

should be. We are simply saying that, just as there are some who might say: I don't think there should be any private sector involved in health care, it should all be public—and many people think that is not the right view, as I know my friend from Kentucky does—many of us think it is just as wrong to say it should only be the private sector. Let's see who does a better job. Let them compete in the marketplace.

My view is this: There has to be a level playing field. You cannot give the public option such advantages that it overwhelms the private sector. The proposal that I have made and that others are looking at—Senator BINGAMAN is one; my friends in the House, Congressman WELCH and BRADY and MURPHY—is to try to make the playing field level. The government won't just keep pouring money into the public option. It sets it up and then it has to compete. If the private sector needs reserves—God forbid there is catastrophic illness everywhere—then so will the public option. I am certain those of us who are interested in a public option are very interested in suggestions as to how to make the playing field level. But make no mistake about it, the public option is a different model. The public option will not have to make a profit. That is about 10, 12 percent. That money will go to health care for the patients. The public option will not have to merchandise and advertise. That is often 20 percent. So right off the bat, the public option has the same level playing field but has 30 percent of its revenues that can go to patient health care.

My friends on the other side say: Well, the public option isn't very efficient; it doesn't give enough direction, and direction to the right person, to cure this disease but lets people go all over. Well, if it is not, it is not going to work.

You know, if I were designing a health care system, I would even look carefully at single payer. I believe we do need control mechanisms, and I think the insurance companies themselves, no matter how we try to regulate them, will figure out ways around them. That is almost their mandate because their goal is to maximize profit. There is nothing wrong with that. But we are not going to get single payer here. We know that. And we are probably not even going to get something called Medicare For All, which would be a much more pure system that would not be, frankly, a level playing field. But just as we have to compromise and move to the center a little bit to get something done, so do my colleagues on the other side of the aisle. Again, when they say no public option, it is the inverse of saying no private insurance companies. Let's see who does better in this exchange.

My view is this: The public option will have certain advantages. It won't have to make a profit, it won't have to advertise and merchandise. But on the other hand, it is going to have certain

responsibilities. When DICK DURBIN's friend from Springfield can't get insurance from a private company, the public option will be there, and that may be somewhat more expensive for them. Admittedly, we are going to try to pass laws to say the private insurance company has to keep DICK DURBIN's friend, the small businessman who is paying for his own insurance, without a huge increase in cost. But if you believe, as I do, and I think most Americans do, that the private insurance company is not going to embrace this and say: Gee, this is great, this is costing us a ton of money and we have to report earnings for our shareholders, and we will try to find ways—there will be an intention of not covering people like that, and the public option will step into the lurch.

So this is a different model, no question about it. It is not just another insurance company that happens to be public. But it will be a level playing field. There will be a playing field where the private insurance companies will be under certain rules and the public option plan will be under certain rules. If the private company has to leave reserves, the public company will have to leave reserves. No one is seeking to unlevel the playing field, but we are seeking to keep the insurance companies honest. A public option will bring in transparency. When we know what the public option has to pay, we will say: Why isn't the private insurer paying the same? A public option will keep the insurance company's feet to the fire.

That is why President Obama feels so strongly about it. He said so in his letter. My friend from Iowa, Senator GRASSLEY, said he is just being political. I don't think so. He knows the public option will work well. Maybe after 3 years, the public option fails and isn't needed. Fine. Fine. But I don't believe that will happen. But we are not going to, in the public option, just keep putting more and more government money in until it wipes out the insurance companies. That is not the intent. The intent is to have a robust market, such as we have in other States and some of the Federal systems, where many different plans compete, and one is a public option. There might also be co-ops, such as my friend from North Dakota has been advocating, but there will be plenty of private insurance companies.

I would say one other thing. My friends on the other side of the aisle say: Well, why can't we just have the private insurers compete and offer a whole lot of plans? We don't have that in the vast majority of States right now. We have a system where any private company can sell insurance. But in more than half our States—and I believe this statistic is right, but I will correct the record if it is not—the top two companies have more than 50 percent of the market. There is usually not unvarnished competition when you just leave it up to the private insurance companies but, rather, an oligop-

oly. And we all know what happens when there is not real competition: Price setting occurs. Price leadership is what the economists call it. Nobody tries to undercut on price. We have seen this with the oil industry, for instance, with our five big oil companies, and you don't get the kind of competition you would from a public option, even if there were only one or two insurance companies competing.

