of state rights and the opportunity for their citizens than their dislike of the president or some ideological or political opposition, which is why we're seeing far better success in those states that have established their own marketplace. What is the consequence of having so many of the states not pursue their own marketplace and delegating it to the federal government? I don't -- did you envision having that many states not open up their own marketplace, and what's been the consequences of the burden of that?

SEC. SEBELIUS: Well, Senator, I would say we really didn't know. We knew that 27 states had sued around the constitutionality of the bill. There was a uncertainty what would happen if the court -- when the court declared it constitutional, how those states would then react. Some have chosen a sort of partnership where we still run the bulk of the exchange. Other have refused to participate at all, and I would say that uncertainty certainly added to the uncertainty of how large the operation would be.

Having said that, we did have deadlines in January of '13 for states to officially declare whether they would run their own marketplace or not, and by the middle of February a partnership plan. But we have 36 states who are using the federal hub at this point, and that's I think significantly higher than people might have predicted initially at the -- at the outset of the plan. We have robust product offerings in those marketplaces, very competitive, about a fourth of the insurers are brand new, which is very good news to a lot of the people who have been in a monopoly market for a very long time. They have choices, they have competition, and that was -- (inaudible).

SEN. MENENDEZ: Isn't fair to say, though, that it seems that the state-run marketplaces seem to be having greater success than those that have been -- at this point than those that are being run federally?

SEC. SEBELIUS: Well, I would say that the web features of those state markets are certainly running more smoothly. If you think about one set of products and one set of prices in one state, that's a less complicated -- but all of the states as well as the federal markets are using the hub. They come into the federal market to certify security and income and status.

SEN. MENENDEZ: Well, let me ask you one last question because we are hearing from a number of providers, including community health centers. For example, in my state, that did not stand up its exchange, that insurance companies have yet to provide them with networking contracts. That's a basic function of the marketplace, in order to ensure network adequacy, if we're going to say that state insurance regulators are responsible for certifying the marketplace plans, but they're active -- many of these are actively hostile to the Affordable Care Act. So how is it possible -- how are people supposed to shop for a plan if they don't know that it includes their doctor when the networking not yet in place, and will those be -- networks be in place by January 1st?

SEC. SEBELIUS: Well, actually, there is no plan that was a qualified plan on the market that doesn't have a network that is actually available and provided and may be scrutiny -- under -- (inaudible) -- scrutiny of the state insurance department. that was one of the criteria. So every plan in the market has a network, and consumers can access that information as they shop for insurance coverage. But you couldn't just -- (inaudible).

SEN. MENENDEZ: (Inaudible.)

SEN. BAUCUS: We're going to have to follow up. Yeah. Thank you, thank you, Senator, very much.

Senator Enzi, you're next.

SENATOR MICHAEL ENZI (R-WY): Thank you, Mr. Chairman, Secretary Sebelius.

We all know by heart President Obama's promise that if you like the health plan you have, you'll be able to keep your health plan, period.

Well, as millions of Americans are unfortunately finding out, that just isn't the case. Henry Ford said that customers could have his Model T in any color they wanted -- so long as it was black. Sounds similar to what the president's promised with health care. If you like your current plan, you can keep it -- as long as it's the model he chooses.

I offered a proposal three years ago to give people the honest choice to keep their plans, but every one of the majority party in the Senate voted against it.

Incidentally, the White House website, as of 4:00 yesterday, has a little problem too. It still has that president's promise on there that if you like your health plan you can keep it. Twenty-six hundred Wyomingites -- we're the least populated state in the nation -- got word Saturday that they couldn't keep the insurance that they've got even if they like it. And the insurance commissioner assures me that it is plans that they like.

So I'm working on a bill with Senator Ron Johnson and 36 others that would allow Americans to keep their health care if they like it. These insurance cancellation notices are a wake-up to the American public, even ones who initially supported the law. It's hurting the economy. It's actually making health insurance less affordable. The one-size-fits-all approach that this administration likes to push is hurting our country, and we need more people in Congress that understand this.

My hope is that even my Democrat colleagues are seeing the light. If not, I'll bet their constituents hold their feet to the fire and keep them accountable.

My question to you is this: What's the administration doing to help the millions of people who will suffer as a result of the president's broken promise? What can I tell my constituents who have had their insurance coverage cancelled and can't qualify for a subsidy and are facing thousands of dollars in insurance costs? Incidentally, Wyoming's costs are higher than any other state in the nation, and we only have two providers. So there has not been an increase in the number of providers.

Your answer?

SEC. SEBELIUS: Well, Senator, I think that the president's promise was in the law from the day it was written, and that is the grandfather clause that we wrote as a policy, which basically said that plans that were in effect in March of 2010 that didn't change to the detriment of the consumer -- even though the insurance company could raise premiums, they couldn't eliminate benefits or take away items that the consumer liked -- that those are in effect and they can stay in effect. And millions of Americans in the individual market are enjoying those plans today and will enjoy them into the future. They don't have to come into compliance with anything in the law.

But if, indeed, the plans turned over, and this is a market -- you heard Senator Nelson, and he and I served together as insurance commissioners -- talk about the churn in the market and the plan turnover. If plans in this market changed over and over again since 2010, then insurers have been on notice since 2010 that they need to come into compliance with the same exact consumer protections that are in the small- group market, in the employer market, in every other part of health insurance; it just wasn't available to individuals who were out shopping on their own.

SEN. ENZI: I'm not worried about the insurers. I'm worried about the individuals that lost their policies that they like. And they're also finding out, not only are they losing their policies, they're losing the doctor that they like to go to. In some instances they're losing the hospital that they like to go to. So there are -- there are some changes that have been made there that are causing some problems.

Now, you also mentioned that a number of people are signing up. And I've noticed that in Washington state there were 35,000 people that signed up for "Obamacare," but 87 percent of them are going to receive their coverage through Medicaid. And 26,000 people enrolled in Kentucky, and four out of five of those are going to be in Medicaid. And Maryland reported 85,000 people enrolled, and in Medicaid -- 96 percent of those are going into Medicaid. Medicaid has costs for the federal government, particularly with some of the increases that were put in this law.

Are we going to be able to afford this increase in Medicaid? And it isn't bringing in the other customers that are going to be paying the tab to provide the revenue to do this.

SEC. SEBELIUS: Well, Senator, when the Affordable Care Act was passed, it was actually anticipated that a hundred percent of the states would expand Medicaid.

That was altered by the Supreme Court decision that made Medicaid expansion a voluntary expansion for states. We now have 30 governors -- Republican and Democratic -- around the country who have declared their interest in moving ahead with Medicaid expansion.

And that expansion of 100 percent of the states was fully paid for within the Affordable Care Act's 10-year window. In fact, it is part of the law that was passed in 2010. It was not on the deficit. It was part of the law, unlike the Medicare Part D which was not paid for when Congress passed it.

SEN. BAUCUS: Thank you, Senator.

SEN. ENZI: I'll submit some more questions in writing, the accountant-type questions that wouldn't have general appeal. Thank you.

SEN. BAUCUS: (Chuckles.) Thank you, Senator. Senator Cardin.

SENATOR BENJAMIN CARDIN (D-MD): Thank you, Mr. Chairman. Mr. Chairman, I am convinced that the fundamentals of the Affordable Care Act are sound. We've seen over the last three years the implementation in a very orderly way, protecting millions of Americans on better coverage and giving assurances that the practices that existed before the Affordable Care Act are being dealt with.

And I think as my colleagues talk about the actions of private insurance companies today, go back before the passage of the Affordable Care Act and see how many people lost coverage, insurance companies pulling out of markets, reducing benefits, increasing premiums. We now have stability in the market, and that's due to the Affordable Care Act.

And I also point out in regards to the exchanges, the number of insurance carriers that are offering plans and the pricing of those plans came in much stronger than we anticipated when we passed the Affordable Care Act. So it's sound. I share the concern, I think, of every member of this committee, our disappointment as to how the website shopping and enrollment was not done more effectively starting October 1.

And I guess my question, Madam Secretary, is that as a result of the delay of individuals being able to shop and enroll in the -- on the website, on the Internet, there are people who are going to be disadvantaged. We have people who have not gotten as far as they want. We're going to have consumer fatigue, people who will have a more challenging time.

