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3 HEARING ON ``THE IMPLEMENTATION AND SUSTAINABILITY OF THE NEW
4 GOVERNMENT-ADMINISTERED COMMUNITY LIVING ASSISTANCE SERVICES
5 AND SUPPORTS (CLASS) PROGRAM''
6 THURSDAY, MARCH 17, 2011
7 House of Representatives,
8 Subcommittee on Health
9 Committee on Energy and Commerce
10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 9:30 a.m., in
12 Room 2322 of the Rayburn House Office Building, Hon. Joe
13 Pitts [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Pitts, Burgess,
15 Shimkus, Murphy, Gingrey, Latta, Cassidy, Guthrie, Barton,
16 Pallone, Dingell, Towns, Capps, Schakowsky, Weiner and Waxman
17 (ex officio).

18 Staff present: Clay Alspach, Counsel, Health; Howard

19 Cohen, Chief Health Counsel; Brenda Destro, Professional
20 Staff Member, Health; Paul Edattel, Professional Staff
21 Member, Health; Julie Goon, Health Policy Advisor; Debbee
22 Keller, Press Secretary; Ryan Long, Chief Counsel, Health;
23 Jeff Mortier, Professional Staff Member; Katie Novaria,
24 Legislative Clerk; Monica Popp, Professional Staff Member,
25 Health; Heidi Stirrup, Health Policy Coordinator; Kristin
26 Amerling, Democratic Chief Counsel and Oversight Staff
27 Director; Phil Barnett, Democratic Staff Director; Alli Corr,
28 Democratic Policy Analyst; Ruth Katz, Democratic Chief Public
29 Health Counsel; Purvee Kempf, Democratic Senior Counsel;
30 Karen Lightfoot, Democratic Communications Director, and
31 Senior Policy Advisor; Karen Nelson, Democratic Deputy
32 Committee Staff Director for Health; and Mitch Smiley,
33 Democratic Assistant Clerk.

|
34 Mr. {Pitts.} The subcommittee will come to order. The
35 chair will recognize himself for an opening statement.

36 The Community Living Assistance Services and Supports
37 program, the CLASS program, a government-run long-term care
38 insurance entitlement, was included in last year's health
39 reform law, seemingly as part of a budget process to make the
40 law look less expensive than it really is. Since
41 participants will have to pay into the program for 5 years
42 before becoming eligible for any benefits, CBO estimates
43 including the CLASS Act in Obamacare reduced the 10-year cost
44 of the legislation by \$70 billion. With CBO estimating that
45 the CLASS program will begin running a deficit by 2030, and
46 CMS' own actuaries estimating that the program will go into
47 deficit in 2025, a taxpayer bailout may look very attractive
48 to future Congresses, when premium increases and benefits
49 cuts can no longer make up the shortfall.

50 While Obamacare specifically prohibits using taxpayer
51 funds to finance CLASS, Congress can always pass a new law to
52 allow the practice. Additionally, Congress can redirect
53 funds from general revenue into the CLASS Independence Fund,
54 if it needs to.

55 The concerns about this program are not limited to
56 Republicans. In October of 2009, Senators Kent Conrad, Joe

57 Lieberman, Blanche Lincoln, Mary Landrieu, Evan Bayh, Mark
58 Warner and Ben Nelson sent a letter to Senate Majority Leader
59 Harry Reid asking him to strip the CLASS Act out of the
60 pending health reform legislation. They argued ``We have
61 grave concerns that the real effect of the provisions would
62 be to create a new federal entitlement with large, long-term
63 spending increases that far exceed revenues.'' And Kent
64 Conrad, the Democratic Chairman of the Senate Budget
65 Committee, famously called the CLASS Act ``a Ponzi scheme of
66 the first order, the kind of thing that Bernie Madoff would
67 have been proud of.''

68 More recently, on February 16, Secretary of Health and
69 Human Services Kathleen Sebelius testified before the Senate
70 Finance Committee and admitted in an exchange with Senator
71 John Thune that the CLASS Act is ``totally unsustainable.''
72 Those are her words.

73 It seems the concerns with the CLASS program are
74 widespread, and I believe we can all agree that we do have a
75 serious long-term care problem in this country as the costs
76 are driving people into bankruptcy and weighing down the
77 Medicaid program. We do need to address the issue, and the
78 private sector, which already offers long-term care products,
79 must be at the center.

80 [The prepared statement of Mr. Pitts follows:]

81 ***** COMMITTEE INSERT *****

|
82 Mr. {Pitts.} I now yield to my distinguished vice
83 chairman, Dr. Burgess, for the remainder of the time.

84 Dr. {Burgess.} I thank the chairman for yielding.

85 I too have concerns with the CLASS Act. I feel it is
86 not sustainable as presently drawn, and perhaps my biggest
87 concern is that it gives people the wrong impression of what
88 they now have under the Patient Protection and Affordable
89 Care Act. We heard multiple people testify back in 2005 when
90 we last looked into this that there was a concern that people
91 were anesthetized as to their requirements for having some
92 type of long-term care insurance, and I fear that this CLASS
93 Act does again give people the false impression that now the
94 government is going to pick up this expense, and in fact,
95 nothing could be further from the truth. And then of course
96 from the standpoint of employers, yet again another
97 Congressional mandate placed upon them.

98 The CLASS Act is not an answer in search of a problem.
99 We all know the problem exists. Unfortunately, this
100 committee last really debated long-term care and long-term
101 care issues in 2005. We never really got a chance to cover
102 it during the debates on the Patient Protection and
103 Affordable Care Act. It is just a fact of life: some of us
104 are going to get older. As we get older, the likelihood that

105 we will need some type of long-term care assistance grows,
106 and I have to tell you, I have got a long-term care insurance
107 policy. I bought it just after I turned 50, long before I
108 ever ran for Congress, and I didn't buy it because I read an
109 article in Health Affairs, I didn't buy it because I saw
110 something on C-SPAN that impressed me that I ought to have
111 it, I bought it because my mother told me if I didn't want to
112 be a burden on my children, I would attend to that while I
113 could.

114 So for some people, unexpectedly early in life, an
115 injury happens and well over 4 million people under age 65
116 are in need of such care. Nine million Americans over 65
117 need some type of long-term care. The care can be costly and
118 the segment that the government picks up through Medicaid is
119 an impressive number. A figure that was produced back in
120 2005 when we had hearings on this that if we could move a
121 third of projected seniors off of Medicaid into long-term
122 care insurance in the latter 5 years of the 10-year budget
123 window, which would be now, the Federal Government would save
124 in excess of \$150 billion, something that in fact could be
125 quite useful today.

126 The problem is hard. The answer is elusive. Market
127 knowledge is important but it can be confusing for the
128 consumer, but I believe with the CLASS Act, we have taken a

129 step in the wrong direction because we have given people the
130 impression that they now have something which in fact they
131 may not have.

132 I thank the chairman for the consideration. I will
133 yield back the balance of my time.

134 [The prepared statement of Dr. Burgess follows:]

135 ***** COMMITTEE INSERT *****

|
136 Mr. {Pitts.} The chair thanks the gentleman and yields
137 5 minutes to the ranking member, Mr. Pallone, for an opening
138 statement.

139 Mr. {Pallone.} Thank you, Mr. Chairman.

140 You know, Mr. Chairman, I have a great deal of respect
141 for you and also for Dr. Burgess, but I have to start out by
142 dispelling some of the things that both of you said. I mean,
143 first of all, I have to say, I am getting very frustrated
144 because it seems like almost every hearing is an effort to
145 repeal or debunk or defund something that is in the
146 Affordable Care Act and suggest that somehow it is not real,
147 and this is just another example of it. I mean, the CLASS
148 Act is very real. It is providing community-based services,
149 cash so that people can actually get community-based
150 services. It is real. It is not something that is fiction
151 that we are kidding people about. They will be paying into a
152 trust fund. They will get the money back when they become
153 disabled and need it go out and use that cash to buy
154 community-based services so they can stay in the community.

155 The other thing that really bothers me is that I don't
156 hear any alternatives coming from the other side. I mean,
157 Dr. Burgess correctly said that there is a real need for
158 long-term care and support services, and this he says is no

159 good. Well, what is the alternative? I don't hear it.

160 We made a concerted effort, myself, Mr. Dingell and the
161 late Senator Kennedy, who was the Senate sponsor of this
162 bill, to come up with a program that offers an alternative to
163 provide services for disabled Americans so they can remain in
164 their homes and in their communities. It was not put in as
165 an effort to try save money for the health care reform. We
166 have been advocates for this for many years. I am the
167 youngest of the three. I have only been here 23 years. Mr.
168 Dingell and the late Senator Kennedy were here for a lot more
169 years advocating for this legislation. It just happened to
170 be that there was an opportunity to move this in the context
171 of the Affordable Care Act, and we did it because we know
172 that there are 10 million Americans in need of long-term
173 services and that number is expected to increase to 26
174 million by 2050. Meanwhile, more than 200 million adult
175 Americans lack any insurance protection against the cost of
176 long-term services. As a result, nearly half of all funding
177 for these services is now provided through Medicaid, which is
178 a growing burden on States and requires individuals to become
179 and remain poor to receive the help they need, which is a
180 terrible way to operate.

181 So as Americans continue to age, we are faced with an
182 impending crisis in long-term care. The implementation of

183 CLASS offers a new approach that builds upon our existing
184 safety-net system and helps our elderly and disabled finance
185 the long-term they need to remain active and productive
186 members of their communities for as long as possible. Now, I
187 know this doesn't address nursing home care. I am fully
188 aware of that. But the need for community-based care is just
189 as important as a method of financing long-term care in the
190 nursing home. The nursing homes are paid for by Medicaid but
191 a lot of these services that people would be able to access
192 through the CLASS Act are not even provided by Medicaid.
193 That is why it is necessary. It is a voluntary self-financed
194 program designed to assist Americans who choose to
195 participate to proactively prepare for their future. People
196 are taking on responsibility, basically saying I want to
197 prepare myself, I am willing to take the responsibility. It
198 focuses on personal responsibility, ensures as many choices
199 as possible are available to those needing future services.

200 I know my Republican colleagues have concerns about the
201 program's sustainability and its impact on the budget
202 deficit, but to them I would say that the Secretary has the
203 tools she needs in the bill to make sure this program does
204 not grow into a new entitlement. The chairman said it is an
205 entitlement. It is not. In fact, the law requires that she
206 certify the program to be actuarially sound and deficit-

207 neutral. If anything, this program helps alleviate deficit
208 problems. As the CBO noted in its analysis, CLASS could save
209 Medicaid \$2.5 billion in the first 10 years, possibly
210 additional savings after that, and conversely, the CBO
211 estimates that repeal of CLASS would add \$86 billion to the
212 federal deficit. I continue to remind my Republican
213 colleagues, if you start repealing the provisions of the
214 Affordable Care Act, CLASS or some of the others, you are
215 going to increase the deficit, and I strongly believe CLASS
216 is an important step in the evolution of public policy
217 because it is a framework based on the principles of
218 independence, choice and empowerment. CLASS is about
219 ensuring you have the services and support you need to remain
220 independent members of society, which is what all of us want.

221 Now, I was going to yield to Mr. Dingell but I think he
222 is going to come later, so let me ask unanimous consent, Mr.
223 Chairman, to enter into the record a narrative essay by
224 Michael Ogg from New Jersey titled ``Running out of Time,
225 Money and Independence,' ' which I think powerfully
226 illustrates the realities of the current long-term care
227 environment.

228 Mr. {Pitts.} Without objection, so ordered.

229 Mr. {Pallone.} Thank you.

230 [The information follows:]

231 ***** COMMITTEE INSERT *****

|
232 Mr. {Pitts.} The gentleman's time is expired. The
233 chair recognizes the chairman emeritus of the committee, Mr.
234 Barton, for 5 minutes.

235 Mr. {Barton.} Thank you, Mr. Chairman. I am going to
236 yield some of that time to Dr. Gingrey.

237 Last April, a month after PPACA was signed into law, the
238 Centers for Medicare and Medicaid Services Chief Actuary,
239 Richard Foster, released a report entitled ``Estimated
240 Financial Effects of the Patient Protection and Affordable
241 Care Act.'' He estimated that by 2025, 15 years after PPACA
242 was signed into law, projected benefits of this program would
243 exceed revenues. CBO has estimated that benefits paid out
244 will exceed premium payments by 2030, and Health and Human
245 Services Secretary Kathleen Sebelius deemed the program as
246 being totally unsustainable. Let me repeat that, totally
247 unsustainable. Regardless of when this program is expected
248 to become insolvent, we need to examine the CLASS Act to
249 ensure that we are not creating another federal entitlement
250 program which will simply be a burden on our federal budget.
251 Last Congress, as the ranking member of this committee, I
252 asked then-Chairman Waxman to bring Mr. Foster in to testify
253 regarding this report and the sustainability of the program.
254 Chairman Waxman was not able to do that, so I am very glad

255 that Chairman Upton and Chairman Pitts have agreed to do in
256 this Congress.

257 With the state of our economy being what it is right now
258 and the massive debt that we are incurring, I think it is
259 imperative that we rein in spending in order to protect our
260 country's financial stability. Long-term care is a serious
261 issue, and I believe that myself and all Republicans are very
262 willing to support some sort of a program for long-term care
263 but it must be one which is sustainable and which is fiscally
264 responsible. The program that we have in current law is not
265 sustainable and it is not fiscally responsible. Therefore,
266 we need to review it and hopefully reform it.