In conclusion, I would ask my colleagues on the other side of the aisle to, A, be openminded. We haven't said no this or no that. When you say no public option, you are saying we want to let the private insurance companies, under the guise of competition, run the show. And if you believe that will work, fine, but then you also should believe the public option won't be a threat to them. Some of us who are worried that, left to their own devices, the private insurance companies will not serve all or even most of the public as well as they should be served, are saying let there be the competitive advantage or the competition of a public option in a level playing field that has no particular built-in advantage but has a different model—no profit, no merchandising, no advertising, serve the patient first.

This debate will continue, but I would just say to my fellow Americans out there who might be listening to this, when you hear the other side say no public option, ask them: Then who is going to provide a check on the insurance companies? And do you believe the insurance companies, even with some government regulation, won't find their way out of the regulations or avoid the regulations or walk around them?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SCHUMER. The debate will continue, Mr. President, and I appreciate the opportunity to address my colleagues.

The ACTING PRESIDENT pro tempore. The Republican whip.

Mr. KYL. Mr. President, I understand the time for morning business has now reverted to the Republican side; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

#### HEALTH CARE

Mr. KYL. I thank the Chair.

Mr. President, I would like to address two subjects. The first is the subject my colleague from New York was just discussing, and that is what to do about health care issues we have in the United States. Specifically, I would like to refer to some comments that both he made and the assistant majority leader made this morning.

The first point I wish to make is that when the assistant majority leader came to the floor this morning and in effect said: Unless you agree with our solution, you don't believe there is a problem, that is a fallacy, of course. I

think everybody agrees there are lots of problems. The question is, What is the right solution? So we can all agree there are problems, but let's don't suggest that unless you agree with my solution or your solution, somehow or other we don't appreciate that there are problems.

We are frustrated and a lot of Americans are frustrated because they may work for a small business or they are unemployed and therefore they don't have insurance. It is not easy to take your insurance with you. It is hard to find quality, low-cost health care. This has to be a big priority for a lot of Americans. We all understand that.

Health care needs to be portable. It needs to be accessible. It needs to be affordable. I think all Americans want it to be quality care as well. The question is, How do you accomplish these goals?

One of the problems is, what if you have insurance and you like it? The President says, in that case you get to keep it. The problem is, under the bill that is being discussed in the Finance Committee, you do not get to keep it. If you are an employee of a small business, for example, or you are an individual with your own insurance, when your insurance contract runs out—and those contracts are usually 1 year, 2 years, sometimes as long as 3 years; let's say it is 2 years, and you are through the first year of it—the bottom line is, even though you may like it, at the end of next year when the contract runs out, you don't get to keep it.

Under the bill being discussed there is a new regime of regulation for the insurance companies about who they have to cover, how they cover them, what they can charge, and a whole variety of other regulations that mean that the policy you used to have, that you liked, does not exist anymore.

It may be you will be able to find coverage that you like, but it is simply untrue to say that one of the mainstays of the legislation being proposed is that if you like your current plan, you get to keep it. When your current plan expires, it expires, and you don't get to keep it because it cannot be renewed in its current form. That is point No. 1.

Point No. 2. We just had a discussion about government-run insurance. I find it interesting that some on the other side like to call this a public option, as if the public somehow or other is operating its own insurance company. Let's be clear about who would operate this insurance company. It is the U.S. Government. It is not the public; it is the U.S. Government. That is why Senator MCCONNELL has referred to it properly as government-run insurance.

The Senator from New York just got through saying: Who else is going to provide a check on the private insurance companies to make sure they do things right? The President himself has spoken about the need for a government-run plan to keep the other insurance companies "honest."

Insurance is one of the most highly regulated enterprises in the United States. Every State in fact regulates health insurance. This is an area that not only has some Federal regulation, but every State regulates health insurance. In fact, one of the reasons you cannot buy a health insurance policy from the State you do not live in—you can't go across State lines and buy a policy in another State—is because we are so jealous of the State regulation of insurance. So to the question of my friend from New York, who is going to provide a check, the answer is, your State. If you do not trust your State to properly regulate health insurance, then I don't know where we are. But you are not going to provide better regulation by commissioning a government insurance company to exist and compete right alongside the private insurance companies. How does that provide a check on the private insurance companies?

It is not as if there are not enough private insurance companies or they are not providing enough different kinds of plans, so that can't be the problem. It is not a matter of a lack of competition in most places. If the question is, who is going to regulate, the answer is, the State is going to regulate. To the extent it does not, the Federal Government is going to regulate. That is why, A, it should not be called a public option if what they are talking about is creating a government-run health insurance company, which is exactly what is being proposed in the only legislation put out there so far, the so-called Kennedy legislation in the HELP Committee. That is precisely what he proposes. Republicans say: No, thank you. We are not for that.