We also have a large number of people who have lost their coverage, which was understandable because this, as you've explained, these were policies that were changed since 2010. These are sub-standard policies. These are individuals who change their insurance policies frequently. But they want to enroll by mid-December so that they can get coverage effective January 1st.

So my question to you is: What steps are you taking to deal with these individuals who have attempted but have not yet been able to enroll and individuals who need coverage effective January 1st, to make it easier and more convenient for people to be able to shop and enroll? It can be done on the Internet, but it also can be done by paper and by telephone. What steps have you taken to protect those who may have suffered from the delay in getting the website working?

SEC. SEBELIUS: Well, Senator, step number one, two, three, four, five, six is really getting the site fixed as rapidly as possible. In the meantime, we are deploying additional assets. So the call center operations have additional individuals now.

We have about 12,000 trained call center representative who not only have an English and Spanish version of scripts but translators who can answer questions in up to 150 languages. And they can take a consumer all the way from start to finish, through the entire process, or just help a consumer create an application and they can go back to the site and visit it later. So that's very much underway. And we're trying to increase that visibility.

Every community health center in America has outreach and enrollment trained workers on the ground, throughout the country. And they are very actively working in their neighborhoods and their communities. Every state has a contract for community groups and well-known medical advocacy groups trained as navigators to walk people through. That can be done in a paper application or on the phone or in person.

SEN. CARDIN: I'm glad you mention paper applications because you can do a paper application.

SEC. SEBELIUS: Yes, you can.

SEN. CARDIN: And I would just urge you to make that available for those who feel more comfortable using paper applications.

SEC. SEBELIUS: We always knew that there would be a portion of the population who would never use the web, who are not web-savvy or don't have access or are not comfortable so that we've always had alternate strategies for trying to actually enhance those alternate strategies --

SEN. CARDIN: Let me mention one other point, and that is the state exchanges, those that are being operated by the states, are having different results. Some are doing well, some are not. And I would just urge you to monitor the progress made on the state exchanges because we want to make sure those who have been disadvantaged because of the inadequate performance on the online shopping and enrollment, that it may go beyond the federal exchanges and that those individuals are also protected as you look at ways to compensate for the slower rollout than we anticipated.

SEC. SEBELIUS: Senator, we have regular updates with the state directors. In fact, one is occurring at 4 o'clock this afternoon so that we're not only trying to pay attention to the federal marketplace with those 36 states but also keeping in very close touch.

Lessons learned. We'd like to deploy them in other areas, figure out what's working and what's not working and use the full six months of open enrollment to really reach out and enroll people who are eager for affordable healthcare.

SEN. BAUCUS: Thank you, Senator, very much. Senator Cornyn, you're next.

SENATOR JOHN CORNYN (R-TX): Madam Secretary, in September 2009, the Quinnipiac poll said that 88 percent of Americans were satisfied with their current health insurance plan, which is why the president no doubt made the promise that he made. And as you can see, as of yesterday afternoon, the

White House website says if you like your plan, you can keep it and you don't have to change a thing due to the healthcare law.

Well, we know that lying to Congress is a crime, but unfortunately, lying to the American people is not. I'd just like to ask you a simple true-or-false question. Is that statement on the White House website true or is it false?

SEC. SEBELIUS: Sir, I think the statement is that --

SEN. CORNYN: Is it true or is it false, Madam Secretary?

SEC. SEBELIUS: -- you can keep your plan. The vast majority of Americans who are insured are in the employer market or in public plans or in veterans' plans, and the -- those plans have stayed in place and continue to offer benefits.

The 11 million people who are in the individual market, a majority of those individuals will keep plans that now will have stronger coverage and others will have to choose if they have a brand new plan and not a grandfathered -- have to choose of a plan that they no longer get medically underwritten --

SEN. CORNYN: My time is limited, so I will just ask that the record be note -- that the record note that you have refused to answer my question whether it's true or false. So let me ask you another question. Isn't it true that in June of 2010, the department that you head estimated that between 40 (percent) and 67 percent of those buying their insurance on the individual market would lose grandfather status? And isn't it also true that on that same date, that your department estimated that 66 percent of the people in small employer plans and 45 percent in large employer plans would lose their grandfather status by 2013? Isn't that true?

SEC. SEBELIUS: Senator, that is an inaccurate use of those statistics. What the specific --

SEN. CORNYN: Is it -- that's not true?

SEC. SEBELIUS: Senator, could I answer the question?

SEN. CORNYN: You can answer whether it's true or not.

SEC. SEBELIUS: I can tell you what the statistics mean and then I would like to --

SEN. CORNYN: I'm asking you whether it's true or not.

SEC. SEBELIUS: I would like to tell you what the statistics mean. They were --

SEN. CORNYN: Would you answer my question and then explain what it means.

SEN. : She did answer. She said you were inaccurate.

SEN. CORNYN: Mr. Chairman, I'm asking whether it's true or false, and you're not answering the question, Madam Secretary. So let me ask you another question.

SEC. SEBELIUS: Because that isn't what the statistics say. That was a look back at how much churn there is in the marketplace, that was not a projection of what was going to happen in 2014. That was --

SEN. CORNYN: Isn't it true, according to the Congressional Budget Office, that about 156 million Americans get their health insurance from their employer-sponsored healthcare plan in 2013, and the Congressional Budget Office has estimated because of the failure to keep the promise on the White House website that 78 million Americans will not be able to keep their plans as promised. Isn't that true?

SEC. SEBELIUS: I don't have any idea what that statistic is. I think there are about 170 million who have employer-based coverage, but I don't know that specific CBO estimate, Senator.

SEN. CORNYN: Well, I would commend -- I would commend the CBO estimate to your, which is the -- is what Congress depends upon, estimates 78 million people will not be able to keep their employer-provided coverage, and hence my conclusion that this is a false statement made to the American people that this administration has consistently doubled down on and repeated time and time again. And the only thing I can conclude is that it's impossible to do something in this administration that gets you fired. It's impossible. You can lie to the American people, you can consistently misrepresent the facts, but it's impossible to get fired.

So I want to ask you about the navigators. The president's in Dallas, Texas, today touting the navigator program, which, as you know, is -- are people who are hired to help people navigate the Affordable Care Act. But I would just like to ask you this question, if you would answer it. Isn't it true that there is no federal requirement for navigators to undergo a criminal background, even though they will receive personal -- sensitive personal information from the individuals they helped sign up for the Affordable Care Act?

SEC. SEBELIUS: That is true. States could add an additional background checks and other features, but it is not part of the federal requirement.

SEN. CORNYN: So a convicted felon could be a navigator and could acquire sensitive personal information from an individual, unbeknownst to them.

SEC. SEBELIUS: That is possible. We have contracts with the organizations, and they have taken the responsibility to screen their individual navigators and make sure that they are sufficiently trained for the job. And there is -- (inaudible) -- station, but it is possible.

SEN. BAUCUS: Thank you, Senator, very much. Senator Brown.

SENATOR SHERROD BROWN (D-OH): Thank you, Mr. Chairman.

Madam Secretary, nice to see you. I want to start with a letter from Steven (sp), a small business owner in Hudson, one of the most conservative suburbs, Akron suburbs, in our state. He said, I'm a father and small business owner. I began my business in 2009, decided to quit my day job. It's the best decision I ever made. I'm more successful today than I ever would have imagined. But no company would sell me health insurance. It wasn't that I couldn't afford it, but I -- that I didn't want to pay the cost; I couldn't get insurance at any price due to pre-existing conditions. Now thanks to the Affordable Care Act, my family is now insurable.

I get letters like this all the time. I think we all do. They're from all kinds of people from all kinds of walks of life that this matters to them.

I wanted to ask you this. I -- Senator Menendez spoke of the difficulty of implementing a huge social insurance program, if you will, the difficulty of implementing Social Security, the difficulty of implementing Medicare. You can go back to your junior or senior in high school, I think, in Senator Portman's hometown, when your father, a member of Congress, that fateful year voted for Medicare.