267 With that, I would like to yield 3 minutes to Dr.
268 Gingrey of Georgia.

269 [The prepared statement of Mr. Barton follows:]

270 ***** COMMITTEE INSERT *****

|
271 Dr. {Gingrey.} Mr. Chairman and the gentleman from
272 Texas, I thank you for yielding.

273 Mr. Chairman, if we could stop the clock just for a
274 second to let me ask you a question? Are we each going to
275 get 2 minutes for an opening statement or not?

276 Mr. {Pitts.} No, we were just--

277 Dr. {Gingrey.} Okay. Thank you, Mr. Chairman, and I
278 thank the gentleman from Texas.

279 The CLASS Act attempts to address an important public
280 policy concern, the need for non-institutional long-term
281 care, but that is not why we are here today. We are here
282 today because the CLASS Act, according to CBO, the
283 President's own debt commission and even the Administration
284 is financially unsustainable and a potential time bomb for
285 the federal budget and our economy. To quote the President's
286 debt commission, ``Sustaining the program over time will
287 require increasing premiums and reducing benefits to the
288 point that the program is not able to accomplish its stated
289 function of caring for the sick and disabled.'' Absent
290 reform, the debt commission concluded, ``The program is
291 likely to require large general revenue transfers or collapse
292 under its own weight.''

293 To sum it up, the CLASS Act is a new entitlement

294 nightmare created by or included in, as the gentleman from
295 New Jersey said, Obamacare that when it fails it could harm
296 disabled patients that would depend on it as well as Medicare
297 seniors who are currently facing an unsustainable Medicare
298 program of their own. So Senator Conrad, current chairman of
299 the Senate Budget Committee, called the CLASS Act, and I
300 quote him ``a Ponzi scheme for the workers who are encouraged
301 to sign up. The perpetration of a Ponzi scheme requires an
302 ever increasing flow of money from investors, American
303 workers in this case, to keep this thing going and it is
304 ultimately destined to collapse.'' So my question is, is
305 Senator Conrad right? This country does not need another
306 Bernie Madoff fraudulent investment scheme, especially one
307 run by the Secretary of the Health and Human Services.

308 And I want to close with the debt commission
309 recommendation for CLASS. The commission advised the CLASS
310 Act be reformed in a way that makes it credibly sustainable,
311 and if that is not possible, we advise it to be repealed.

312 Mr. Chairman, I am not seeing anything that would lead
313 me to think this program can be made credibly sustainable,
314 and if I am not convinced otherwise after today's hearing,
315 and certainly we will listen carefully to the witnesses, I
316 will be dropping a bipartisan bill today with my good friend,
317 Dr. Charles Boustany, the gentleman from Louisiana, to repeal

318 this program once and for all, and I yield back.

319 [The prepared statement of Dr. Gingrey follows:]

320 ***** COMMITTEE INSERT *****

|
321 Mr. {Pitts.} The chair thanks the gentleman.

322 Mr. {Barton.} With that, I would like to yield to Mr.
323 Shimkus the remaining time.

324 Mr. {Shimkus.} Thank you, Mr. Chairman, Mr. Ranking
325 Member.

326 The national government is headed off a cliff. Our
327 budget consists of Medicare, Medicaid, Social Security,
328 interest on the debt and the discretionary budget. All are
329 following the actions of the Congress today just trying to
330 get to the end of a budget fiscal year. How in the world do
331 we add another entitlement to the mix? How do we take 5
332 years of revenue making promises that we can't fulfill?

333 This is a crazy process and I am glad we are having the
334 hearing, and I yield back.

335 [The prepared statement of Mr. Shimkus follows:]

336 ***** COMMITTEE INSERT *****

|
337 Mr. {Pitts.} The chair thanks the gentleman. The
338 gentleman's time is expired. The chair recognizes the
339 ranking member, Mr. Waxman, for 5 minutes.

340 Mr. {Waxman.} Mr. Chairman, today's hearing is about
341 much more than the nuts and bolts of the CLASS Program. At
342 its core, this meeting is about an issue that has touched
343 virtually every person in this room, public and private
344 alike, the indignity, the burden and the expense of long-term
345 care services and supports and our lack of a decent,
346 reasonable and accessible program for those in need of this
347 kind of assistance.

348 The problem has been with us for a long time, and it is
349 growing. With the aging of the Baby Boomers, the numbers
350 are, indeed, quite staggering, and I am sure we will hear
351 much more about that point from today's witnesses. But
352 rather than facing the challenge, we have pushed the problem
353 aside year after year, pledging to those in need that with
354 just a bit more time, we could get a good program in place.
355 And if the Republicans decide they want to repeal this
356 program, I would like to know what they are going to put in
357 its place. We still haven't heard what they want to put in
358 place for the health care reform that they want to repeal and
359 replace. We know they want to repeal. What do they have to

360 offer?

361 Almost one year ago, we tried to keep the promise. In
362 creating the CLASS Act, a voluntary, self-sustaining,
363 privately financed and beneficiary-driven effort, we set in
364 motion a process that will allow the elderly and the disabled
365 to be able to stay in their homes and in their communities
366 when they are no longer able to do so independently. Shame
367 on those who would take this promise away and put nothing in
368 its place.

369 Having said that, all of us who support the CLASS
370 program--members of Congress, HHS, advocacy organizations--
371 all readily agree that much work needs to be done before the
372 program is ready to go live in 2012. That is what the 2
373 years of preparation time and the Secretarial discretion and
374 flexibility provided for in the enacting legislation is all
375 about.

376 So let us get on with that task. Let us learn today
377 about where the program is and where the program is going and
378 how it plans to get there, and let us be assured that the
379 requirements of the law will, in fact, be met. But along the
380 way, let us not forget who and what brought us to this point:
381 the Tony Youngs of America--Tony, we are going to hear from
382 later, is one of our witnesses--their families, and the
383 discouraging and often devastating experience of simply

384 wanting to stay put and remain engaged and productive, and
385 being told that is not possible.

386 The CLASS program is designed to change all that. Let
387 us give the CLASS Act a chance and keep our promise to those
388 who have waited so long for meaningful reform.

389 I want to yield the balance of my time to Mr. Dingell.

390 [The prepared statement of Mr. Waxman follows:]

391 ***** COMMITTEE INSERT *****

|
392 Mr. {Dingell.} Mr. Chairman, I thank my good friend,
393 Mr. Waxman, for giving me this time, and I commend you for
394 having this hearing. Oversight is an extremely important
395 undertaking, and this will enable us to come to conclusions
396 as to what is the best thing for us with regard to the CLASS
397 Act and how it can best be made to enable us to serve a
398 terrifying unmet need for all of our people.

399 This is a proposal that was put into law, as you will
400 remember, by the ranking member of the Health Subcommittee,
401 Mr. Pallone, and by my dear friend, Senator Kennedy, and I,
402 and it is vital program and part of the health reform law.
403 It will fill an enormous unmet in our society: affordable
404 long-term care services and support for 10 million Americans
405 in need of long-term care now and some projected 15 million
406 Americans that are going to need that by 2020. Currently,
407 Americans in need of long-term care, whether they are
408 functionally disabled or elderly, find themselves with few
409 options, if any. Private long-term care insurance is
410 available but options are limited and costs are too
411 burdensome for many families. This legislation, the CLASS
412 Act, is not an entitlement program, it is a voluntary
413 program, and in our review today, if we will work together,
414 we can come up with an intelligent way of making it work and

415 be acceptable in terms of the budget constraints and concerns
416 that we have, and I call on my friends to approach it that
417 way rather than to seek to repeal a program which has so much
418 opportunity to help and benefit our people who have desperate
419 needs and their families who suffer.

420 Medicaid cannot continue to be the only affordable long-
421 term care service available to Americans, and I would call on
422 my colleagues to know that the CLASS Act enables people to
423 pay a part of their costs through premiums which they pay
424 prior to the time that they have needed the program. That is
425 an extremely important difference between it and Medicaid,
426 and my urging my colleagues on both sides of the aisle,
427 particularly the Majority, is let us work together to make
428 this a good thing, to make it work for all the people and to
429 stop some of this nonsense about fighting about legislation
430 when in fact we could work together to make things better for
431 Americans in a fiscally responsible and proper way.

432 I thank you for holding these hearings and I thank my
433 colleague for yielding me this time.

434 [The prepared statement of Mr. Dingell follows:]

435 ***** COMMITTEE INSERT *****

|
436 Mr. {Pitts.} The chair thanks the gentleman. The
437 gentleman's time is expired.

438 Mr. {Waxman.} Mr. Chairman, may I ask unanimous consent
439 that the statement from the Jewish Federations of North
440 America be inserted in the record?

441 Mr. {Pitts.} Without objection, so ordered.

442 [The information follows:]

443 ***** COMMITTEE INSERT *****

|
444 Mr. {Dingell.} Mr. Chairman, may I make a similar
445 unanimous consent request? The AARP has an excellent
446 statement which they have presented to me to ask me to have
447 it submitted to the committee by unanimous consent, and I ask
448 unanimous consent that that excellent statement be inserted
449 in the record.

450 Mr. {Pitts.} Without objection.

451 [The information follows:]

452 ***** COMMITTEE INSERT *****

|
453 Dr. {Burgess.} Mr. Chairman, may I ask unanimous
454 consent that our side could be allowed to see those letters?

455 Mr. {Pitts.} If you can pass those down, we will take a
456 look at them.

457 All right. We have two panels today, and I would like
458 to introduce the first panel at this time. Assistant
459 Secretary Kathy Greenlee was appointed by President Obama and
460 later confirmed by the Senate in June 2009 to serve as the
461 Assistant Secretary for the Administration on Aging, an
462 agency within the U.S. Department of Health and Human
463 Services. In January of this year, Assistant Secretary
464 Greenlee was designated as the Administrator of the Community
465 Living Assistance Supports and Services, more commonly
466 referred to as the CLASS program. Prior to joining the
467 Administration, she served as the Secretary on Aging in
468 Kansas and as the General Counsel of the Kansas Insurance
469 Department. In addition, Ms. Greenlee served as Chief of
470 Staff and Chief of Operations for then-Governor Kathleen
471 Sebelius.

472 Your written testimony will be entered into the record
473 and we ask that you summarize your statement in 5 minutes and
474 then be available for questioning. We look forward to your
475 testimony. The witness is now recognized for 5 minutes.

|
476 ^STATEMENT OF KATHY GREENLEE, ASSISTANT SECRETARY,
477 ADMINISTRATION ON AGING

478 } Ms. {Greenlee.} Thank you, Mr. Chairman.

479 Chairman Pitts, Ranking Member Pallone and members of
480 the subcommittee, thank you for the opportunity to discuss
481 the implementation of the Community Living Assistance
482 Services and Supports Act, or what we all commonly call the
483 CLASS Act.

484 Today, approximately 10 million Americans need long-term
485 services and supports ranging from having an aide visit for a
486 few hours a week to living in a nursing home around the
487 clock. As America ages, that number is rising steadily. By
488 2020, it is expected that 15 million Americans will need some
489 kind of long-term care. We know that one out of six
490 Americans who surpass the age of 65 will spend more than
491 \$100,000 on long-term care and far more will need less
492 extensive but substantial care. More than one of five
493 persons who enter a nursing home will spend down their own
494 resources and qualify for Medicaid after virtually exhausting
495 their savings.

496 Unfortunately, only 8 to 10 percent of Americans have
497 private long-term care insurance, and new enrollment is

498 declining while major long-term care competitors have exited
499 the market. Taken together, this means that many Americans
500 are not well prepared to finance long-term care services and
501 supports that they will need.

502 There are a number of reasons for this reluctance to
503 prepare. First, four out of five Americans mistakenly
504 believe that Medicare will provide them with extensive
505 coverage for long-term care, and it does not. In addition,
506 while Medicaid is the primary payer for long-term care,
507 paying approximately 50 percent of all nursing home
508 expenditures in this country, Medicaid requires that
509 individual impoverish themselves in order to qualify for
510 long-term services and supports with only modest protections
511 for the needs of a spouse who remains in the community.

512 Americans also frequently misjudge the likelihood that
513 they or a spouse will someday need long-term services and
514 supports, and many people are unaware of the cost of these
515 kinds of supports. A year of nursing home care costs around
516 \$75,000. But it isn't just individual budgets that are
517 stretched. Recent data from the CMS Office of the Actuary
518 showed that in 2009, Medicaid spent \$111.2 billion on long-
519 term care, and spending on those services is projected to
520 increase as the population ages, stressing both federal and
521 State budgets.

522 Prior to coming to Washington, as the chairman
523 acknowledged, I had the honor serving as the Secretary of
524 Aging in Kansas. The Secretary of Aging in Kansas has a
525 unique portfolio. I oversaw community aging programs as well
526 as the Medicaid-funded programs for both nursing home
527 services and home and community-based services for frail
528 elders. I also had the opportunity during my service in
529 Kansas to spend 8 years as an insurance regulator, serving
530 half of that time as the General Counsel for the Kansas
531 Insurance Department. I have visited dozens of nursing homes
532 and spoken to thousands of seniors. I have managed a
533 Medicaid budget. And what I know with certainty is that all
534 people regardless of age hope to maintain their independence
535 for as long as possible. I know and respect many nursing
536 home providers. Their particular task is difficult. But for
537 all of us, we hope to postpone nursing home admission for as
538 long as possible, and some people swear that they will never
539 go to a nursing home.