My final point is that the assistant majority leader said there are lots of other government-run plans, and we are not afraid of them. He mentioned Medicare and the Veterans' Administration. First of all, these are not government insurance companies, these are government-run programs. But, second, the President himself said, and everybody I know of who has studied the issue agrees, Medicare is in deep trouble. The President has said its commitments are unsustainable, meaning we cannot keep the promises we have made in Medicare to future generations because it is far too expensive. We have to find a way to get those expenses under control.

How is adding another 15, 20 or 30 million Americans to an existing program that is not sustainable going to make it any better?

My colleague talked about waiting lines. It may well be true we can find an example or two of people who have to wait in line in the United States. That is something we should not permit in the United States. We know that is what exists in other countries, and I will get to that in just a moment. Why does that justify having an expansion of a government program? If we

have a government program which causes waiting lines today, does it solve the problem by adding a whole lot more people to the rolls?

What is likely to happen? The waiting lines are going to get longer because more people are going to have to be waiting for care. Is that what we want in the United States of America? I submit not. So far from being a justification for a government-run program, I believe that argues for not having a government-run program, or at least not expanding the government programs we already have. A government takeover is not the answer. No country, even the United States, the most prosperous country on Earth, has unlimited resources to spend on health care.

That brings up the third problem, which is the rationing, the inevitable delay in getting treatment or tests and frequently the denial of care that results from that. When a government takes over health care, as it has, for example, in Britain and Canada and many places in Europe and other places, care inevitably is rationed. We all have heard the stories.

One of the most direct ways we can ration care is one that the White House has already embraced, and it is part of the Kennedy bill that I spoke of earlier.

The White House has said comparative effectiveness research, which would study clinical evidence to decide what works best, will help them eliminate wasteful treatments. Wasteful to whom? A recent National Institutes of Health project has a description of part of their plan that states, and I will quote:

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

Allocation of health resources is a euphemism for rationing. Allocation means to allocate, and inevitably there will be denial based upon those things which are deemed to be too costly.

As discussions about health care reform have dominated the news recently, stories have trickled out from individuals living in countries that ration care whose medical treatment has been delayed or denied due to rationing, and we are beginning to hear some of those stories. One that I came across was reported in the Wall Street Journal.

It was the story of one Shona Holmes of Ontario, Canada. When Miss Holmes began losing her vision and experiencing headaches, panic attacks, extreme fatigue, and other symptoms, she went to the doctor. An MRI scan revealed a brain tumor, but she was told she would have to wait months to see a specialist.

Think about this. She goes home and tells her family: The MRI said I have a brain tumor. I have all of these symptoms, including losing vision and the rest of it. But I have to wait months to

see a specialist—I gather, to confirm the diagnosis. I don't know. As her symptoms worsened, she decided to visit the Mayo Clinic in Arizona. So she left her home country, paid her way down to Arizona and paid for the diagnosis and treatment that was called for in her case to prevent the permanent vision loss and potentially death that could have ensued had she not been treated in a timely fashion.

A Lindsey McCreith, also of Ontario, was profiled in the same article to which I referred. Mr. McCreith suffered from recurring headaches and seizures. When he went to the doctor, he was told the wait time for an MRI was 4½ months. Think about this. You are having seizures and the test that will reveal what if anything is wrong is going to be delayed 4½ months. One of the reasons, I am told, by the way, is that there are very few places in Canada where MRIs are located, where you can actually get the test. In any event, he decided to visit a clinic in Buffalo, NY—fairly nearby—in order to get the MRI. He did and it, too, revealed a brain tumor. Now Mr. McCreith is suing the Canadian Government's health care monopoly for jeopardizing his life.

I wonder if we want lawsuits to be the answer. When you can't get the care you want, you have to file a lawsuit to get it? Is that what we want in America? I don't think so.

There are also people whose care has been flatout denied. Britain's National Health Service has denied smokers treatment for heart disease, and it has denied hip and knee replacements for people who are deemed to be obese. The British Health Secretary, Patricia Hewitt, has said it is fine to deny treatment on the basis of lifestyle.

[Doctors] will say to patients: "You should not have this operation until you have lost a bit of weight," she said in 2007.

That is easier said than done for some people. In any event, if they need a health treatment and they need it now, there is a real question whether they can accomplish the "losing a little bit of weight," as Ms. Hewitt said. All Americans deserve access to quality care, but government-run insurance does not equate with access. Rationing will hinder access.