And I suppose he shared stories with you about the opposition in those days, leading Republican politicians like Congressman Dole and Congressman Rumsfeld and Congressman Gerald Ford voted against it, the John Birch society, the insurance companies, the AMA opposed Medicare. In fact, the rolling out of it was so controversial, especially because Medicare resulted in integrating Southern hospitals. And if you think this is controversial, what's happening now, imagine the difficulty a year after civil rights and less than a -- round the time of voting rights passing, that Medicare forced hospitals to integrate. So this whole view that this is so controversial and this is so unprecedented when you roll out a new program -- but the important thing, I think, is five years later, five years later people looked back on Medicare and thought, what was the big deal? Why were people so opposed? This is working for our country. So tell me, five years from now or 45 years from now, 48 years after Medicare now, what are people going to say about the Affordable Care Act in five years and in 48 years?

SEC. SEBELIUS: Well, I'm hopeful that this will be another significant step forward in ensuring that all Americans have access to affordable health coverage, which is not what we can claim today; we're the only Western country which doesn't have health care as a basic right. And I think this is a significant feature for not only uninsured Americans, and they will have access for the first time either to Medicaid expansion or to affordable plans in the marketplace, but also those individuals who have been referred to a number of times in the individual market, the kind of (last ?) marketplace, where they don't enjoy the consumer protections that every other person who has health care in their workplace enjoys -- no pre-existing condition limitations, no medical underwriting.

Virtually 100 percent of people in the individual market are underwritten. If you're healthy, that's great. If you're not healthy you are in terrible trouble. And these are folks who want health insurance. They're there because they want health insurance.

So I think this is a significant step forward, and one that we will look back on hopefully and applaud the day that we finally made this significant step. Seventy years Republican and Democrat presidents have been attempting to accomplish this. Clearly the opposition is still quite ferocious and I'm just hoping that people understand what their options are, what their benefits could be, and what their opportunities are.

SEN. BROWN: Thank you for that. Senator Cardin and I were just talking earlier about -- we both opposed the Medicare drug expansion. I can't speak for the reason he did. I did because it was far too much of a giveaway to the insurance and drug interests and didn't provide the level that I thought it should for a real prescription drug benefit. It could have been done in such a better way.

But Senator Cardin and I also did something that I know a number of people on our side of the aisle did, and that is held town hall meetings, sent my staff out to help people: How can I enroll in this? How can I sign up for a prescription drug benefit? We helped our constituents navigate what was then a labyrinth of difficult -- sort of an arduous path of how do you get these prescription drug benefits?

I wish that were happening today. And I guess I'd challenge my Republican friends -- you know, it is the law, in spite of efforts from the House of Representatives. And I hope after this -- you know, "disastrous" is maybe the way to say it. The rollout hasn't worked, but I hope after this my colleagues will work in their states to help this work for American people.

And I was handed a note by my staff -- and I'll just finish with this. Republican House members in Ohio -- and there were 12 of them -- have gone so far as to tell their constituents who have questions about the Affordable Care Act to call Brown's office because he voted for it and we didn't. And I just hope that as a nation, as public officials, we do our jobs. We all took an oath. I don't mean to sound like I'm lecturing but I just hope we pull together and make this law work as well as it can in our states and across the country.

SEN. BAUCUS: Thank you, Senator. Thank you very much.

Senator Thune.

SENATOR JOHN THUNE (R-SD): Thank you, Mr. Chairman.

It is the law but it's the law that the administration has chosen to delay portions of, and I think that's done very discriminately. I think we all agree that the rollout has been a failure of epic proportions. And there was a couple of front-page stories in POLITICO today in which there was a tech expert who was quoted as saying, "This might just be an error, but you could not pass an undergraduate computer science class by making these mistakes."

And I -- you know, we've all talked a lot about that. We hope you get that right. I think eventually that part will be gotten right. But I'm one of the people who believes that this is -- this is fundamentally flawed legislation. I mean, all we're seeing is higher rates. We're seeing cancellation notices. We're seeing fewer jobs. And, you know, when you pass something that has higher taxes, a guarantee issue, community rating, all kinds of mandated coverages, I think it's inevitable that you're going to see rates go up, and that's what we're seeing. But the point is this was built upon a faulty foundation, predicated upon a bunch of promises made to the American people which are just not being -- which are being broken.

And I want to come back to -- because I think it's so fundamental to this debate, Madam Secretary, but on June 14th of 2010, you held a press conference announcing this grandfathered rule, which Senator Enzi referred to. And the rule, you said, will make good on the president's promise that Americans can keep their health plan and doctor they like under the new law. My question is, did you read the regulation when you released it?

SEC. SEBELIUS: Yes, I did.

SEN. THUNE: Well, if you read it, how could you possibly say that this regulation will keep the president's promise when on page 34553 of the Federal Register your agency estimates that up to 69 percent of employer-provided plans and up to 67 percent of individual market plans will lose their grandfathered status by 2013?

SEC. SEBELIUS: Senator, what I tried to explain to Senator Cornyn, those estimates were made by the health economist who looked back. That was the snapshot that had occurred in the individual market year in and year out. Very few people stay for more than a year. We were doing that as backward look, but on notice to insurance companies that you can basically avoid any coming into compliance with the law by keeping these plans in place.

That's what basically the grandfather clause said. And I can tell you we got enormous push-back from medical disease groups, from advocacy groups, from health care --

SEN. THUNE: But doesn't it knowingly violate --

SEC. SEBELIUS: -- (inaudible) -- who said don't so this, this is terrible.

SEN. THUNE: Doesn't it knowingly violate the president and your promise that if like your health care plan, you can keep your health care plan? I mean there wasn't any caveat on that at the time. It wasn't like there were asterisks or footnotes on that. It didn't say if you like your health care plan you can keep it unless it gets cancelled or unless it gets changed or unless we don't like it. It said if you like your health care plan, you can keep it, period. The president said that over and over and over again. And yet how can you go out, knowing what you know, and allow the president to continue to say that and you and other members of the administration continue to say that?

SEC. SEBELIUS: Again, Senator, that's what the grandfather clause was all about in the first place. And as I say, it was very controversial but we felt it was important. We also in -- and the grandfather clause is written into the larger employer plans with the same kind of caveat. And I can tell you that for the vast

majority of people who get employer-based health care, are in a public plan, are in the VA plan, are in Medicare, are part of the insurance market, their plans are very much in place. There is change coming in the individual marketplace with consumer protections that many people have never enjoyed or experienced --

SEN. THUNE: Well, do you think --

SEC. SEBELIUS: -- (inaudible) -- they don't have the plan they had in 2013.

SEN. THUNE: So people in the individual market -- do you think that Americans in that market should be able to keep plans they like even if the government doesn't approve of them?

SEC. SEBELIUS: If the plan was in place from the time that the law was passed, that's what the grandfather clause said, sir.

SEN. THUNE: Look, I just -- I think most Americans believe in grace. Most Americans are pretty forgiving people. And so they'll tolerate and accept honest mistakes. But to me, this is a dishonest mistake; this is a dishonesty. I mean, you've been misleading the American people, and the president has, over and over and over again. And I would much rather you just come up and say, yeah, we were wrong; yeah, we didn't tell the truth. The Pinocchio thing. You got four Pinocchios on that statement.

It just strikes me that it would be a lot -- I think people would be acceptant (sic) of it. Take it off the White House website. It's not a true statement. It never was a true statement. And it's one of the things that, when people were sold this, it was based upon. And I just -- I think it's a tragedy that the American people bought into this and that you all knew full well it wasn't going to be the case.

SEN. BAUCUS: Thank you, Senator. Thank you very much.

Senator Isakson.

SENATOR JOHNNY ISAKSON (R-GA): Thank you, Mr. Chairman.

Thank you, Secretary Sebelius, for being here today. We appreciate your testimony.

You testified, I think, in your opening statement that QSSI had been hired to do the end-to-end organization and coordination of the web and the hub; is that correct? The website and the hub?

SEC. SEBELIUS: They have taken on a new role in the last couple of weeks of organizing the fixes that are going in. They did, Senator -- they were the contractor for the hub.