540 Fortunately, for policymakers, people prefer to live in
541 the setting that is the least, not the most, expensive. In
542 most cases, that setting is home. How then do we help people
543 prepare for the costs associated with aging and disability
544 and increase their access to home and community-based
545 services and community supports that they do desperately

546 need? The CLASS program offers one new tool to support
547 Americans' long-term care needs and help them remain
548 independent. Its goals are to provide an opportunity for
549 individuals to take responsibility and to prepare financially
550 for their own long-term care needs, support consumer choice
551 related to their own care and their living arrangements and
552 facilitate independence and community living.

553 President Obama and Secretary Sebelius have pledged to
554 use the discretion provided in the law to protect the
555 solvency of this program. There are changes that we intend
556 to make through the Secretary's regulatory authority to
557 guarantee the solvency. We are committed, as the Secretary
558 said in a recent speech, that we will do everything we can to
559 make these changes to ensure the solvency. And as the
560 Secretary has outlined, and I can spend more time discussing
561 with you, there are a number of things that we have in mind
562 that we will change by regulation.

563 We need to change the employment and earning
564 requirements for the program. We need to close loopholes
565 that allow people to skip payments and then enroll at a later
566 time. We need to explore options for indexing the premiums
567 along with the benefits. We need to tailor the benefits to
568 more closely meet the individual needs and preferences. We
569 need to educate the public about long-term care and we need

570 to partner with employers, and also protect against fraud and
571 abuse. We will do all of this in full view of the public
572 with a transparent process. We will do everything we can as
573 we move forward to implement this law responsibly and protect
574 its solvency. Thank you.

575 [The prepared statement of Ms. Greenlee follows:]

576 ***** INSERT 1 *****

|
577 Mr. {Pitts.} The chair thanks the gentlelady. We will
578 now begin our questioning, and the chair recognizes himself
579 for 5 minutes for questions.

580 Madam Secretary, some have suggested that in order to
581 have a sustainable program, the monthly premium may have to
582 be at least \$240 a month or higher. When will your agency
583 announce what the monthly premium will be, and is it possible
584 the premium could be as high as \$240 a month?

585 Ms. {Greenlee.} Mr. Chairman, there are two pieces of
586 that I would like to address. In terms of the plans for
587 announcing the monthly premium, the proposal going forward is
588 that we will submit three plans as recommended in the law to
589 the Independence Advisory Council for their submission to the
590 Secretary. We will then publish in a reg, most likely this
591 fall, our initial assessment of those three plans. I do not
592 know at this point whether or not that initial publication
593 will include specific pricing information but it will provide
594 information about the specific plans that we are looking at.
595 We know that the best way to protect the solvency of the
596 program is to ensure high participation, and participation
597 will be a function of several things including the price of
598 the product.

599 Mr. {Pitts.} Thank you. On the Administration on

600 Agency's authority to increase premiums, do you believe the
601 Secretary has the authority to increase CLASS program
602 premiums, and if so, on what basis, and are there
603 limitations?

604 Ms. {Greenlee.} Mr. Chairman, it is clear in looking at
605 the law that the Secretary was given many protections once
606 the program is enacted in order to adjust or make changes to
607 the premiums. The list of recommendations that I have
608 suggested are things that we need to do early through a
609 regulatory process, not just to adjust premiums but to deal
610 with the indexing of the premiums to help protect the
611 financial solvency. So she has the authority both after the
612 program is adopted and now.

613 Mr. {Pitts.} The President's fiscal year 2012 budget
614 request includes \$120 million to begin the implementation of
615 the CLASS program. However, just last month Secretary
616 Sebelius admitted the CLASS program to be ``totally
617 unsustainable.'' Madam Secretary, do you agree with
618 Secretary Sebelius that the program in its current form is
619 unsustainable? Yes or no.

620 Ms. {Greenlee.} Mr. Chairman, if I could elaborate
621 beyond a yes or no I could be more responsive. The Secretary
622 is referring to the conclusion we have come to by a plain
623 reading of the specific statute without adjustment. We are

624 committing to making reforms to the program so that we can
625 hit the financial targets that she is required to hit to make
626 sure that the program is solvent.

627 Mr. {Pitts.} Can you please explain why the
628 Administration requested \$120 million for fiscal year 2012 of
629 which nearly \$94 million was for outreach and enrollment
630 efforts when the Administration's chief health official
631 clearly does not believe the program is sustainable in its
632 current form?

633 Ms. {Greenlee.} Mr. Chairman, the Secretary's comment
634 with regard to not sustainable in its current form is her
635 explanation as to why we will reform the program. We don't
636 intend to implement the program without those changes. The
637 request for the \$120 million is startup funds so that we can
638 begin the program. This is a new program. It is a type of
639 product that has never been offered to the American public.
640 As I said earlier, participation is key and we will need to
641 do an education and outreach effort to America to describe
642 not just the program but the need that they have that is
643 currently unaddressed.

644 Mr. {Pitts.} And can you please provide more
645 information on the changes you believe you will need to make
646 to the program in order to make it more sustainable including
647 premium increases and your intended timeline for doing so?

648 Ms. {Greenlee.} Certainly.

649 Mr. {Pitts.} The chair yields to the vice chairman, Dr.
650 Burgess.

651 Dr. {Burgess.} Yes. Secretary, thank you for being
652 here. Do we have an idea--Secretary Sebelius testified to
653 the fact that the program as drawn may be unsustainable. Do
654 you have an idea as to when that realization occurred, when
655 that information became available to the Secretary?

656 Ms. {Greenlee.} During the past year, after the law was
657 passed, we have worked to develop two actuarial models that
658 include the best of actuarial science as well as economics.
659 Each of those models has led us to the conclusion that to
660 protect the solvency, there are some changes that we need to
661 make to the program.

662 Dr. {Burgess.} And will those changes likely be on
663 raising the premium, reducing the benefit, a combination of
664 both, or draw on the federal Treasury?

665 Ms. {Greenlee.} Congressman, the changes I mentioned
666 briefly, they are more fully described in my written
667 testimony, but they are changes that can be made with regard
668 to earnings, anti-gaming, fraud protections and indexing the
669 premiums, which will help strengthen the program.

670 Dr. {Burgess.} I will get to that in just a moment, but
671 we do need to pursue that a little bit. Thank you.

672 Mr. {Pitts.} The chair thanks the gentleman. Time is
673 expired. The chair recognizes the ranking member, Mr.
674 Pallone, for 5 minutes for questioning.

675 Mr. {Pallone.} Thank you, Mr. Chairman, and I want to
676 ask questions, but I have to say, and again, not meant with
677 any disrespect to you or the Republicans on the other side,
678 but it just seems that we know we have a huge problem out
679 here with people not having these community-based services
680 and the Democrats come up with a plan to try to address it,
681 and it just seems like everybody on the other side is so
682 scared like there is this fear of a new program and, you
683 know, we are going to get the word out about it. I mean, the
684 bottom line is, when you have a problem, you try to address
685 it and yes, it is going to new and there are going to be some
686 problems in implementation and outreach, but that is what
687 happens when you try to do something new, address something
688 that hasn't been addressed before, and I appreciate the
689 Assistant Secretary for pointing that out, that we are trying
690 to do something that has never been done before and so
691 naturally there are going to be some kinks in it, but that is
692 what happens when you try to address something that hasn't
693 been addressed.

694 Now, I just wanted to ask some brief questions, if I
695 could. First, I wanted to start with this decision that we

696 made to put the program in your agency, the Administration on
697 Aging. Some suggest that that is not the proper place for
698 it. Why is the program being housed there and how prepared
699 do you feel you are, and did we make the right choice?
700 Quickly, because I want to get to another one.

701 Ms. {Greenlee.} Congressman, the Secretary has the
702 authority to reorganize Department of Health and Human
703 Services, which gives her the authority to place it in the
704 Administration on Aging. This is a different kind of program
705 than AoA has run in the past but the connection is that we
706 have long expertise in providing services in the community
707 that help support independence, and I believe that I also
708 have the credentials to help make this possible.

709 Mr. {Pallone.} Thank you. Now, we heard statements
710 here, the Republicans referenced the Secretary's statements
711 about loopholes and sustainability and the need to strengthen
712 the program, but I see the basis for the Secretary exercising
713 flexibility and discretion given to her in the law to
714 implement it and make program improvements that address these
715 loopholes and sustainability. Would you tell us where the
716 Administration is in reviewing some of these criticisms, you
717 know, statements that were made by the chairman about
718 loopholes, sustainability? How are these being addressed?

719 Ms. {Greenlee.} As I had mentioned earlier, we have

720 spent the last year analyzing the law as written so that we
721 have a fundamental science to the analysis. We have hired an
722 actuary for the CLASS staff, who will now build on that to
723 develop solvent programs that we can take moving forward, but
724 we know that are changes that we need to make to protect the
725 solvency. The Secretary not only has the authority, she has
726 the responsibility to roll out a solvent program, and we take
727 that very seriously.

728 Mr. {Pallone.} Okay. And then the last thing I wanted
729 to ask is, the process by which the requirements, the
730 guidelines, the nuts and bolts of the programs, if you will,
731 will be disclosed and subject to review by the relevant
732 stakeholders. In other words, how will the department go
733 about publicizing the framework of the program and at the
734 same time seeking advice of those with an interest in its
735 operations?

736 Ms. {Greenlee.} There are two primary ways. We will
737 work with the CLASS Independence Advisory Council, which is
738 clearly set forth in the law to be a place where we go for
739 additional public input, stakeholder input, and we will go
740 through the federal rulemaking process so that we will
741 publish regs and have full opportunity for the general public
742 to comment. We will review those comments and address them
743 as we move forward.

744 Mr. {Pallone.} Well, I appreciate that. I just wanted
745 to point out a couple other things, and again, I am trying to
746 sort of address some of the criticisms that were made by my
747 colleagues on the other side. Statements were made about how
748 this is a mandate to employers. That is not true. Employers
749 decide whether they want to have their employers participate
750 in this. It is voluntary. Now, obviously, as you have said,
751 Madam Secretary, we want as many employers as possible to
752 participate because the price, if you will, will be lower if
753 more people participate and it is very important. But is it
754 not mandated. The law specifically says that employers can
755 decide whether to sign up, and obviously you are going to try
756 to get as many of them as you possibly can, but if you would
757 comment on that?

758 Ms. {Greenlee.} That is correct. Both employers and
759 employees will have a choice about whether or not to
760 participate. We will work actively with the employer
761 community to make it as easy as possible for them to
762 participate or to help individuals participate because we
763 need a large number and a broad risk pool of people to apply.

764 Mr. {Pallone.} And I appreciate that. And I have about
765 10 minutes left here. Again, I just want to stress--oh, I
766 don't? Oh, 10 seconds? I am sorry. Now I have nothing
767 left. No, I just want to say again, you know, we are trying

768 to address something that hasn't been addressed. You said
769 that. We are going to have some kinks, but let us move
770 forward. Let us not repeal it. I really feel strongly that
771 way. Thank you.

772 Mr. {Pitts.} The gentleman's time is expired. The
773 chair recognizes the vice chairman, Dr. Burgess, for 5
774 minutes for questioning.

775 Dr. {Burgess.} Again, thank you, Secretary Greenlee,
776 for being here, and your testimony is important and certainly
777 underscores some of the testimony we had when we last had
778 hearings on this in 2005, and that is the lack of knowledge
779 of the general public about the importance of having long-
780 term care insurance, your reasons why people don't pursue it,
781 not wanting to think about unpleasant things in the future,
782 thinking that some other federal agency is going to pick this
783 up at some point. So all of this is extremely important. I
784 guess the question just comes up, you have mentioned the \$120
785 million budget that is spent this first year on developing
786 the program. What do you think we could have done with \$120
787 million just sort of increasing awareness, increasing the
788 general public's awareness of this as a problem and what
789 options are out there for them? Could we have done a better
790 job?

791 Ms. {Greenlee.} I want to make sure I understand,

792 without a program attached to it, just a general--

793 Dr. {Burgess.} There are programs available. I bought
794 one in the year 2000. Again, it wasn't because I read an
795 article in Health Affairs. It wasn't because I saw somebody
796 on C-SPAN who looked smart. My mother told me that hey, if
797 you don't want to be a burden on your children like I am on
798 you, then perhaps you will consider long-term care insurance,
799 and indeed, I investigated it and made a decision to purchase
800 it. Now, it wasn't particularly--you know, it was one of
801 those bets I hope that I will never get covered, but at the
802 same time, if more people are aware of the importance of
803 having this, what the implications are of not having this, do
804 you think we could have perhaps done good with \$120 million
805 as a public outreach program, even employing old Andy
806 Griffith to tell us about it?