As I said, my colleague from Illinois, the distinguished majority assistant leader, says you can actually find some examples in the United States where there are long wait times. If that is true—and I don't doubt what he said—that is not good; it is bad. We should try to fix that so we don't have wait times. We should not justify having more wait times on the fact that we already have some. We should not say because there are some people in America who have to wait, therefore we should make it possible for everybody in America to have to wait; we should be like Canada or Great Britain.

That is not the answer. If we have wait times here, we should stop it, not say that we, therefore, might as well be

like Canada or Great Britain. Americans do not deserve or want health care that forces them into a government bureaucracy with its labyrinth of complex rules or regulations.

Think about the hassles of dealing with the IRS or Department of Motor Vehicles or Social Security Administration when you have a problem there and then imagine dealing with the same issues when it comes to getting health care. We can't enable a panel of bureaucrats, through rules and regulations, to put the politicians in charge of deciding who is eligible for a particular treatment or deciding when or where they can get it. It is wrong for America, wrong for the patients in America, and it is the wrong approach to health care reform.

Republicans believe there is a better way for health care reform. Rather than empowering the government, empower patients. Rather than putting bureaucrats in between your doctor and yourself, try to remove the constraints that physicians have and hospitals have for treating people. Try to remove constraints on insurance companies.

One of the things I have asked for, for example, with all of these wonderful ideas about more government regulation of insurance is, how about repealing some laws that currently prevent insurance companies from competing? I mentioned before you can't compete across State lines.

We all know if you want to incorporate as a corporation—why are all the corporations incorporated in Delaware, "a Delaware corporation"? It doesn't matter whether you are in Illinois or Arizona, corporations are incorporated in Delaware. At least that is the way it used to be. One of the reasons is Delaware had very benign laws regulating the incorporation of businesses. It was cheaper to do it, and there was less regulatory hassle. But if the distinguished Presiding Officer, for example, looked across the river to the west and saw an insurance company in Iowa that could provide him with better coverage at less cost than the company that insures him in Illinois, why should he be restrained from buying the policy from the company in Iowa? You could buy your automobile insurance that way. You could buy your home insurance that way. Why should you not be able to buy your health insurance that way? Well, you can't.

I am going to conclude this discussion, but just one idea is to remove some of the barriers to competition that would make it more likely that insurance companies could expand their coverage by competing, be required to compete with lower premiums and/or provide better access to care. It seems logical, and in this country, where people move around all the time—my family just drove all the way across the country from Washington, DC, out to Arizona to visit friends and family and go on to California. We travel all around this country all the

time. We move families, unlike back in the old days. Why can't we have an insurance regime that enables you to buy insurance from another State? It does not make sense; it inhibits competition; it makes prices higher; and it can have the effect of restricting care. Those are the kinds of things we need to do to reform our system, not put more government in charge and not put government between you and what your physician says you need, or even put some time delay between the opportunity to visit your physician when you know you have something wrong with you.

We are going to have more discussion about this in the future, but I want to back up what Senator MCCONNELL from Kentucky has said. Americans don't want government-run insurance companies any more than they want government-run car companies. It seems as though the government is starting to run everything now—from the banks, to the insurance companies, to the car companies. Now we are going to run insurance companies as well for health care. I do not think that is what the American people want.

I think the Senator from Kentucky is exactly right. I think he is right when he says no government-run care and that we should not be rationing care. Those are two of the most critical aspects of the legislation Senator KENNEDY has come forth with and among the things being discussed in the Senate Finance Committee as well. We need to draw a line: Put patients first, not put the government first.

(Mrs. GILLIBRAND assumed the Chair.)

#### GUANTANAMO

Mr. KYL. Now, Madam President, since I think I have a little bit more time on the Republican side—though if I have colleagues who wish to speak, I will be happy to finish for the moment—I will go for a little bit longer on another subject.

We have had kind of a running debate on the question of closing Guantanamo prison. This is a subject the Senate has spoken on by an overwhelming vote. I think 90-some Senators voted not to close Gitmo. The American people are 3 to 1 opposed to bringing Gitmo prisoners into their State. They are 2 to 1, at least, in opposition to closing Guantanamo prison. This is not something on which there is a little bit of doubt. The American people are very much opposed to closing Guantanamo prison and bringing those people to their own States.

Nevertheless, the assistant majority leader and five other Democrats voted for the appropriation of money—or the authorization of money—actually, the appropriation of money to close Gitmo and acknowledge that would require bringing many of those people to the United States.

Well, I happen to agree with Senator MCCONNELL that this is a bad idea, and