SEN. ISAKSON: Yeah. Are you aware that in June of this year, the inspector general issued a report finding QSSI guilty of violating CMS requirements on security that exposed 6 million Medicare beneficiaries' private information?

SEC. SEBELIUS: I am aware of that, sir. My understanding is they basically inherited a contract from another contractor. They did not have initially the various provisions in place. They immediately fixed it in the transition, and they did self-report that to us.

SEN. ISAKSON: Is there -- in their -- I understand they have a cost-plus contract now to do what they're doing. Is there a provision in that contract for them to correct that and make sure it doesn't happen again?

SEC. SEBELIUS: Oh, that was corrected immediately, and absolutely there is a provision to make sure that they comply with all the CMS requirements.

SEN. ISAKSON: This whole subject of navigators and information security is going to be the -- kind of the vein of my questions. I'd sent a letter, along with some other members of the committee, on the 20th of June asking if -- for the requirements you were putting in to protect secure information. Haven't received an answer yet. I understand that you've been very busy. I respect that. So I'm going to use my time now to ask a couple of key questions.

What are you doing to ensure that navigators protect the private information they're exposed to of American citizens?

SEC. SEBELIUS: Sir, the navigators must go through a minimum of 20 hours of training. A significant portion focuses on privacy and security issues.

As you know, in this new law there is no personal health information ever collected or needed. So they don't have access to that, unlike an insurance agent today in this market who collects financial and personal --

SEN. ISAKSON: Can I interrupt right there?

SEC. SEBELIUS: Yeah.

SEN. ISAKSON: Excuse me for interrupting, but I want to be sure to get to the -- under Section 6103 of the IRS Code, there are a number of prohibitions for personal information being used. And to estimate the subsidy somebody's going to get under the "Obamacare" law, you'd have to know their income on their tax return previously. Are the navigators going to be able to use that information in order to make that estimate?

SEC. SEBELIUS: If a consumer chooses, yes, to share that information, they can give the consumer the information about what they qualify for.

SEN. ISAKSON: Then I want to get to this point. The law prohibits insurance agents from being navigators unless they quit their job and become a navigator fully. It also has a medical loss ratio prohibition that basically allows insurance agents not to be paid a commission for selling health care. The navigators were put in to be the connection to the American people to the "Obamacare" law.

In the state of Georgia, my state has been so concerned about the risk on information that they have made it a requirement that every navigator have a background -- a criminal background check. In reference to the question that was asked by somebody previously, don't you think there should be a similar requirement nationwide by your department to see it that no navigator gets private information unless they've had a background check?

SEC. SEBELIUS: Well, sir, first of all there are probably 45,000 agents and brokers who have been trained on the Affordable Care Act and are very much part of the process of reaching out to individuals. Secondly, we did write the requirements for the navigators that very much mirror what many states have in place for licensed insurance agents, and then added a provision that states could indeed add additional requirements. Some have chosen to and some would not.

SEN. ISAKSON: Would you object to a statute that would require them to have background checks?

SEC. SEBELIUS: At this point, I think if that's the will of Congress we'd certainly take a look at that.

SEN. ISAKSON: Well, my last -- I don't have enough time for my last point so I want to shift over to one other thing. One -- my state is known for the capital city of Atlanta and probably the vacation city of Savannah with the port of Savannah. But we are also a very rural state, an agrarian state.

And in our state, and a recent article in The New York Times, was quoted the rates in rural Georgia, particularly southeast Georgia, are going up astronomically and disproportionate to rate increases in other parts of the state. Is rural America getting hit disproportionately hard because of the affects of the Affordable Care Act on its premium rates?

SEC. SEBELIUS: Senator, I was the governor of a very rural state. And I can tell you that rural America has always paid a higher price for health care than urban America. The competition is less. Often its a monopoly market. And I don't think that that has changed enough yet with the Affordable Care Act. But I think new competition in most markets in the country will begin to change that, particularly in this individual market where often people had no choice and no competition.

SEN. ISAKSON: And I know my time's up, so I'll yield back. (Inaudible) -- as a follow-up question later. Thank you for your testimony.

SEN. BAUCUS: OK, thank you, Senator. Senator Portman.

SENATOR ROB PORTMAN (R-OH): Madam Secretary, thank you for being here today to answer some of these critical questions. And Mr. Chairman, I noticed in your opening remarks you expressed frustration about the fact that administration officials are now saying, as you said, they didn't see the problems coming. And I share that frustration. There were plenty of warnings.

And one, Madam Secretary, was a letter that I sent you back in August. This is a letter I sent to you and Director Tavenner. And I sent it because I was hearing a lot from Ohio about problems with enrollment, and particularly problems from Ohio because they didn't believe that they were getting the answers they needed from you.

So I asked a bunch of questions. I relayed the concern that Ohio didn't think there was even a minimal amount of coordination. I requested specifically, you know, who in your agency is in charge? Who's the liaison with Ohio? I also expressed my concern about what I knew about the IT concerns, information technology problems that were already, as the chairman has said, pretty obvious, wondering whether those could be solved by October 1st. I asked whether you had tested the technology -- specifically whether these systems were going to work and what were the results of that testing. I said I was concerned that there'd be a lot of confusion and disarray for Ohioans. Unfortunately, there has been.

So didn't receive a response to the letter. And that August letter still remains unanswered. So I want to ask you today: Who is in charge?

Who's in charge of the federal exchange in Ohio at HHS? Who can I direct my constituents to as they have concerns and questions because I am trying to help.

SEC. SEBELIUS: Well, I would say, ultimately, Administrator Tavenner is in -- oversees the agency --

SEN. PORTMAN: So there's no one for Ohio.

SEC. SEBELIUS: Do we have an individual who's -- no.

SEN. PORTMAN: Who's accountable to the state of Ohio, to the federal exchange in Ohio if there are problems.

SEC. SEBELIUS: We don't have an individual assigned per state. Nos sir.

SEN. PORTMAN: As you try to fix these sites -- you talked earlier about how you think you shouldn't take down the site, which was a suggestion by the chairman and others. You said instead better to do routine upgrades while it's happening. And again, my question: are you -- are you testing the site? Are you testing the upgrades that you're using?

SEC. SEBELIUS: We are -- we are testing on a regular basis. And I could tell you --

SEN. PORTMAN: Are you going to provide the results of that testing?

SEC. SEBELIUS: To you on a -- I don't know what you're asking for.

SEN. PORTMAN: To the American people. To the American people as you didn't with regard to the lack of transparency in setting up the site.

SEC. SEBELIUS: Sir, testing is going on every day on every piece of equipment that is being installed on, every coding that is being run as we did with every piece of equipment that became part of the site. It was tested not only by the company and the contractor.

As it was presented to CMS, there was a CMS test that was performed and then an independent verification test. So every piece of --

SEN. PORTMAN: Really? So all of these problems that we're all experiencing and talking about, those are a surprise to you because there was testing?

Let me -- let me just continue because I've got a short period of time here. A lot of stories, as you can imagine, from constituents. A guy calls in and says, you know, I tried to get on for two weeks. Time I get on, I find out my coverage is double.

A woman calls in who's having a tough time making ends meet. She's got a kid in college, can't get through. Makes a telephone call. Calls me two weeks later and says I still haven't heard back from them. So those stories are out there. We're told 12 million people nationally are going to lose the coverage they have. And again, we've talked a lot about the promises that were made on that.

How many Ohioans have had their insurance plan cancelled? Do we -- do we know?

SEC. SEBELIUS: Sir, that's proprietary insurance information. I do not know.

SEN. PORTMAN: So other states have provided that information. Will we know how many Ohioans have had their --

SEC. SEBELIUS: Sir, again, the federal government -- these are private plans. Ohio companies could give you that information, but that isn't information that we have at the -- at the Department of Health and Human Services. These are private insurance companies notifying their --

SEN. PORTMAN: So we won't -- we won't know how many people have --

SEC. SEBELIUS: Well, I think you could ask the Ohio insurance companies. That would be a great way to get the answer. We don't collect that information.

SEN. PORTMAN: Well, the Ohio insurance companies are cancelling plans because the legislation you're implementing doesn't permit these plans because they do not meet your mandates, so it would be helpful, I think, for you to know how many of these plans are being cancelled and whether the promise is being kept.