807 Ms. {Greenlee.} You know, the private long-term care
808 insurance market has been selling for 30 years and they have
809 only reached penetration of probably 10 percent in the
810 market. Clearly, there is a need for more people--

811 Dr. {Burgess.} But, if I could, we make it extremely
812 hard. There is no tax deductibility for long-term care
813 insurance like there is for some of the employer-sponsored
814 insurance. You can't pay the premium out of a medical
815 savings account or health savings account. These are all

816 after-tax dollars that have to be invested. There are things
817 we could do on the policy side absent the CLASS Act that
818 would have made a difference in the number of participants.
819 I am not saying it would solved the entire problem. Surely
820 there are still going to be people who are going to need a
821 medical safety net. Medicaid is obviously not going to go
822 away. But it always seems like the default position is, we
823 are going to expand those federal programs. You talk about
824 fraud and abuse and wanting to be able to clamp down on that.
825 I salute you for that. I want you to do that. But at the
826 same time, when you look at those third-party payment
827 programs that are subject to fraud and abuse, it is never
828 United Health Care that you read about in the front of the
829 page of the newspaper that has a problem with too many
830 wheelchairs going out, it is Medicaid, it is Medicare. It is
831 the public programs that seem to be so vulnerable. Why not
832 try to partner with those people who are already out there
833 offering private long-term care insurance and try to build on
834 that, perhaps remove some of the obstacles, work with
835 policymakers to remove some of those obstacles to purchase of
836 long-term care insurance?

837 Ms. {Greenlee.} Congressman, the product that the CLASS
838 Act represents is a different market than what the long-term
839 care insurance market has ever addressed. This is for a

840 different group of individuals with a limited benefit. The
841 private market has always offered comprehensive long-term
842 care insurance, which many people need, and I agree that
843 there are new opportunities, new ways to reach that market.
844 That is not the same market that the CLASS product is
845 designed for.

846 Dr. {Burgess.} Well, let me ask you this. Do you think
847 when people look at--and granted, people's understanding of
848 things sometimes is more superficial than I think it should
849 be, but as people look at the Patient Protection and
850 Affordable Care Act, say aha, they have got the CLASS Act in
851 there, are they going to be more or less inclined to more
852 seriously look into private long-term care insurance should
853 they be able to afford it or is there going to be an
854 acknowledgement in people's minds now that yeah, the
855 government is taking care of that for me, I don't have to
856 worry about it?

857 Ms. {Greenlee.} This is a supplemental program, not
858 comprehensive needs, so the answer for an individual would
859 depend on what they could afford to purchase for themselves,
860 but whether or not there--

861 Dr. {Burgess.} But do you think there is a general
862 awareness that this is a supplemental program? It is not the
863 way I hear it talked about in the media.

864 Ms. {Greenlee.} That is part of the reason for the
865 budget request so that we can very clear with the public so
866 they know that this is for a supplemental supportive program
867 and not a comprehensive product.

868 Dr. {Burgess.} Look, I guarantee you that H.R. 3200
869 never saw the light of day after it left the House Floor, but
870 when we marked up the health care bill in this committee, the
871 CLASS Act was brought in at the last minute as kind of a
872 shell bill. It was to be filled out by other committees.
873 And in fact, it was put together as a hodgepodge on the
874 Senate Floor on Christmas Eve. That is why we have got the
875 problems that we have, and we ought to be honest about
876 addressing that, fix what we can but understand that this was
877 not an ideal program, was never properly vetted by the United
878 States Congress.

879 I will yield back, Mr. Chairman.

880 Mr. {Pitts.} The gentleman's time is expired. The
881 chair recognizes the ranking member of the full committee,
882 Mr. Waxman, for 5 minutes for questions.

883 Mr. {Waxman.} The gentleman was correct about private
884 long-term care insurance. It is what we hope people would
885 buy to take care of themselves, otherwise we end up with
886 people on Medicaid and in nursing homes right now, which is
887 the most expensive place for long-term care, 70 percent is

888 paid for by Medicaid, and I don't think that means 30 percent
889 is paid for by long-term care insurance, it means a much
890 smaller percentage of the 30 because a lot of people are
891 there still under Medicare or they are paying it out of their
892 own pockets. So long-term care insurance has not been a
893 great success so far. The Federal Government allows
894 employees to buy long-term care insurance and it is
895 negotiated by the OPM, office of something management,
896 whatever it is, program management?

897 Ms. {Greenlee.} Personnel Management.

898 Mr. {Waxman.} Personnel management. Okay. Do you have
899 an estimate of how many federal employees have taken up long-
900 term care insurance?

901 Ms. {Greenlee.} Mr. Waxman, I can get that. I don't
902 have that with me here.

903 Mr. {Waxman.} Okay. I would like to have that for the
904 record.

905 Ms. {Greenlee.} But it is a small percentage, around 5
906 percent, but I would need to verify.

907 Mr. {Waxman.} I think when we look at the fact that
908 very few people put away money for their retirement, which is
909 pretty astounding, to get them to buy long-term care
910 insurance that they may never use and are in a state of
911 denial, if they are in a state of denial about retirement,

912 they are even in a greater state of denial about long-term
913 care needs. So I don't see that long-term care insurance is
914 the way we are going to solve the problems.

915 You answered a question I had. This is not a
916 replacement for private insurance. It dovetails quite nicely
917 with that market because it is a supplement to long-term care
918 insurance. Isn't that accurate?

919 Ms. {Greenlee.} Actually I would say it is the reverse,
920 that it is the first step for an individual to protect
921 themselves from a cost, and if they want to protect
922 themselves further, the private market would be there to
923 help.

924 Mr. {Waxman.} Medicaid has been the primary safety-net
925 provider for the poor and elderly and disabled people, and
926 elderly and disabled become poor once they start paying for
927 the high costs of long-term care. It pays 40 percent of the
928 costs of long-term care services. It is the largest payer
929 therefore of these services in the Nation. There are a
930 million nursing home residents under Medicaid. That is 70
931 percent of all nursing home residents. In addition, there
932 are 2.8 million individuals receiving community-based care
933 services from Medicaid. So Medicaid is the biggest payer for
934 long-term care services, and it comes at a high price. Each
935 year we expect to add \$44 billion to the price tag of

936 Medicaid due entirely to an increasing demand for long-term
937 services among an aging population. These are vital services
938 but they take an enormous toll on State and federal budgets,
939 especially during the times of economic downturns as we are
940 now experiencing.

941 In the 2009 CBO analysis of the CLASS Act, there are
942 some Medicaid savings because at least in the last 2 years of
943 the 10-year window that come to \$2.5 billion in those 2
944 years. Do you believe this program has the potential to save
945 even more Medicaid dollars?

946 Ms. {Greenlee.} Yes, sir. There are two primary ways
947 that we see Medicaid savings. People who receive both CLASS
948 and Medicaid, depending on whether they are in the community
949 or in the nursing home will pay a portion of that back to the
950 State for Medicaid. But even more importantly for savings,
951 the CLASS program can help people prevent spend-down to
952 Medicaid, use their own resources with the CLASS program
953 resources to stay in the community without asking for
954 Medicaid.

955 Mr. {Waxman.} Well, I would say to my Republican and
956 Democratic colleagues, if we look down the road of how to
957 deal with this problem without humiliating people to have to
958 go through the indignity of becoming a Medicaid recipient
959 after they have exhausted all their money, we can go one of

960 two ways. We can require people to buy private insurance for
961 long-term care, we can require them to pay the money and buy
962 it and then they will be covered. But I hear a lot from my
963 Republican colleagues that they don't like a mandate, and
964 that would certainly not be a real popular idea, I would
965 expect. The other is to say everybody should pay into a
966 fund. This is a real clear insurable event. If everybody
967 paid into a fund, it would be a small amount to pay for a
968 relatively limited use of these funds for those who are going
969 to need long-term care, unlike Medicare, which serves
970 everybody who becomes eligible for it because they need
971 health care services. Long-term care is like a catastrophic
972 kind of coverage for people who need these services, and that
973 might be a real good social insurance system. I just hope my
974 Republican colleagues don't look down their nose at all ideas
975 of social insurance because I don't know what other choices
976 we have because Medicaid is not sustainable with this burden.

977 So I thank you for what you are doing and let us hope
978 that this little program--it is a little program and it is no
979 answer, as far as I am concerned, to the big issue--can help.
980 I yield back.

981 Mr. {Pitts.} The gentleman's time is expired. The
982 chair recognizes the gentleman from Illinois, Mr. Shimkus,
983 for 5 minutes.

984 Mr. {Shimkus.} Thank you, Mr. Chairman, and I
985 appreciate Chairman Waxman's calm approach. I mean, we all
986 know this is a major issue, and I am an original ``mi casa''
987 guy. When we had federal dollars following the individual
988 and helping people remain independent as long as they can and
989 have them make the decisions based upon dollars versus
990 government making that decision. So don't take these
991 questions as being harsh or accusative.

992 We have got a couple issues here. You are going to hire
993 an actuary. You are promising it is going to maintain
994 solvency. An actuary, if it goes out of solvency, the
995 actuary is going to have to decide on or two things: raise
996 revenue or cut benefits. Is the Secretary willing to do
997 that?

998 Ms. {Greenlee.} Mr. Shimkus, we have already hired an
999 actuary.

1000 Mr. {Shimkus.} I know. I made that statement. That
1001 was my statement.

1002 Ms. {Greenlee.} Right. And before we move forward, as
1003 the law requires, we will work with the CMS actuary as put
1004 forward. The Secretary is only willing to move forward to
1005 implement the law if we can demonstrate that it is solvent to
1006 the standards of the law from the very beginning.

1007 Mr. {Shimkus.} So we are having 5 years of revenue, no

1008 payouts. Initially, that is going to be an easy decision.
1009 Our concern is year 10, year 15, and then I follow up with a
1010 question again. If then there is a solvency issue, will she
1011 be willing to raise premiums or cut benefits?

1012 Ms. {Greenlee.} The law requires the CMS actuary by way
1013 of this other work that we have done to certify for both 25
1014 and 75 years that the program is solvent, and we are
1015 committed to that before we start the program. Thereafter,
1016 both the Secretary and the board of trustees have the ongoing
1017 fiscal oversight of the program and the authority to make the
1018 changes that they might need, but we won't start the program
1019 unless we think it is solvent from those modelings before we
1020 begin.

1021 Mr. {Shimkus.} Well, I hope, Mr. Chairman, we are able
1022 to have the Administration back numerous times to help you
1023 all review your actuary and your numbers to make sure it is
1024 solvent because in my opening statement, I mean, we are
1025 concerned about making promises that we can't deliver. We
1026 have done it in our entitlement programs and they are
1027 bankrupting us. And so that is the concern.

1028 So the actuary is going to calculate payments out based
1029 upon payments in and people in the pool. What about the
1030 annual expense that your budget requests or the budget
1031 request is \$120 million for this program, is that part of the

1032 actuary numbers?

1033 Ms. {Greenlee.} The program is designed to be self-
1034 sustaining, to pay benefits only from premium dollars. So
1035 once the program is up and running, then that is how it will
1036 operate.

1037 Mr. {Shimkus.} What about the overhead?

1038 Ms. {Greenlee.} And that is contained within the
1039 premium revenue structure that I just described.

1040 Mr. {Shimkus.} So we won't see another additional
1041 annual request for money to administer this program?

1042 Ms. {Greenlee.} No, the current request is for startup
1043 funds.

1044 Mr. {Shimkus.} Do you ever feel that the Secretary can
1045 go into the \$17.5 billion health care slush fund which is
1046 under section 4002, prevention and public health fund, which
1047 is \$17.5 billion? Might she tap into that? It is at her
1048 discretion.

1049 Ms. {Greenlee.} I have never had a conversation where
1050 that even came up in discussion of the CLASS Act.

1051 Mr. {Shimkus.} Would you ask her for us?

1052 Ms. {Greenlee.} I can follow up with you.

1053 Mr. {Shimkus.} Good. That would be great, because that
1054 is our concern. In the fiscal environment, we already got
1055 the Secretary to admit 2 weeks ago that she double counted

1056 \$500 billion which really addresses the fact that the
1057 statements that the health care law pays down the deficit and
1058 the debt is untrue. It could be true if you double count
1059 \$500 billion. It is untrue when you adequately put the \$500
1060 billion in its proper concerns. If we want to help our
1061 citizens, we have to have sustainable funds. Government
1062 doesn't have a good record. We are hoping that you can prove
1063 us wrong in this, and we will be following closely.

1064 Thank you, Mr. Chairman. I yield back.

1065 Mr. {Pitts.} The chair thanks the gentleman.

1066 We are voting on the Floor. We have two votes. Let us
1067 take one more 5-minute questioning from the ranking member
1068 emeritus and then we will recess until immediately after the
1069 second vote. The chair recognizes the gentleman Mr. Dingell
1070 for 5 minutes.

1071 Mr. {Dingell.} Mr. Chairman, thank you for your
1072 courtesy. We commend you for this hearing, which is a very
1073 useful thing.

1074 I begin by welcoming the Secretary and I ask, do you
1075 have all of the authority you need in the department to
1076 ensure that this program gets off to a start in an
1077 actuarially sound manner?

1078 Ms. {Greenlee.} Yes, we do.

1079 Mr. {Dingell.} And you lack nothing?

1080 Ms. {Greenlee.} No. We can make it solvent. We have
1081 the authority.

1082 Mr. {Dingell.} Very good. Now, I am going to make a
1083 statement and you tell me yes or no. Ten million Americans
1084 are in need of long-term services now, and in 2020, 15
1085 million Americans will be needing long-term health care
1086 services. Is that correct?