SEC. SEBELIUS: If a customer is in a grandfathered plan, they have not received a notice. If the plan has been upgraded with consumer protections, they haven't received a notice.

SEN. PORTMAN: I would assume you would --

SEC. SEBELIUS: So I really don't --

SEN. PORTMAN: You don't care about that data or are interested in it?

SEC. SEBELIUS: I care about the data, sir. But you asked if I could give you that answer.

SEN. PORTMAN: Yeah.

SEC. SEBELIUS: I can't tell you for Ohio.

SEN. PORTMAN: Let me ask you a final question, and it's about covering the uninsured. We've talked about the promises on you can keep the coverage, the cost being less rather than more. We haven't talked about coverage. Is it true that after all this sound and fury and all this bureaucracy and 19 new taxes and over a trillion dollars of new spending and so on, that still 30 million Americans 10 years from now, after full implementation of this, will not have healthcare insurance. Is that accurate?

SEC. SEBELIUS: I hope that's not the case.

SEN. PORTMAN: You hope it's not, but do you believe it's accurate? Because that's what the Congressional Budget Office tells us.

SEC. SEBELIUS: I understand. And I -- frankly, I have no idea what their premise is. I think that that is unlikely to be true if the program can be fully realized, and that's my --

SEN. PORTMAN: Do you have a number on that? How many people will remain uninsured?

SEC. SEBELIUS: No I don't, sir.

SEN. PORTMAN: Thank you, Mr. Chairman.

SEN. BAUCUS: Thank you, Senator. Senator Toomey?

SENATOR PATRICK TOOMEY (R-PA): Thank you, Mr. Chairman. Thank you, Secretary Sebelius.

As concerned as I am about the huge problems with the website, I'm more concerned with some of the underlying fundamental design problems with this legislation that are starting to manifest themselves, and I want to share with you just a few short emails from the hundreds and -- probably, actually, thousands and thousands of emails that I've received from Pennsylvanians conveying some of the concern. And in particular, how the false promises are affecting real people; in this case, my constituents.

I got an email on October 11th from a dad from Bucks County, Pennsylvania, and I'm going to quote this.

He said, "I received notice last week that my health care will more than triple. Currently I am paying \$265 a month for me and my two young sons. On January 1st, 2014, my monthly premium will be \$836 a month." He said, "The president promised you can keep your plan and families will save \$2,500 per year. I can keep my plan; I just can't afford it. I do qualify for subsidies -- 80 bucks a month." Well, there was a promise that families were going to save money with this. It's clearly not the case for this family from Bucks County.

There's another promise which has been alluded to several times, which we all know famously the president and others have said: If you like your health insurance, you can keep your health insurance. A woman from Lancaster County sent me an email. And it's short. I'll quote it. She says, "I'm a two-time breast cancer survivor and I'm facing the loss of insurance as of March 1st, 2014. President Obama said that if we liked our insurance we'd be able to keep it. That was obviously untrue," end quote.

A third promise that we repeatedly heard was that if you like your doctor, you can keep your doctor. I got an email on October 7th from a woman from West Moreland County. And I'll quote. She said, "I've been self-employed for 13 years and have never been without health insurance. Three years ago I was diagnosed with multiple sclerosis. Having an expensive pre-existing condition was not a problem for me as I had never let my insurance lapse. My medication cost without insurance would be \$4,000 per month.

"I received notice several weeks ago that they were now going to cancel my plan and were doing so as of January 1st, and I had to sign up for a new coverage through the health insurance exchange. If my coverage is not in place before January 1, I'll have to go without my medications. This may cause permanent disability: blindness, inability to walk, speech problems. I'm not disabled now, nor am I on Social Security disability. Any plan I find that would cover me channels me right back to signing up through the exchange. I'm a small business owner and a productive member of society. I own my own house. Now I'm in trouble."

We called this woman and we discussed this. It turned out there were two options available to her through the exchange. One option would allow her to continue to see the doctors that have been treating her. The other option would cover the medication she needed. Neither option would cover both.

These anecdotes I think -- well, it's clear to me they've been repeated many, many times, I think millions of times across the country. And it's a huge problem. So I guess my question for you is, I understand that this administration is never going to want to repeal this bill. I get that. I understand that you've delayed whole sections of it but don't seem to want to delay the individual mandate, for instance.

My question is, are there any changes you want to recommend that we could make to this bill so that the promises that were made by the president, by yourself, by others for these people -- promises which clearly are not being kept -- could actually, in fact, be kept? Are there any that you'd be willing to recommend to us?

SEC. SEBELIUS: Well, Senator, I'd be happy to work with members of Congress who want to achieve the goals of the bill, which are to provide, for the first time, affordable health coverage for millions of people who don't have it. And an additional goal of the bill I would say is to, in the marketplace, the last remaining market where people have been denied coverage -- because about a quarter of the people who seek insurance can't get it at all, medically underwritten, denied because of a pre-existing condition -- where they have an opportunity to move forward.

And if there's some frameworks that you have in mind -- what I really want to do is get the program up and running and get information to people about how they can take advantage of the --

SEN. TOOMEY: The program as it's designed -- the bill as it's designed does not honor these promises. Let me ask this: The grandfathering clause we all know as so many exceptions that many plans are simply not grandfathered. Are you willing to re-examine the exceptions to the grandfathering clause so that more plans could be actually grandfathered?

SEC. SEBELIUS: Well, I don't think grandfathering prospectively can work very well since companies are now in the market with an array of new plans. Many have actually added consumer protections in the last three-and-a-half years. As you said, the regulation came out shortly after the bill was written. It provided a framework.

We've been working with insurers as they looked to what plans they would put in the new marketplace, what plans they would keep in place. And the grandfather clause has been part of that ongoing discussion.

SEN. BAUCUS: Thanks, Senator. I think we're going to have to move on here. Thank you very much.

Next is Senator Cantwell.

SENATOR MARIA CANTWELL (D-WA): Thank you, Mr. Chairman.

Secretary Sebelius, I know you've probably seen lots of headlines. I don't know if you've seen this headline: Thousands face delay in health care enrollment. Over 100,000 uninsured workers will be unable to sign up for subsidized health coverage as of October 1st.

The reason why I'm asking you about that particular headline is because it's from the Boston Globe, August 3rd, 2006. And in that case, we do know the rest of the story. The rest of the story is that the governor of Massachusetts, Patrick Deval, estimated that only 123 consumers signed up in the first month, but eventually, tens of thousands did, and now, today, the state has nearly universal coverage. They went from 1 in 4 people have insurance -- I'm sorry -- to -- uninsured being 1 in 4 to now being 1 in 10.

So we know what that results were, and so, to me, it's a reminder of what our goal was, which was to address the notion that double-digit increases in insurance rates were preventing people from getting insurance coverage. So to me, the issues of the website and software, since it's part of a background I've had before -- I mean, to me it's about writing code and getting things tested, and it's very, very frustrating, for sure.

In my mind, it nowhere near resembles something like the blowout preventers failing and oil gushing into the Gulf, and us struggling for months and months and months to get a scientific way to clean up that resource. In this case, it's about just getting the code right and making it work and making it function. In that case, Governor Romney asked for a -- and got a three-month delay.

I'm not necessarily asking you to comment on that; I know the chairman asked you to comment on that, but I think there is no shame in pushing out a date based on technology. So that's my opinion. And I want to note that Washington state's own experiences -- and obviously, more positive -- and one of the issues that was cited in local press was this issue of not having people have to sign up, you know, to enter the site to get data -- as they called it, the Amazon model. And I'd like to get your comments about that.

And then, I want to get your comments, too about this issue of a -- this individual market and cancellations. I mean, one 2004 report said that in the individual market, only 17 percent of people keep their plans on an annual basis. So obviously, there's a huge amount of (churn ?) that goes on in that individual market. And maybe we don't have a number or answer today, but it would be great to get that data. And if we have to get it from insurers, we should have a number about what that annual churn rate has been for the last decade, because my sense is that we are probably following that pretty closely today.

And so, some people are saying what has been a normal churn in the individual market and trying to cite it as the -- you know, the end-all-be-all problem with this, and I think we need to have a better understanding. So if you have any way to shed light on either of those two issues.