1087 Ms. {Greenlee.} That is correct.

1088 Mr. {Dingell.} Now, Madam Secretary, it is my
1089 understanding there are a number of long-term insurers in the
1090 United States are leaving or planning to leave the market.
1091 Is that true?

1092 Ms. {Greenlee.} Yes.

1093 Mr. {Dingell.} In my opinion, this seems to offer
1094 individuals in need of long-term insurance much more limited
1095 options. Do you agree?

1096 Ms. {Greenlee.} Yes.

1097 Mr. {Dingell.} Isn't it true that the goals of the
1098 CLASS program are to help Americans prepare for the
1099 unexpected and allow them to participate in a choice that
1100 offers them services and allows them to remain in the
1101 community rather than to go into the nursing home?

1102 Ms. {Greenlee.} Yes.

1103 Mr. {Dingell.} So if I understand the program

1104 correctly, and I was one of the authors of it, it is going to
1105 allow an individual to buy into this program at an early
1106 time. Is that correct?

1107 Ms. {Greenlee.} Yes.

1108 Mr. {Dingell.} And so that individual will pay money
1109 into the program before that individual begins to draw
1110 benefits?

1111 Ms. {Greenlee.} That is correct.

1112 Mr. {Dingell.} That is conventional insurance practice,
1113 is it not?

1114 Ms. {Greenlee.} Absolutely.

1115 Mr. {Dingell.} And you will see to it that it is done
1116 actuarially soundly?

1117 Ms. {Greenlee.} Yes, we will.

1118 Mr. {Dingell.} Now, that will absolve Medicaid of
1119 providing the same benefits in a nursing home, will it not?

1120 Ms. {Greenlee.} Congressman, it will help buffer the
1121 costs of Medicaid but it won't cover the full amount--

1122 Mr. {Dingell.} It will help the individual stay home.
1123 Am I right?

1124 Ms. {Greenlee.} It will help the individual stay home.

1125 Mr. {Dingell.} Okay. And instead of the taxpayer
1126 paying 100 percent on Medicaid, the individual who derives
1127 benefits under the plan will be paying into the plan so he

1128 will be actually paying a significant part of the cost
1129 instead of that coming out of the pocket of the taxpayers by
1130 way of Medicaid. Is that correct?

1131 Ms. {Greenlee.} He or she will be paying, yes, a
1132 portion of the CLASS benefits back to the Medicaid program.

1133 Mr. {Dingell.} Now, as you said, AARP says in their
1134 rather excellent statement it is going to save about \$2
1135 billion to Medicaid due to the CLASS Act. Is that correct?

1136 Ms. {Greenlee.} Yes, that is consistent with the CBO
1137 score as well.

1138 Mr. {Dingell.} Is that an actuarially sound statement
1139 by AARP?

1140 Ms. {Greenlee.} I haven't looked at their methodology
1141 but I do know it was the CBO score as well.

1142 Mr. {Dingell.} Now, Madam Secretary, as you said in
1143 your testimony, Medicaid now pays for about 50 percent of the
1144 Nation's nursing home expenditures, and in 2009 spent \$112
1145 billion on long-term care services. Isn't it probable that
1146 by offering the ability to individuals to remain in the
1147 community and not the nursing home that it will help Medicaid
1148 to reduce its costs and also it will help reduce nursing home
1149 costs?

1150 Ms. {Greenlee.} Congressman, it will help individuals
1151 use their own resources and the CLASS resources to postpone

1152 the need for Medicaid.

1153 Mr. {Dingell.} So wouldn't I be fair in assuming that
1154 the CLASS Act will fill an unmet need in terms of providing
1155 long-term afford health care services and to support people
1156 in need?

1157 Ms. {Greenlee.} Yes.

1158 Mr. {Dingell.} Now, do you believe that the CLASS Act
1159 will help today's workers to prepare for and provide for
1160 their personal long-term needs in the future?

1161 Ms. {Greenlee.} Yes.

1162 Mr. {Dingell.} Mr. Chairman, I note that I am returning
1163 to the committee 33 seconds. I yield back the balance of my
1164 time.

1165 Mr. {Pitts.} The chair thanks the gentleman. And on
1166 the unanimous consent request of the gentlemen, Mr. Waxman
1167 and Mr. Dingell, without objection, the documents are entered
1168 into the record. So ordered.

1169 Without objection, so ordered.

1170 [The information follows:]

1171 ***** COMMITTEE INSERT *****

|
1172 Mr. {Pitts.} We will now recess until immediately after
1173 the second vote. I trust the witnesses will bear with us.
1174 We will get back as soon as possible. Thank you. The
1175 committee is in recess.

1176 [Recess.]

1177 Mr. {Pitts.} The recess time having expired, we will go
1178 back to questioning, and the chair recognizes the gentleman
1179 from Louisiana, Dr. Cassidy, for 5 minutes for questioning.

1180 Dr. {Cassidy.} Thank you, Mr. Chairman.

1181 I can't help but notice that Mr. Waxman pointed out the
1182 indignities of people being on Medicaid and yet the PPACA put
1183 16 million people on Medicaid by design and more by effect,
1184 and so I found that an interesting comment. And I also will
1185 remark that the people on the other side of the aisle who are
1186 frightened of weather forecasts 100 years from now are so
1187 sanguine about realistic predictions of bankruptcy within 11
1188 years. Now, I am a physician who works in a public hospital
1189 so I am very familiar with politicians overpromising and
1190 underfunding. Do I call you Secretary or Assistant
1191 Secretary?

1192 Ms. {Greenlee.} Either one is appropriate.

1193 Dr. {Cassidy.} Madam Secretary, I just want to take the
1194 logic from the other side of the aisle and go through this.

1195 Their argument about an individual mandate is that if you
1196 don't force people to be in the insurance program, only those
1197 who are sickest will take the policies and it enters the so-
1198 called death spiral where only the sickest are in it but
1199 those who would have to support them by not being sick and
1200 paying premiums get out because of expense. Now, you by law
1201 are mandated to keep this actuarially sound for 75 years.
1202 Let us assume the logic is correct that we are going to enter
1203 into a situation where only those who are going to benefit
1204 wish to be in and those who frankly don't see it in their
1205 financial interest to do so choose not to join. Now, you
1206 have to obviously by law make the premiums effective. So it
1207 seems to me, and tell me if you disagree, if there is this
1208 adverse selection that progressively you will have to raise
1209 the premiums so much so that you will enter into the death
1210 spiral we heard so much about regarding the private health
1211 insurance market.

1212 Ms. {Greenlee.} Congressman, as you have heard me
1213 testify, we are absolutely committed to the solvency of the
1214 program, and the key to the solvency will be broad
1215 participation--

1216 Dr. {Cassidy.} But keep in mind my presumption. My
1217 presumption is that they are right, that without a mandate
1218 only those who benefit financially choose to participate, and

1219 if you will, drop out those who don't see it in their
1220 financial interest to pay a lot in and get a little out.

1221 Ms. {Greenlee.} The underlying question is, what is the
1222 method by which you gain broad participation so that you can
1223 avoid--

1224 Dr. {Cassidy.} No, my underlying question is, is this
1225 at risk of entering the death spiral?

1226 Ms. {Greenlee.} We must have broad participation and
1227 not only people who could access the benefit early in order
1228 for it to be financially--

1229 Dr. {Cassidy.} And is it possible--Mr. Waxman spoke
1230 about potentials so is it potentially true that again we
1231 would have a lot of non-working spouses who would
1232 participate, which I gather would be thought to be at a
1233 higher risk for claiming benefits without paying in over the
1234 long hauls, someone acting working, etc., that people over 65
1235 cannot have their premiums adjusted upward, all those things
1236 that obviously limit your ability to raise premiums on
1237 anybody but the younger working class, that as those younger
1238 people see wow, this premium is \$240 a month for a benefit
1239 that I am supposed to get when I am 70 years old. I have to
1240 buy a car. Is there the potential for this adverse selection
1241 process to occur?

1242 Ms. {Greenlee.} Congressman, you are describing an

1243 adverse selection death spiral that would occur if the
1244 program only attracted those individuals. We are familiar--

1245 Dr. {Cassidy.} Is there the potential--because I tell
1246 you, the second panel, when I read the testimony of the
1247 second panel, four out of whatever, six, agreed that there is
1248 a strong potential for that death spiral to occur.

1249 Ms. {Greenlee.} It comes back to the question of broad
1250 participation, and all of the actuaries, the actuaries we
1251 work with, all of the actuaries that will testify after me
1252 also understand that a basic insurance sort of fundamental
1253 principle is broad participation in the method by which--

1254 Dr. {Cassidy.} So let me ask you, you put into your
1255 models, if you have premiums of \$240 a month how broad your
1256 participation will be?

1257 Ms. {Greenlee.} We have looked at different pricing
1258 mechanisms of different pricing options and looked at what a
1259 similar product looks like in the marketplace and understand
1260 to get broad participation we must be competitive both in
1261 product design and in price. I might return to something you
1262 said just to tell you that non-working spouses are not
1263 eligible in this program. I believe that was considered in
1264 an earlier bill that came through Congress but that actually
1265 wasn't a feature that was--

1266 Dr. {Cassidy.} So let me finish up by saying again, I

1267 will see patients on Monday at a public hospital in which
1268 politicians overpromise and underfund and I see that it is
1269 ultimately the patient who pays the penalty. So it is very
1270 easy for us to promise when future generations have to pay,
1271 but I will tell you, it won't just be future generations that
1272 pay, it will be future so-called beneficiaries. Unless you
1273 can convince me there is not a death spiral, I have to admit
1274 I have to be more skeptical of this than a 100-year forecast.
1275 Thank you.

1276 Mr. {Pitts.} The chair thanks the gentleman. The
1277 gentleman's time is expired. The chair recognizes the
1278 gentlelady from California, Ms. Capps, for 5 minutes for
1279 questions.

1280 Mrs. {Capps.} Thank you, Mr. Chairman. One general
1281 comment, if I may, to begin. While I appreciate hearing from
1282 this Administration on the topic of aging and certainly on
1283 your testimony, Madam Secretary, about the importance of
1284 strong long-term care and program accessible to all
1285 Americans, I can't ignore the fact that this hearing is yet
1286 another in a long line organized by those on the other side
1287 obsessed with repealing the Affordable Care Act. When repeal
1288 doesn't work, they try to defund. When defunding doesn't
1289 work, they try to find targets like school-based health
1290 centers or the CLASS program to cut off. As the ranking

1291 member said, it is like déjà vu all over again, so I will
1292 continue myself to ask for a hearing on the number one issue
1293 to our constituents, which is jobs, and I will continue to
1294 ask for this subcommittee to come together and support our
1295 health care workforce.

1296 I also find it concerning that while the Republican
1297 members of this committee are declaring the program we are
1298 discussing today unsustainable, actually they should be
1299 taking credit for the flexibility that will be the key to
1300 ensuring its success. In fact, there is a political article
1301 today which describes how the CLASS program flexibility came
1302 to be. It was an amendment by then-Senator Judd Gregg and it
1303 was accepted unanimously by the Senate Health Committee. In
1304 fact, after it was agreed to, Senator Gregg went on to say
1305 that his amendment ensures that the program will be fiscally
1306 solvent and that we won't be passing the buck to future
1307 generations.

1308 So Honorable Secretary, Ms. Greenlee, considering the
1309 amount of flexibility in the program design that you have
1310 already discussed, do you agree with Senator Gregg in his
1311 assessment?

1312 Ms. {Greenlee.} Congresswoman, as I understand, in
1313 response to Senator Gregg's concern, the 75-year requirement
1314 was placed into the law so that we look long term, and we are

1315 required to look long term from the very beginning to know
1316 that we can hit that marker before we ever start the program.

1317 Mrs. {Capps.} Thank you. Now, I acknowledge in this
1318 committee a strong difference of opinion among some of us on
1319 the substance of this program but the overall issue should be
1320 one we can easily agree on: The current system for
1321 affordable long-term care is not just broken, it is all but
1322 nonexistence. Long-term care insurance is far too expensive
1323 for most individuals and Medicare does not cover the range of
1324 care needed. Instead, we ask Americans to spend down their
1325 savings, sell their assets and purposely become impoverished
1326 so that they can access the Medicaid program, the primary
1327 long-term care provider in most of our country.

1328 Two weeks ago, this committee heard how expensive
1329 Medicaid is both to the Federal Government and to the States.
1330 This is particularly true in regards to long-term care but
1331 right now what other option is there for most Americans? My
1332 colleague, Mr. Waxman, accurately described how Medicaid
1333 costs could be lessened by this program. Before many
1334 families get to this point, they often struggle to find
1335 needed care for their loved ones themselves. I think it is
1336 fairly clear and straightforward how the CLASS program would
1337 benefit people who might need assistance with such activities
1338 of daily living as dressing, toileting, eating, and sometime

1339 in the future this could be the case for all of us but the
1340 program also promises to help those individuals who provide
1341 this kind of assistance to those in need, family caregivers
1342 who own lives are often disrupted or put on hold while they
1343 care for a loved one. So would you describe how the CLASS
1344 program would affect and benefit individuals such as family
1345 members?

1346 Ms. {Greenlee.} Family caregivers in specific--as you
1347 probably know from talking to your constituents, family care-
1348 giving is a tremendous burden both physically and
1349 financially. One of the ways that the CLASS program would
1350 help provide the family member themselves with cash benefits
1351 so that they can purchase assistance--respite care, the kinds
1352 of things right now that are often borne by family caregivers
1353 both in terms of physical work and expense to provide care to
1354 their loved one.

1355 Mrs. {Capps.} One more question, or comment and
1356 question. There is a notion that the CLASS program won't
1357 work because there is no room for it and that is because of
1358 the existence of a private market as limited as it is
1359 provides the potential market for long-term care is limited.
1360 The fact that there isn't more of a market for it must mean
1361 that people don't want this, yet this fails to take into
1362 consideration that government programs often spur private

1363 markets. For example, the implementation of Medicare led to
1364 the creation of what is now a successful Medi-gap market. As
1365 the former General Counsel for the Kansas Insurance
1366 Department, how do you see the CLASS program impacting the
1367 private market? Do you see any room for collaboration? Do
1368 you think this will be a growth industry in the future?

1369 Ms. {Greenlee.} Thank you. As I mentioned earlier, the
1370 private market has been around 30 years. They started with
1371 comprehensive nursing home insurance and then added and
1372 changed really to include community-based services but it has
1373 always been designed to be a comprehensive product. Nothing
1374 like the CLASS program has ever existed in the private market
1375 so these are complementary but different markets and I think
1376 there is plenty of both need and room for both to exist as we
1377 move forward.

1378 Mrs. {Capps.} Thank you very much. I yield back.

1379 Mr. {Pitts.} The gentlelady's time is expired. The
1380 chair recognizes the gentleman from Pennsylvania, Dr. Murphy,
1381 for 5 minutes for questioning.

1382 Mr. {Murphy.} Thank you. Thank you, Madam Secretary.

1383 I appreciate the comments from my colleagues about good
1384 intentions, and all of us want to make sure that those who
1385 are disabled have the care that they need but good intentions
1386 do not necessarily cause good law, and I may intend to pay

1387 all of my bills, but if I don't, the bank isn't going to
1388 accept my intentions as a reason to not foreclose on my home
1389 or my car. So it is important that we have these numbers,
1390 and I appreciate your patience in helping us understand this.

1391 With regard to the health care bill, the latest CBO and
1392 Joint Commission on Taxation estimates are that for the first
1393 decade on the health care bill, it would cause an increase in
1394 federal deficits of \$210 billion over the period of 2012 to
1395 2021. Now, last March the CBO and JCT estimated it would
1396 actually be \$124 billion, it would reduce deficits, so we are
1397 off here by almost \$300 billion in those estimates. They
1398 also note that the repeal of the CLASS Act provisions would
1399 increase federal deficits by \$86 billion, meaning that that
1400 money was counted as part to pay the bills for the health
1401 care bill. For the first 5 years, I believe the revenue
1402 would be collected from people on a voluntary basis as long
1403 as they didn't opt out. Am I correct on that?

1404 Ms. {Greenlee.} You are correct on that, yes.

1405 Mr. {Murphy.} And that would be a defined contribution,
1406 you would set the rates of what someone would pay. Am I
1407 correct?

1408 Ms. {Greenlee.} Yes.

1409 Mr. {Murphy.} And it is a defined benefit of \$50 a day.
1410 Am I correct on that?

1411 Ms. {Greenlee.} There will be a defined benefit. That
1412 is what we are still developing.

1413 Mr. {Murphy.} We still don't know how much that will
1414 be. Will there be lifetime caps on that?

1415 Ms. {Greenlee.} We are working with the law, which says
1416 an average of \$50 a day with a lifetime benefit in the
1417 product design but I don't have specifics other than that to
1418 give you.

1419 Mr. {Murphy.} Well, given this information we have that
1420 in order to pay for the health care bill overall, the other
1421 day Secretary Sebelius was speaking to us and under
1422 questioning from Mr. Shimkus she acknowledged that the health
1423 care bill actually by borrowing the \$500 billion from
1424 Medicare really was double counting that money to pay for the
1425 health care bill but we still had to pay back Medicare. So I
1426 ask a similar question here. This money which is going
1427 towards helping to offset the cost of the health care bill,
1428 is it also double counted?

1429 Ms. {Greenlee.} Congressman, truthfully, I am aware of
1430 the CBO budgeting process. My responsibility really is to
1431 help advise how we make this particular program solvent and
1432 not--I don't do as much with what the CBO counting of the
1433 score and certainly not for the overall bill.

1434 Mr. {Murphy.} I appreciate that, but isn't that money

1435 also being counted to offset the health care costs of the
1436 rest of the bill?

1437 Ms. {Greenlee.} As I understand the CBO scoring, for
1438 the first 5 years as you described, there would be money
1439 coming in and that has been considered in the CBO scoring as
1440 you have described.

1441 Mr. {Murphy.} So that is double counted. That money is
1442 also to help pay for the health care bill as well as to cover
1443 the CLASS Act?

1444 Ms. {Greenlee.} I would have to go back to the CBO
1445 description but what sounds accurate, but I would just refer
1446 back to what CBO did themselves--

1447 Mr. {Murphy.} Yes, it is double counting. I am taking
1448 that as an answer. In that case, don't we have to pay back
1449 that money to cover the CLASS Act, that \$80 billion plus, and
1450 not just take it out? You also need that as you are going
1451 through to define the benefits and contributions and the
1452 caps. I am assuming that you are hoping that money comes
1453 back and isn't just taken out and it never returns.

1454 Ms. {Greenlee.} Certainly, we will only move a program
1455 forward if there are premiums, and we have modeling to
1456 indicate that the premiums will cover the benefits as
1457 designed so by inference we are assuming that will have
1458 premiums to collect and that they are accounted for in the

1459 Federal Government that we can draw upon to pay the benefits.

1460 Mr. {Murphy.} I am trying to help you, because you have
1461 a very difficult job here. If \$80 billion plus is taken out
1462 to pay for health care but you still need to have \$80 billion
1463 in there to pay for your benefits, the question is, where is
1464 that money going to come from? And I liken it this way: if
1465 I went to the State of Pennsylvania and I said I went to
1466 start up a long-term care insurance company and so what I am
1467 going to do is, I am going to collect benefits from people
1468 but I am going to spend that money on other things but I
1469 promise you the day it starts I am going to have money to pay
1470 for that. I am sure they would say you are not going to do
1471 this, and if you try to, we are going to put you in jail
1472 because you don't have the money to do that. I think you
1473 have been given an impossible situation here where you are
1474 going to have to come up with this plan that someone is
1475 already taken \$80 billion plus for something else, and I hope
1476 there is a mechanism, I don't know what it is, where the
1477 money is going to come from to help you. Do you have any
1478 idea how that is going to work out?

1479 Ms. {Greenlee.} Congressman, I am understanding your
1480 question. To me, this is the difference between the budget
1481 methodology and the financial accounting that we need to do
1482 in order to run a solvent program. I have much more

1483 authority and responsibility with regard to the basic
1484 accounting and fundamental science of the plan--

1485 Mr. {Murphy.} I appreciate it, and my concern is also
1486 for the people. I hate to promise people a benefit and then
1487 say by the way there is no money to pay for it so we are
1488 going to have to raise your premiums, raise your copays,
1489 reduce your benefits and set caps. That is concerning to me
1490 because that is a promise unkept.

1491 I am out of time. Thank you.

1492 Mr. {Pitts.} The gentleman's time is expired. The
1493 chair recognizes the gentlelady from Illinois, Ms.
1494 Schakowsky, for 5 minutes for questioning.

1495 Ms. {Schakowsky.} The gentleman just described exactly
1496 what we have with private insurance right now, that kind of
1497 uncertainty that is in the private market, and I have
1498 confidence that the CLASS Act will actually address this
1499 problem.

1500 I am happy to meet you and to see you here. I have been
1501 working on the issue of long-term care since I was in the
1502 State legislature starting in 1991 in Illinois and helped to
1503 pass the prevention from spousal impoverishment that people
1504 didn't have to lose their homes, spend down every single
1505 asset in order to have their spouse go to a nursing home.
1506 The issue of the cost of long-term care not just for persons

1507 with disabilities, who I see are here today and I welcome
1508 them, but certainly for most families or many families,
1509 anyway, you know, face this really frightening prospect right
1510 now of not being able to have the care that they need, having
1511 to move from one place to another, find some place that will
1512 accept Medicare, and so I wanted to, Mr. Chairman, put into
1513 the record and then refer to the National Council on Aging
1514 has top 10 reasons why conservatives should love the CLASS
1515 program, and I would like unanimous consent to place this in
1516 the record.

1517 Mr. {Pitts.} Without objection, so ordered.

1518 [The information follows:]

1519 ***** COMMITTEE INSERT *****

|
1520 Ms. {Schakowsky.} I wanted to go over a couple of them
1521 and welcome your comments. It says, one, CLASS provides
1522 flexibility to ensure fiscal solvency, and thanks to an
1523 amendment from former Senator Judd Gregg, the plan includes
1524 strong provisions to guarantee fiscal solvency for 75 years.
1525 Statutory language was purposefully written to provide
1526 flexibility in benefit design, eligibility triggers and work
1527 requirements which help reduce adverse selection and ensure
1528 solvency. I wondered if you wanted to comment or expand or
1529 just assure its accuracy.

1530 Ms. {Greenlee.} Congresswoman, the Secretary has the
1531 responsibility to guarantee solvency and the authority to
1532 make adjustments that we need to in order to get us to that
1533 point. The amendment by Senator Gregg certainly gives us the
1534 guideposts that we must make sure that this is solvent in the
1535 long run for 75 years.

1536 Ms. {Schakowsky.} Let me go to the second one. No
1537 federal tax funds will be used to pay benefits. Section 3208
1538 states, ``No taxpayer funds shall be used for payment of
1539 benefits under CLASS independent benefit plan.''

1540 Ms. {Greenlee.} That is correct. The premiums have to
1541 cover the benefits.

1542 Ms. {Schakowsky.} Three, CLASS has no mandates. It is

1543 optional for both employers and consumers.

1544 Ms. {Greenlee.} That is correct.

1545 Ms. {Schakowsky.} CLASS will increase business
1546 productivity by reducing caregiver absenteeism and permitting
1547 people with disabilities to work. A recent survey found that
1548 74 percent of caregivers have had to change their job or stop
1549 working because of their care-giving responsibilities.

1550 Ms. {Greenlee.} Well, as you know, the main purpose of
1551 the law is to provide cash to an individual who needs
1552 assistance. There is a parallel there for additional support
1553 for the caregivers who are providing that assistance. Care-
1554 giving is a huge burden, and as we know, many people struggle
1555 to both maintain their own work and care for a loved one, so
1556 helping the person needing care will help both people.

1557 Ms. {Schakowsky.} Americans across party lines strongly
1558 support CLASS. Let me just give you some figures. The
1559 Kaiser Family Foundation poll in February, 74 percent of
1560 Americans support the program. Only 20 percent oppose it.
1561 Among independent voters, 75 percent support, 19 percent
1562 oppose. Among Republicans, 57 percent support, 36 percent
1563 oppose it, 21 percent margin. I will go on, six, CLASS will
1564 jump-start a flat private long-term care insurance market. I
1565 think you talked a bit about that. I know that Congresswoman
1566 Capps suggested that this actually could do this. I want to

1567 just give you one fact. When France implemented a proposal
1568 similar to CLASS, sales of private plans increased annually
1569 by 15 percent, largely because the public debate increased
1570 awareness of long-term care risk. So you stated earlier that
1571 you hoped that and thought that would be the result?

1572 Ms. {Greenlee.} Certainly. One of the major issues
1573 that we need to address and that is part of the plan for the
1574 budget is to market to the American public the problem, that
1575 there is a need for support for long-term services. CLASS is
1576 one option. Private insurance would be another.

1577 Ms. {Schakowsky.} I am going to skip to, CLASS will
1578 reduce the federal budget deficit by \$86 billion over the
1579 next 10 years.

1580 Ms. {Greenlee.} Yes, that was the CBO score.

1581 Ms. {Schakowsky.} My time is expired. Thank you.

1582 Mr. {Pitts.} The chair thanks the gentlelady and
1583 recognizes the gentleman from Ohio, Mr. Latta, for 5 minutes
1584 for questioning.

1585 Mr. {Latta.} Well, thank you, Mr. Chairman, and
1586 Assistant Secretary, thanks very much for being here today.
1587 I really appreciate it.

1588 Just kind of the line of questions that some of the
1589 other members asked a little bit earlier but maybe I could
1590 just follow up on. One is, I just want to make sure I

1591 understand it, did the Secretary say at a Senate hearing that
1592 the program will not start unless we can be absolutely
1593 certain that it will be solvent and self-sustaining into the
1594 future? Did she make that--I just want to make sure I have
1595 got that correct.