SEC. SEBELIUS: Well, Senator, I would say, with the discussion of the individual market, the data, again, that continues to be cited is our projection of what would happen with the Affordable Care Act -- is actually a look back at the market, that somewhere between 40 and 60 percent of people turn over on a regular basis. Individual market contracts for insurance are one year; so it is not unusual to not have the same policy or the same practice a year later. They are not a continuous work benefit.

The individuals who are in the market want to get insurance -- that -- they don't have workplace insurance; they're not Medicare eligible, they're not a veteran. They want insurance, and often struggle with not only price increases at about 16 percent a year were the average, but everybody's medically underwritten so that any illness, disease could block you from the market in the first place, or certainly put you in a pool that could skyrocket and lock out.

The protections that the Affordable Care Act added to the individual market -- the last market without consumer protections -- are the very one that every worker in a small group plan enjoy or in a work site enjoy. You can't be locked out because of a pre-existing condition; you must be offered the policy.

You actually are in a risk pool, so your own disease profile doesn't determine your rates. That's really what is happening with that market. But the -- more than 50 percent of the people are not in their policies for a year. A third are there for only six months. It is a very volatile, very expensive, very unprotected marketplace for way too many folks.

SEN. BAUCUS: Thank you, Senator.

Senator Rockefeller.

SENATOR JAY ROCKEFELLER (D-WV): Madam Secretary, I have watched you today, and I've watched you being eviscerated over in the House, calls for your resignation -- not your head, but your resignation have emanated from this distinguished panel. And it all makes me want to just say some things.

Number one, I attach some importance to the fact that this bill, which was crafted, a lot of it in the Finance Committee, a lot of it (out ?) but all open and in public, that when it came to the floor, there was not single Republican who voted for the plan. This was two years ago, maybe a little bit more. And I'm trying to ask myself, how could that be possible?

Senator Isakson was asking about rural Georgia as I would ask about rural West Virginia. And last Saturday I was at a -- at a rural health center in a very isolated part of West Virginia, and it just casually occurred to me that there was about \$10 billion in the bill to create about a thousand new rural health centers all across America. Does anybody know that? I don't know think in West Virginia, and I don't think generally.

And I'm stunned by the prospect of, let's say, a hundred million people being uninsured or underinsured, that the president makes a couple statements that perhaps he shouldn't have made, and then that becomes a whole argument, all the letters -- you know, I was promised this, I was promised that.

And I'm trying to think of all the benefits that come from this. And I worked very close -- the chairman knows I worked very, very closely with him and others on this bill in the Finance Committee to produce it. And I think it's a magnificent work. My people in West Virginia don't necessarily share that view right now because I think they had the problem that so many others have that they simply don't know what's in the bill, and they -- and because of the absolutely maniacal, really admirable, but maniacal Republican attack machine, including on the television -- I mean, this has to be the worst thing that ever happened to America.

And then I look at the bill, and I said, you know, this -- as you said, we're the only country that doesn't do something like this. And we've done it very well -- (inaudible) -- going to get insurance and that the underinsured are going to get insurance, and actually, it's only I think, what it was, 80 percent of consumers change their plans every two years, you actually indicated it might be a little bit more than that.

The Republicans, talking about provider shock, saying people won't be able to keep their doctors, an argument which in many cases is almost comical in its being so far-fetched when you consider that the Affordable Care Act is designed to help people who did not have health insurance, and therefore, almost by definition, did not have any regular primary care physician.

But taking every single possibly dark attack -- (inaudible) -- taking two statements, taking the website, which is frustrating to all of us -- but if there is anything that can be worked, it certainly would be the website; it's a technology matter, and that will happen. I'm not for delaying, unless it be -- unless they can't fix it in time, in which case then I think maybe a penalty or something should be lifted.

But I'm incredibly proud of the bill, and I'm incredibly proud of you and Marilyn Tavenner, you know, going before committees and getting eviscerated, but standing your ground and knowing exactly what you've done, far more than most of us and certainly far more than most of those who are viciously making a political attack.

That's -- that's risen in the last five years among the tea party, with the Koch brothers and all the rest of it.

You can really sour people on multiple television ads, it's not that hard to do, scare people, sour people, give people a chance to -- like, you know, I want your resignation handed in today. Those things are so totally unrelated to the tragedy of underinsured or uninsured Americans, which this bill sets out to successfully, over a period of years, actually solve their problems.

People never talk about tax credits. Businesses, little small businesses, they keep -- you know, people saying they're desperate about it, and the fact of the matter is that, you know, they get 35 percent of their tax credit -- of the premium paid by tax credit in the first year, and after that I think it's 50 percent of the premium on a permanent basis. You never hear that. You never hear that.

So this is not so much a question, but a statement of sadness about the ability of a -- of the upper body, the so-called -- the cooling body, with the cup and the saucer, that sort of routine -- that we can be so maniacally political that we just seek to destroy, and forget the agony that people are going through, which this bill will cure.

SEN. BAUCUS: Thank you, Senator, very much.

Senator Carper.

SENATOR THOMAS CARPER (D-DE): Thank you, Madam Chair -- Mr. Chair.

Madam Secretary, welcome. Thank you for joining us today.

Others of my colleagues have shared with us headlines that they've noticed recently or in the past as they relate to implementing health care changes, and I just want to add to that. I asked my staff to dig up some headlines as well, and they did. They came up with one that was, "OY, F" -- as in "Foxtrot" or "Failure." Another is, "Not Ready for Prime Time." Another headline was, "Confusion Reigns." A fourth headline was, "Doctors and Pharmacists Say Some Will Die."

And as you might guess, those weren't headlines from this month or last month; those were headlines from six or seven years ago when we were implementing Medicare Part D, which I voted for. I was one of 11

Democrats that voted for it. And was it perfect? No. We had problems. It had a huge doughnut hole. A lot of people fell into it, means that after they'd bought roughly \$3,000 worth of pharmaceuticals in a year, the next \$3,000 or so they didn't get any help from Medicare. And a lot of people stopped taking their medicines, got sick, got sicker, went to the hospital; it cost a lot of money.

And with the Affordable Care Act, we actually went back and fixed a problem -- (inaudible) -- actually the fix paid for by the pharmaceutical industry. We fixed a problem that was in place created by the original George W. Bush proposal, which I supported.

We're hearing a lot of lament about folks -- understandably, about folks who -- (several ?) million people who apparently are not going to be able to continue with their insurance policy. Maybe it is a substandard policy. I will just say as we try to work and help those folks, let's keep in mind this. A lot of people in this country, too many, hundreds of thousands of people -- they call my office, they call all our offices -- they have policies that aren't worth the paper they are written on. And we need to be concerned about those.

We need to be concerned about the, I think, I don't know, 2 (million), 3 (million), 4 million young people who today would not have any health insurance because they've aged out. They were 22, they were 23, they're 24, they're 25, and today they have coverage. And I would have us keep them in mind, as well.

I'd have us keep in mind the millions of people over the years who've actually lost coverage -- they had coverage but they lost it because of pre-existing conditions. They lost it at a time when they needed it most of all.

And as we work to try to address the concerns by a couple million people, sadly, who are not going to be able to keep the policies that they want and are facing large increases in premiums, that's a problem and we need to try to help them and try to fix that. But at the same time, let's put this in perspective.

The other thing we need to put in perspective is this. Over in Japan, they spend half as much for health care as we do. They spend 8 percent of GDP; we spend 18 percent. They get better results. They cover everybody. And last night when people went to bed in this country, 40 million people went to bed without any health care coverage at all, and we're trying to do something about it.

And I lament the fact we had -- in this committee, in the end the Republicans were unable to work with us, and it was sad. God knows, Chairman Baucus tried hard enough. We had three Republicans in that scrum that lasted forever trying to get to TS (ph). But in the end, in the legislation, the law that was signed by the president, it actually has a couple good ideas that are Republican ideas.

So some good stuff from the Republicans came in, found their way into the law in the end. And one of those was the idea of the large purchasing pools. We call them the exchanges.

And that's not a necessarily Democratic idea. I think it was a Republican idea, if I'm not mistaken, to Hillarycare. It was the Republican alternative. It was taken out -- (inaudible) -- and tried to actually incorporate it and make it work. It's a good idea. The idea of the individual mandate, that's -- as I recall, that's I think a Heritage Foundation idea that Governor Romney embraced and is part of the law in Massachusetts.

Let me -- let me just ask -- (inaudible) -- kind of looking for it. We had, I think, roughly 10 hearings -- congressional hearings just before the implementation of the law -- since the implementation of the law on October 1st. I think when we were doing this six, seven years ago, I think we had two hearings. I think maybe the first one was four months after the program was implemented.

And we decided back then not just to harangue and harass people who were trying to implement the program. We should just let them do and then we'll bring it in for a hearing sort of after the fact and say

what went wrong and what went right. And that's what we need to do here. Here's my question: What can you report to us today on the progress with repairing the federal exchange? What improvements have the Americans seen with the exchange within the last month? What can we see in the next several weeks?

SEC. SEBELIUS: Well, Senator, I think there -- I'm the first to admit that the rollout has been excruciatingly awful for way too many people. A lot of people couldn't get in the site in the first place. And then when they were able to access the site, screens would go down all the time, they couldn't get from place to place. I would say that those are the two primary areas of focus.

And we are in a continuous improvement era where on a very regular basis with a very rigorous schedule of improvements were adding hardware and software to fix the functionality, getting people from place to place, increase the speed and make sure we are able to handle the volume of people who clearly want to use and access the site on a regular basis.

So there have been significant improvements. We are not satisfied at all where we are now. We are committed an end of November experience that is significantly better on volume and speed and reliance and making sure we get to people. And we have a very specific plan to go back and reinstate people back to the site who started at one point along the way and may have been frustrated that they gave up.

We don't want to do that until we're sure that their experience will be significantly better than it was the first time. We know that a lot of young folks have little patience with any technology that doesn't work instantaneously. So that audience is particularly important to get a very highly functional site up and running. And that's exactly what we're doing.

SEN. BAUCUS: Thank you, Senator, very much. Appreciate it. Now I'll turn to the most patience member of this committee, Senator Burr.

SENATOR RICHARD BURR (R-NC): Thank you, Mr. Chairman. Secretary Sebelius, thank you for being here. Yesterday Administrator Tavenner testified on the security testing for healthcare.gov, which was broken down into testing for the hub and for the federally facilitated marketplace system. She testified that there had been no end-to-end testing on the federally facilitated marketplace.

In fact, she approved a September 27th memo that -- to move forward with issuing the authority to operate. The memo specifically noted this, and I'd like to quote it. Quote, "from a security perspective, the aspects of the system that were not tested due to the ongoing development exposed a level of uncertainty that can be deemed as high risk for the federally facilitated marketplace system." Yes or no, were you aware of that memo?

SEC. SEBELIUS: I was made aware of it recently. I did not know that the memo existed in September.

SEN. BURR: How many times did you and Administrator Tavenner talk about the security aspects and specifically this decision to move forward with the authority to operate?

SEC. SEBELIUS: We did not discuss the authority to operate.

SEN. BURR: Did you at any point notify the White House of the security concerns that existed about the exchange?

SEC. SEBELIUS: I would say that there were conversations, Senator, about risk --

SEN. BURR: Did the White House know that there had been --

SEC. SEBELIUS: -- in terms of a new system up and running, but I did -- I was not aware of this and I did not have these discussions with the White House because I wasn't aware of them.

SEN. BURR: Did the White House know that there had been no end- to-end testing of the security aspects of the exchange?

SEC. SEBELIUS: I think the White House was aware of the operational issues involving end-to-end testing, and I don't know the specifics of -- again, I did not have the discussions about this authority to operate issue with the White House.

SEN. BURR: You testified last week in the House that it was the law that made you stand up the exchange on October 1. In fact, the statute as I read it, it requires enrollment to start. It does not require the exchange to stand up. Were you given different legal advice within HHS?

SEC. SEBELIUS: Senator, what the law says is that benefits started on January 1st. The law also said that the secretary shall designate by regulation a date of open enrollment and that that regulation needed to be promulgated by -- I think it was June of 2013? And --

SEN. BURR: Correct. But that did not require you to stand up the website. It required you to open enrollment.

SEC. SEBELIUS: Well, open enrollment, yes. And a significant portion of open enrollment was the web -
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SEN. BURR: Well, let me ask you. If Administrator Tavenner had not done the authority to operate, if she had not signed it, the exchange wouldn't have stood up on October 1, would it?

SEC. SEBELIUS: That's correct. But a short-term temporary authority to operate was done specifically because she had advice from her senior IT end operations team, as well as well as the contractor --

SEN. BURR: So it wasn't the -- it wasn't the statute that made the website stand up on October 1, was it?

SEC. SEBELIUS: Open enrollment began, and a significant part of open enrollment was the website.

SEN. BURR: Open enrollment -- OK.

Administrator Tavenner testified yesterday that the estimated target enrollment number for the end of November was approximately 800,000. And I know that your plans are to release next week that update through last month. When you release that, do we have your assurance that you will break that down so that you'll show whether individuals shows Medicare or private plans, bronze, silver, platinum levels, and a state-by-state breakdown?

SEC. SEBELIUS: I can tell you, Senator, that we'll be able to delineate between -- my understanding, because that's what they're still trying to determine, is how many metrics we can give. We certainly will have a state breakdown. We certainly will have a differentiation between private coverage and Medicaid coverage. We intend to give you as much information as we can validate. I don't know that we can delineate the levels of the plans that --

SEN. BURR: And what is -- what is the October through the end of December target enrollment?

SEC. SEBELIUS: Senator, there are all kinds of different target enrollments that -- I think there was a memo internally that called for about a million people to be enrolled through December, but I really -- we're updating those targets. I can tell you our early enrollment numbers are going to be very low.

SEN. BURR: OK. In an effort to set the record straight, Mr. Chairman, the secretary's highlighted, as have others, that premiums seem to be lower than CBO projected. When CBO made their projections on premiums, CBO made some assumptions because health care cost is directly linked to GDP growth. And the assumptions that CBO made was that we would have GDP growth in 2011 of 3.5 (percent), in 2012 and 2013 of 4.7 (percent). The reality is that GDP growth was 1.8 (percent) in 2011. It was 2.2 (percent) in 2012. And it looks to be under 2 percent in 2013. So I think it's actually hugely disappointing that in fact premiums have now gone up so far because we've had relatively anemic growth in the United States. But there is incredible assumptions that were made for GDP growth by the CBO that went into their estimates of insurance premium costs.

Madam Secretary, I thank you.

SEC. SEBELIUS: Well, Senator, I would just comment that in terms of the overall -- the underlying health cost growth for the private insurance market, the public insurance plans, the first year or two after the president signed the Affordable Care Act, there was a lot of assumption that the very slow rate of cost increase was due principally to the recession. Most health economists have now concluded that there are significant cost restrainers that were part of the Affordable Care Act that actually are having a very positive impact on our health care spending, on Medicare spending, which has grown at the slowest rate in 50 years.

Medicaid spending nationally went down last year overall. And private health insurance rates -- again, since the Affordable Care Act were passed, have been at the slowest cost increase that has been seen in decades.

So there is now a conclusion that some of the provisions written into the bill about delivery system changes, payment changes, different ways to measure quality outcomes, some of the Medicare issues, have lowered costs.

SEN. BURR: And I'm sure all of the -- I'm sure all of these were included in the Manhattan Institute when they completed an analysis of 49 states and found that, on average, premiums in the individual market increased by 41 percent under "Obamacare." And in my state of North Carolina, the Manhattan Institute estimates that the average increase is 136 percent higher under the Affordable Care Act.

SEN. BAUCUS: I thank --

SEN. BURR: I thank the chair for his --

(Cross talk.)

SEN. BURR: Thank you.

SEN. BAUCUS: Madam Secretary, I think a couple of senators would like a couple more questions.

Senator Hatch.

SEN. HATCH: Well, I won't keep you very long, Madam Secretary. Did I misconstrue -- you said that you felt there would be not a lot of people sign up between now and the beginning of the next year.