1596 Ms. {Greenlee.} Yes.

1597 Mr. {Latta.} Okay. And also in your testimony, you
1598 stated on page 4, you said that ``President Obama and
1599 Secretary Sebelius have acknowledged that the CLASS program
1600 needs improvement. Many of the changes proposed to the
1601 Senate health reform bill that would have improved the CLASS
1602 program's financial stability were not included in the final
1603 legislation were reflected in the Congressional Budget Office
1604 assumptions that scored the CLASS program. Therefore, it was
1605 not unexpected that the President's fiscal commission
1606 identified that these same unresolved issues in December and
1607 recommended reform or repeal of CLASS. Given the critical
1608 unmet needs of long-term care that I noted earlier, we should
1609 not repeal CLASS until we have made every effort to reform
1610 the program,'' and that was in your testimony.

1611 And the next question is, is it my understanding that
1612 the President is requesting in fiscal year 2012 \$120 million?

1613 Ms. {Greenlee.} That is correct.

1614 Mr. {Latta.} Okay. And may I ask, what exactly does he

1615 want to spend the \$120 million on?

1616 Ms. {Greenlee.} Ninety-three point five million would
1617 be for education and outreach efforts to both inform the
1618 public about the new program as well as the larger issue of
1619 the need for long-term care. The other two expenses are for
1620 administrative costs and--

1621 Mr. {Latta.} Okay. Let me ask this question. If we
1622 have a program that everyone acknowledges is broken, why do
1623 we want to spend money educating people on something that
1624 might not work in the present form? Let me give you this
1625 example. If someone in the private market makes a defect
1626 product and puts it on the market, should that person have
1627 done that?

1628 Ms. {Greenlee.} I am trying to draw a connection to
1629 CLASS here.

1630 Mr. {Latta.} If someone goes out and makes a defective
1631 product knowingly knows that he put something out on the
1632 market that is defect, should they have done that?

1633 Ms. {Greenlee.} We don't intend to market a defective
1634 product.

1635 Mr. {Latta.} Okay. Well, let me ask this, though. We
1636 are going to educate people on \$120 million on something that
1637 is broken, you know, in the private market what would happen
1638 is, we would have every State attorney general, we would have

1639 the ABCs of the Federal Government, we would have private
1640 individuals filing class lawsuits against someone that would
1641 have done that. And so I guess, you know, I am not saying
1642 good or bad about this program. What I am saying is, why do
1643 we in the Federal Government want to spend money on something
1644 that we already know right now isn't working and we are going
1645 to go out and market it to tell people--are we going to tell
1646 people this is defective? Should we use the statement from
1647 the Secretary and her testimony before the Senate Finance
1648 hearing saying the program will not start unless we can be
1649 absolutely certain that it will be solvent and self-
1650 sustaining into the future?

1651 Ms. {Greenlee.} We spent a year since the law was
1652 adopted analyzing through two actuarial models what the law
1653 would look like, and that led us to the conclusion that there
1654 are changes and improvements that we need to make so that we
1655 can go to market with a product--

1656 Mr. {Latta.} Pardon me. Should that be the first
1657 statement we should put out in any notice to anybody, we
1658 should put a disclaimer, a caveat to the American people
1659 saying that this program will not start unless we can be
1660 absolutely certain that it will be solvent and self-
1661 sustaining into the future?

1662 Ms. {Greenlee.} I think we should tell the American

1663 public that this program will be solvent because we won't
1664 start if it won't, and provide them information so they know
1665 what they participating in if they choose to.

1666 Mr. {Latta.} You know, and again, though, maybe my
1667 logic is off, but we are going to spend money on something
1668 out there that is defective. Shouldn't we first improve the
1669 product, then market it?

1670 Ms. {Greenlee.} To me, that is the description of what
1671 we are telling you that we are in the process of doing, that
1672 we did the initial modeling. There are improvements that we
1673 need to make. Both the President and Secretary have
1674 discussed that in terms of reform in response to the debt
1675 commission, and we will not, again, using your language, go
1676 to market until those improvements are made and we know it is
1677 solvent.

1678 Mr. {Latta.} Okay. Do you all have the authority to
1679 make all the reforms in it beforehand?

1680 Ms. {Greenlee.} There are between 35 and 40 different
1681 places in the law where the Secretary has given both
1682 authority and responsibility to make the program work.

1683 Mr. {Latta.} Do you have to come back to Congress to
1684 have any forms implemented?

1685 Ms. {Greenlee.} No, we don't have any proposals at this
1686 point.

1687 Mr. {Latta.} But at the same time, we are going to
1688 spend \$120 million. How long do you think it is going to be
1689 before you could go out to market and actually have a product
1690 that people can say on our side that it is something that is
1691 totally done that we don't have to worry about telling people
1692 that it is not incorrect?

1693 Ms. {Greenlee.} The statute requires the Secretary to
1694 publish a final plan in October 2012, and we will hit that
1695 marker and have a product at that point that we could support
1696 and go to market shortly after that. That is the scheduled
1697 described in the law.

1698 Mr. {Latta.} Thank you, Mr. Chairman.

1699 Mr. {Pitts.} The gentleman's time is expired. The
1700 chair recognizes the gentleman from New York, Mr. Weiner, for
1701 5 minutes for questions.

1702 Mr. {Weiner.} Thank you, Mr. Chairman.

1703 This morning I woke up to a phone call from my brother,
1704 Jason, who told me that my mom, who is 75 years old, who skis
1705 every weekend and who takes long walks, tries not to drive
1706 anywhere, walks up and down her stairs, and she lives in a
1707 four-story walkup, had to be taken to the doctor because she
1708 fell. Jason is going to eventually have to go to work. I
1709 have to figure out whether I am going to be able to cast
1710 votes tonight because I am going to have to run home to see

1711 if I can take care of her when she gets done with the doctor.

1712 Nothing remarkable about this story.

1713 Ms. {Greenlee.} No.

1714 Mr. {Weiner.} Every single day people are trying to
1715 figure out how you deal with an increasingly healthy, longer-
1716 living aging society, something we should be very proud of,
1717 something that was largely the result of the Medicare Act,
1718 which many people objected to. They said it is socialized
1719 medicine, what are we doing, we should stay out of people's
1720 business. But we created that program and now we have
1721 healthier people, and a lot of them women because husbands
1722 die, you know, actuarially die earlier so a lot of women like
1723 my mother. She didn't choose to fall and hurt her hip. No
1724 one chooses to have Alzheimer's because they are Democrat or
1725 Republican. No one gets up one morning and says the free
1726 market leads me to decide that today I am going to go
1727 shopping for a broken hip. It doesn't happen.

1728 You know, there is an expression that it takes a great
1729 man to build a barn but any jackass can kick one down, in
1730 this case, a great women to build a barn. In this case, my
1731 friends on the other side of the aisle are kicking down their
1732 own barn. They are the ones that have continually said
1733 throughout the health care debate, well, if you just give
1734 people money back and let them decide the smart way to spend

1735 it, then that is the way to structure a program. That is
1736 what the CLASS Act did. It imbued the idea that my friends
1737 had and yet here they are saying, you know what, we can't do
1738 that. Now, it is funny how they all stipulate so
1739 comfortably oh, of course, it is a big problem, oh, yes, it
1740 is a very big problem because they know every one of their
1741 constituents literally sits in anxiety like I do and like my
1742 brother, how are we going to balance this. We don't want my
1743 mother to be in an institution. That would cost a great
1744 deal, and she doesn't really need it. But how do we provide
1745 this seam of care? I am very lucky. Jason is very lucky.
1746 We are both gainfully employed. We have some flexibility.
1747 But what about the families that don't? They know that it is
1748 not a partisan thing about whether your loved one gets sick.
1749 It is not a party thing. If we can step back for one moment
1750 and say well, wait a minute, if we all concede and stipulate
1751 that this is a problem that needs to be solved, let us think
1752 of the foundation on how we try to solve it.

1753 Now, I believe in a single-payer system like Medicare
1754 that covers things like this, that covers people 65 and
1755 older, also covers 55, also covers 35 and 45. I believe in
1756 that. Now, some of my Republican friends so, no, we don't
1757 believe in that, we don't like Medicare, we don't like
1758 programs like it, we believe in the private model, let us

1759 double down on private insurance. And so Secretary Greenlee,
1760 you are here today well, we have come up with a program that
1761 tries to address something you stipulate is a need in a model
1762 that you stipulate you like more, doesn't have a guaranteed
1763 anything except that we are going to try to make sure
1764 everyone gets at least \$50 a day and now we are saying oh,
1765 this is a very big problem but we don't like this idea.
1766 Okay. Where is your idea? Well, we heard earlier there is
1767 no Republican idea. This is an entirely deconstructionist
1768 agenda. And I want to say to my friends and my colleagues,
1769 for 99 percent of the American public they see politics as
1770 kind of this white noise in their background. They just want
1771 to tune in every once in a while and say you know what, they
1772 get it. They watch this debate today on C-SPAN 6 or whatever
1773 it is on. They watch this debate today and they listen to
1774 you say well, I want to see a guarantee. Well, if you are
1775 dealing with a loved one who has hurt themselves and needs
1776 care and needs to be taken care of maybe for the first time
1777 in your life, you are not thinking that way. You are
1778 thinking you know what, let us see if we can try to help out
1779 a little bit, and we have to return to this place where we
1780 try and solve problems, not constantly deconstruct the
1781 solutions that other people are coming up with.

1782 And I say to my colleagues on the other side of the

1783 aisle, good and decent people, God willing you live that life
1784 where none of your senior loved ones get sick. God willing.
1785 I wish that to you. But on the off chance that one of your
1786 constituents, even one of them faces this problem, let us try
1787 to come up with a solution, and we are bludgeoning this poor
1788 person who is trying to say you know what, I stipulate to the
1789 idea, it might be perfect. It is a tough challenge. We are
1790 trying to fix it. We are using a model that you suggested,
1791 using flexibility that you demanded and we are trying our
1792 best and we are committed to trying to solve the problems.

1793 And what is the answer? Oh, you can't say with
1794 metaphysical certitude you will solve the problems today
1795 before you leave the room? Well, in that case, let us hear
1796 from the four panelists who we paid to come here to say this
1797 program stinks. Let us listen to them. That ain't the way
1798 to run a country.

1799 Mr. {Pitts.} The chair will ask the audience to please
1800 restrain themselves.

1801 The gentleman's time is expired. The chair recognizes
1802 the gentleman from Georgia, Dr. Gingrey, for 5 minutes for
1803 questioning.

1804 Dr. {Gingrey.} Mr. Chairman, thank you, and I will take
1805 a lot of my time to maybe give a speech as well, and even if
1806 the audience were permitted their applause, I am not sure

1807 that I would get any, but I will take the privilege anyway.

1808 Let me just say this, that my friend from New York made
1809 a comment in regard to this side of the aisle being in
1810 opposition to Medicare and Medicaid and SCHIP, and he didn't
1811 say it but probably Social Security as well, and that is
1812 absolutely not true. That is absolutely not true. I have
1813 spent my whole adult professional life practicing medicine,
1814 31 years, and I was a freshman in medical school when
1815 Medicare passed. So this side of the aisle truly believes in
1816 the importance of the safety-net programs that we have. But
1817 we also firmly believe, Madam Secretary, that we need to pay
1818 for these programs, and if we don't and if we use gimmicks
1819 and certainly we feel and can point to the evidence in the
1820 Patient Protection and Affordable Care Act that there was a
1821 funny accounting used, double counting. We brought that out
1822 a number of times in this particular hearing. And all of
1823 this is what leads to \$14.3 trillion worth of debt and
1824 deficits of \$1.63 trillion and the need to raise taxes in the
1825 President's current budget that he submitted to us last month
1826 by \$1.6 trillion.

1827 So, you know, you go off a cliff. As important as these
1828 programs are--and I have talked to some of you between the
1829 break, and I understand that this CLASS Act has great merit
1830 and maybe some potential but clearly with this double

1831 counting, the gentleman from Pennsylvania on our side brought
1832 that up and I am going to bring it up again, Madam Secretary,
1833 because this is the kind of thing that is wrecking this
1834 country and pushing up toward the precipice of bankruptcy,
1835 and so that is why we say if a program like this doesn't
1836 work, let us don't start it, and I plead with you not to do
1837 that. I wish this bill was a standalone provision that we
1838 could really vet and make sure before we started anything
1839 like this that it was not just another situation where you
1840 have the big Federal Government raising the trust funds,
1841 whether it is Social Security or Medicare.

1842 So let me, Madam Secretary, address that once again. My
1843 numbers say that the CBO found that something like \$39
1844 billion--Mr. Murphy had a higher figure--the total costs of
1845 Obamacare, would be paid for by the total net savings from
1846 the CLASS Act. So do you know why CBO--again, he asked you
1847 that question and I will give you a second opportunity to
1848 answer it--why the CBO counted the \$39 billion toward paying
1849 for Obamacare and yet you say the importance of raising that
1850 money earlier before this program goes into effect in
1851 essentially 5 years, where is that money going to come from
1852 when it is needed for these seniors that Mr. Weiner and
1853 others are compassionately talking about?