SEC. SEBELIUS: No, sir. I said that the enrollment numbers, which we will release next week, which will be the first month of enrollment --

SEN. HATCH: Right.

SEC. SEBELIUS: -- are likely to be quite low, given the struggles that people have had getting access to the site and getting information.

SEN. HATCH: Well, do you expect the numbers to be very high during the month of November and December is, I guess, my question.

SEC. SEBELIUS: Well, I'm hoping that with the site improvement we'll see more robust numbers, but until the site is fully improved and we really kind of open up the doors wide to a lot of people, we're going to have I think a struggle getting significant numbers --

SEN. HATCH: Sure.

SEC. SEBELIUS: -- to sign up.

SEN. HATCH: I'm not trying to put you on the spot but I --

SEC. SEBELIUS: No, I'm --

SEN. HATCH: -- but what I -- what I -- it comes back to my original concern. Why is it so difficult to put this off until we have it up and running, running right, with the right kind of security so that people's personal and private information is not subject to fraud and these fraudsters that naturally come into the system, because we're not prepared.

SEC. SEBELIUS: Again, Senator, I would say that the site has met the highest standards of security for federal government sites. We have taken great care, again, not to store personal -- personally identifiable information in the hub. We have met -- the testing is going on 24/7. As each piece of software is added, we need to continue to test the site.

And that's part of why we have a temporary authority to operate and not a permanent one, because until all the pieces of the system are fully installed and then you can do end-to-end testing at the very end -- but that won't be for a while. So we -- the mitigation strategies are in place. It's ongoing. It's daily. And we take privacy and security of the American public very, very seriously.

SEN. HATCH: But don't they have to give their personal information -- Social Security number, their earning -- what their income is, family income is, et cetera?

SEC. SEBELIUS: When they --

SEN. HATCH: And isn't that put into the system?

SEC. SEBELIUS: When they hit the hub, Senator, that is actually referred back to databases in Social Security and Homeland Security and in the IRS. The federal marketplace will retain application information in case there need to be subsequent determinations.

SEN. HATCH: My question was, don't they have to give that kind of information now?

SEC. SEBELIUS: For the application, yes.

SEN. HATCH: See, that's what I'm worried about, is that -- if we don't watch this and if we don't have a fail-safe system -- and you pretty much admit you don't have a third-party testing unit in there trying to make sure that this works --

SEC. SEBELIUS: No, we do have a third-party testing unit.

SEN. HATCH: And who is that?

SEC. SEBELIUS: They've tested -- MITRE is the contractor that does the third-party testing. It tested prior to going live in October. They did sign off on going live in October. They are continuing to test. We have a security team who is monitoring and performing weekly testing of border devices, conducting daily scans of the monitoring tools, and they will conduct a full security test in a stable environment when the entire site is loaded.

But we don't have the Spanish website up yet. That's an additional piece that will be coming. The shop website is coming. You can't do the end-to-end testing until the entire system is stood up. But that testing is going on every day.

SEN. HATCH: But that's again -- that again makes my case that we shouldn't be getting into this until it's all set up. It would be better, it'd be safer, be more protective of people's rights and their personal information. And I guess what I'm saying is I think you do need an independent testing agency that isn't a hired contractor to do this.

But, you know, I -- I'm just -- I just wanted to raise these issues. I know this is very difficult for you, and I appreciate you testifying here today. And I hope you will answer our letters when we send them to you, because I've had letters out to you that I've never got any answers on. And look, we're not in it to just give you a rough time; we're in it to try and hopefully get it right.

SEC. SEBELIUS: I would love to work with you to get it.

SEN. HATCH: Thank you.

SEN. BAUCUS: Thank you.

Senator, I -- that's the main point of this whole hearing is to get it right. And you just heard Senator Hatch, the ranking member of the committee, say he wants to work with you to get it right. I mentioned in my opening statement that I -- and I'm speaking for at least a majority of this committee -- want to help you get it right.

But it's a two-way street. You got to tell us what's working and what's not working. American people strongly believe in transparency. We do in this committee. And the more you don't tell us, the greater the problem is going to be. The more you do tell us, the good, the bad, the more likely it is that we're going to get this right at an earlier date. I -- don't wait until the end of October before telling us, uh-oh, we're not going to be up and running -- excuse me, end of November -- up and running 1st December. Work with us. This is the law. We want to do this right.

And there are many points in the law that are not -- that are so meritorious that have been brought out. One is I do believe strongly -- I mean, feature of this law to reduce the rate of growth of health care costs in this country. We move more toward, you know, delivery assistant reform, you know, all the parts of that, you know, bundling, the (ACO ?), et cetera. In addition to efforts by private entities to control the costs, we're making headway. Some -- one senator mentioned that, you know, Japanese health care costs are, what, 8 percent -- administrative cost, about 7, 8 percent, the U.S. about 18. We have to work to get that 18 down and other problems with fee-for-service in this country.

So we want to keep working with you. Why? Because that's our job. (Chuckles.) That's -- we represent Americans. You know, we represent people all across this country, and they want this to work. They don't like the politics in this town. They don't like the carping, the sniping, the back-and-forth; they just want the doggone thing to work. And so let's work together to make it work.

SEC. SEBELIUS: I would welcome that. Thank you.

SEN. BAUCUS: OK. Senator Rockefeller.

SEN. ROCKEFELLER: Just one comment. Actually, there is another party that has to be -- have the attitude, Mr. Chairman, that you do, and that is the Republican Party in the Senate and in the House and the Republican National Committee and all of those people that are doing everything they can to destroy you, the president. And, you know, there -- obviously lots of speculations as to what motivation for that might be.

The -- they have to cooperate. In other words, I -- what the chairman is saying is that we will do everything we can. And he did everything he possibly could and was unable to on the floor of the Senate to get a single Republican vote for the bill. It's a -- it's a far-reaching, quite extraordinary bill. And I just want to add that they have responsibility to help as opposed to simply criticize a couple of statements that have been made.

SEN. BAUCUS: Thank you, Senator.

SEN. HATCH: (Off mic.)

SEN. BAUCUS: I (expected ?) you probably would answer that. (Laughter.) Therefore, Senator, I don't know if it's wise for you to make that statement.

SEN. HATCH: Look, I think this is a terrible bill. And that's not because it's -- I'm a Republican or a Democrat. I've worked as much on health care issues around here in the last 37 years as any number of people and, frankly, better than most. I have a desire to have things work.

But let me tell you, Senator Reid I think said it very well. They ask him, is this basically going to work? And he basically said that it's just a step on the way to a single-payer system, meaning a one-size-fits-all government-run system -- federal government-run system.

That's what worries Republicans, and I think it worries (good ?) Democrats, too. And I'm very concerned about this going into a socialized medicine situation where we really, really can't control the cost, can't control the system, and we denigrate the system instead of helping it.

So naturally, I'm concerned about it, and I think a lot of Republicans are concerned about it, and I even know some Democrats are concerned about it. This is not a simple bunch of political hacks working at it; this is -- this is a very serious set of problems.

I don't envy you -- to be in your position and have to answer all these questions and have to be the front person in trying to make this thing work. All I can say is that, yes, I'll try to help make it work if I can, but I don't think it's going to work, and that's the problem -- and without costing America an arm and a leg and without really taking peoples' health care away from them.

So -- but I think there are sincere people on both sides who would like to solve our health care problems in this country. And just think about it; the president said 85 percent of America had health insurance they were satisfied with. Why didn't we just work on getting the 15 percent to have the health care that they need

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SEC. SEBELIUS: That's exactly what -- (inaudible) --

SEN. HATCH: -- rather than -- (inaudible) -- the whole system and have all these problems that aren't going to go away very quickly, and may never go away.

SEN. BAUCUS: OK, well, senators -- thank you both very much, but let's remind all of us to keep our eye on the ball, and the ball that we're keeping our eye on is, get this thing working. That's the charge for the day.

Given the level of interest, I just want to indicate that all the senators will have a week to get their questions in, Madam Secretary, to you, and I urge you to respond immediately to those questions so we can keep moving ahead.

Thank you very much. Hearing's adjourned.

(Sounds gavel.)

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