1854 Ms. {Greenlee.} Congressman, I hope to be able to

1855 describe accurately to you how I believe the program will
1856 operate. I don't have any involvement with the CBO scoring,
1857 and I know that is something that you realize. The money
1858 will be collected for a number of years, 5 years, before the
1859 money is paid back out, and it is clear that there will be an
1860 obligation to the American public that they pay premiums, we
1861 will pay their benefits. I am simply not involved in the CBO
1862 scoring process or how the budget impacts the actual
1863 accounting of the program. We will make sure the accounting
1864 works and continue to be involved, follow up with you if
1865 there is something that we need to readdress with regard to
1866 the CBO--

1867 Dr. {Gingrey.} Well, Madam Secretary, you have said
1868 that a number of times, and I appreciate that, and I think
1869 you are very honest in your testimony, and being an honest
1870 woman and somebody with a lot of experience going back to
1871 your days in Kansas, do you think it is fair for the
1872 Administration to spend whatever dollar amount, whether it is
1873 \$40 billion or \$80 billion, put into the CLASS Act trust fund
1874 and then take it out and use it as part of the CBO score to
1875 make the Obamacare numbers work?

1876 Ms. {Greenlee.} I just don't have a comment on that,
1877 sir.

1878 Dr. {Gingrey.} Well, Madam Secretary, let me go a

1879 little bit further on that and say this. The Secretary of
1880 Health and Human Services has stated that she has the
1881 regulatory authority to make changes to this program. Do you
1882 believe under that authority that she has the ability to
1883 increase the program's income eligibility standards? It is a
1884 fairly straightforward yes or no question. And I think my
1885 time is about to expire. Yes or no.

1886 Ms. {Greenlee.} Yes, there are requirements in the law
1887 she must follow. She has the authority to do that.

1888 Dr. {Gingrey.} Mr. Chairman, if you will bear with me
1889 just for a second then, I would like to ask unanimous consent
1890 to put into the Congressional record this CRS report that
1891 questions whether or not the Secretary has that authority,
1892 and that questions the overall viability of the program, and
1893 I admit this to the record.

1894 Mr. {Pitts.} Without objection, so ordered.

1895 Dr. {Gingrey.} I yield back.

1896 [The information follows:]

1897 ***** COMMITTEE INSERT *****

|
1898 Mr. {Pitts.} The gentleman's time has expired. The
1899 chair recognizes the gentleman from New York, Mr. Towns, for
1900 5 minutes for questioning.

1901 Mr. {Towns.} Thank you very much, Mr. Chairman and
1902 Ranking Member, for holding this hearing. And we have long
1903 agreed that our country simply does not have an established
1904 framework to provide long-term care for those in need.

1905 Nursing home care is extremely expensive. When paid for
1906 by Medicaid, taxpayers are spending over \$200 per person per
1907 day on these expenditures. At a time when both the federal
1908 and State budgets are extremely tight, we need to be looking
1909 for ways to alleviate these issues. Programs like CLASS can
1910 pose one solution so long as we can work together to ensure
1911 that it remains financially sound.

1912 Let me ask you, Ms. Greenlee, what is HHS doing to
1913 ensure the fiscal soundness of this program? Now, this
1914 question might have been asked and I am sorry.

1915 Ms. {Greenlee.} I am certainly willing to answer.
1916 Since the law was passed a year ago, we have been involved in
1917 putting together two different actuarial models so that we
1918 can check them against each other to determine how the
1919 program works from the actuarial point of view. It is from
1920 those models that we have come to the conclusion that we need

1921 to make some changes to the program. We will now move
1922 forward using the new assumptions so that we can develop the
1923 plans that we need to prepare for presentation to the
1924 advisory council and to the Secretary. All of that will be a
1925 very public and transparent process so we continue to move
1926 forward and build on what we have learned so far.

1927 Mr. {Towns.} Thank you very much. You mentioned in
1928 your written testimony that many of the changes proposed to
1929 the Senate health reform bill that would have improved the
1930 CLASS program financial stability were not included in the
1931 final legislation. Can you give me at least a few examples?

1932 Ms. {Greenlee.} Indexing of the premiums would be one
1933 example.

1934 Mr. {Towns.} Yes.

1935 Ms. {Greenlee.} I was not a participant in those
1936 conversations. As we have come to the conclusion that we
1937 need to make some changes, revisiting that Senate list was
1938 the first place we looked for ideas and some of those things
1939 on the list are ones that we are proposing now.

1940 Mr. {Towns.} You know, Mr. Chairman, we are getting a
1941 lot of criticism on the other side, and it bothers me because
1942 I am not getting any suggestions or ideas from the other side
1943 when it is a known fact that people are now living longer and
1944 they need this care at the end of their days, and if we are

1945 not going to work together to come up with some ideas, how do
1946 we reject what is already there? I mean, I just want to get
1947 a little answer because I am really troubled, because this is
1948 a very serious issue and I am not sure it has been treated in
1949 a serious fashion, and I direct that to you, Mr. Chairman,
1950 not to the witness on this one.

1951 Dr. {Gingrey.} Mr. Towns, if you would yield to me?

1952 Mr. {Towns.} I would be delighted. I will yield to
1953 anybody that might be able to help me.

1954 Dr. {Gingrey.} Well, I appreciate, and I think in my
1955 time and the remarks that I made and the questions that I
1956 asked of the Secretary is to further outline and shine a
1957 little light on the fact that we are very much concerned, Mr.
1958 Towns, in regard to this program, if it were standalone and
1959 we could get it right--

1960 Mr. {Weiner.} Will the gentleman yield?

1961 Dr. {Gingrey.} Yes.

1962 Mr. {Weiner.} I appreciate the gentleman yielding. I
1963 mean, the fact of the matter is, we had 75 hours of hearings,
1964 hours and hours of markups and basically every single time it
1965 was greeted with no, we are against it. Mr. Towns, you are
1966 correct in pointing out, they don't have--this repeal and
1967 replace is a fiction. It is just repeal. Earlier you missed
1968 it, Dr. Burgess said no, we don't have a bill. I would ask,

1969 Dr. Gingrey, is there a bill? We will take a look at right
1970 now. Let us hold it up and take a look at it. They said
1971 read the bill. It won't even take you much time to read
1972 their bill, Mr. Towns. They don't have one. They are
1973 bankrupt of ideas but they do know that for all the people
1974 that are going to get care under the CLASS Act, they want
1975 them to be out of luck. That is clear, Mr. Towns, and I
1976 yield back to you.

1977 Mr. {Towns.} I thank the gentleman, and I must admit
1978 that I agree with your statement, and I think it is
1979 unfortunate because this is a very serious issue and I don't
1980 think it has been handled in a very serious fashion, and that
1981 bothers me.

1982 Dr. {Burgess.} Will the gentleman yield?

1983 Mr. {Towns.} I would be delighted to yield. Do you
1984 have any kind of solution?

1985 Dr. {Burgess.} Well, I just--

1986 Mr. {Towns.} If you do, I will yield to you.

1987 Dr. {Burgess.} Well, the solution is the hearing that
1988 we are having today, but I would just point out, this is a
1989 hearing that we were promised when we marked the bill up in
1990 the middle of the night without having a hearing on this
1991 subject, and Chairman Pallone at that time promised a hearing
1992 after the bill passed. That seemed odd to me, but I was

1993 willing to go along with it. Well, now we are having the
1994 hearing, but unfortunately, the bill was passed and signed
1995 into law, and as we know, the Gregg amendment over in the
1996 Senate was slapped together at the last minute. The Gregg
1997 amendment did protect the draw on the Treasury but that can
1998 be overwritten by the Secretary of Health and Human Services.
1999 Is that not correct?

2000 Mr. {Towns.} Thank you, Mr. Chairman.

2001 Mr. {Pitts.} The gentleman's time has expired. The
2002 chair thanks the gentleman and yields 5 minutes to the
2003 gentleman Mr. Guthrie from Kentucky for questions.

2004 Mr. {Guthrie.} Thank you, Mr. Chairman. I appreciate
2005 that. And we are concerned. You know, people do have issues
2006 when they are older and we need to prepare financially for
2007 that. And like all the members here, I am willing to work
2008 with whoever we need to help people. People can't use health
2009 savings accounts, they can't use pre-tax dollars for long-
2010 term planning, and that is where we need to go with it.

2011 But on the premium side of it, if you look at the
2012 questions we are asking, I mean, Kentucky today, the
2013 legislature is in general assembly and special session to
2014 close \$100 million gap in Medicare and looking at cutting
2015 education to do so. So when something passes and the
2016 Secretary of Health and Human Services says in its current

2017 form is not solvent, I think it would be absolutely
2018 irresponsible for us seeing what is happening in the budget
2019 not to sit down and ask these questions, and you are giving
2020 some answers that are comforting.

2021 A couple of things, one, on the premium. It is going to
2022 be self-sustaining so the premium that goes in pays the
2023 benefit?

2024 Ms. {Greenlee.} That is correct.

2025 Mr. {Guthrie.} And so there is--well, the premium may
2026 be high. That is the question once you start figuring out
2027 what it is going to be, you know, if it unaffordable. It
2028 won't be any well, we are going to save Medicaid here,
2029 therefore we can--the law doesn't allow you to say this
2030 premium will pay this but there is a gap but we are going to
2031 have savings in Medicaid and therefore it is a self-funding
2032 program. You know what I'm saying, just booking savings in
2033 other categories to--

2034 Ms. {Greenlee.} No, the analysis is self-contained
2035 within the CLASS Act itself. I mean, the Medicaid savings
2036 are important to watch but they don't in some way offset what
2037 is happening within the CLASS program itself.

2038 Mr. {Guthrie.} Now, if I understand this, the first 5
2039 years people will pay in but you can't receive a benefit for
2040 5 years because you have to pay in 5 years to pay a benefit.

2041 Ms. {Greenlee.} That is correct.

2042 Mr. {Guthrie.} So the money paid in has been scored to
2043 support other parts of the health care bill?

2044 Ms. {Greenlee.} Yes.

2045 Mr. {Guthrie.} So when you say a premium is going to
2046 pay benefits, you have to account for that? Because that
2047 money is not going to be there in year five so the premium
2048 will have to be higher to cover the benefits in the CLASS Act
2049 alone because you are taking money out to subsidize something
2050 else, right?

2051 Ms. {Greenlee.} This is--

2052 Mr. {Guthrie.} You have to factor that into that.

2053 Ms. {Greenlee.} As I described earlier, the difference
2054 between budgeting and the budgeting process and the
2055 accounting that we have to do in the receipts and
2056 expenditures in the CLASS program itself. They are not the
2057 same thing. They are related but they are not the same thing
2058 in terms of the solvency of the program.

2059 Mr. {Guthrie.} Well, I know you are not budgeting, I
2060 mean, I know you are not CBO but you are going to have to
2061 account in the value of the premium for the fact that you are
2062 not going to have the first 5 years of dollars to spend for
2063 benefits.

2064 Ms. {Greenlee.} No, the program must be credited with

2065 the premiums that come in.

2066 Mr. {Guthrie.} Okay. So you are going to count the
2067 premiums that are spent somewhere else as part of the
2068 benefit?

2069 Ms. {Greenlee.} It will have to--

2070 Mr. {Guthrie.} You are not going to have the money
2071 there.

2072 Ms. {Greenlee.} But it has to be a part of the
2073 accounting that we make for the program. I mean, it is very
2074 clear in the law that the premiums that come in have to cover
2075 the benefits and there will be a request for benefits. I
2076 mean, that is the program design. If there is a budget
2077 methodology that accounts for that in a different way, it
2078 does not change the fundamental--

2079 Mr. {Guthrie.} So now we are going to have to cover the
2080 first 5 years of money?

2081 Ms. {Greenlee.} Five years it will be there, but again,
2082 these are kind of different financial mechanisms that we are
2083 interchanging.

2084 Mr. {Guthrie.} I have worked in family business and
2085 provided benefits to our workers and looked for ways for
2086 people to plan for their long-term care. If a business
2087 doesn't auto-enroll, is there an alternative process to
2088 enroll individuals? If a business chooses not to offer it as

2089 an auto-enroll benefit, then what is the alternative process?

2090 Ms. {Greenlee.} The key here is that both the employers
2091 and the individuals have a choice. The law describes an
2092 employer opt-in methodology, which is up to the employer if
2093 they want to participate, and we also have to come up with an
2094 alternative mechanism for individuals. We are seriously
2095 interested in engaging the business community about what
2096 would work for them. If they choose not to opt in, are there
2097 other kinds of information, other kinds of way that they
2098 could help their employees gain access to the program, and we
2099 will be engaged with the employer community in a robust
2100 fashion because their support is helpful to us as we gain the
2101 large numbers of--

2102 Mr. {Guthrie.} Well, that is just a way to reach
2103 access.

2104 Ms. {Greenlee.} That is how we get the numbers we need.

2105 Mr. {Guthrie.} Like when you do immunizations, you get
2106 them at school because you know you are going to get
2107 everybody coming in.

2108 Ms. {Greenlee.} And we need to be engaged with them and
2109 plan to do that.

2110 Mr. {Guthrie.} I have just about a minute, but I
2111 understand you have the 3 months so you don't want to pay in
2112 early, drop out and then get back in and try to get in at

2113 your earlier drop so if you drop out for 3 months, then you
2114 come back, you are reassessed at the age and the time and
2115 actuarially at the time you come back in, so if you buy a
2116 policy at 20, it should be cheaper than if you buy a policy
2117 when you are 60 because you have got longer--hopefully,
2118 unless you are disabled, have a longer time to pay. So
2119 currently we have had people on unemployment for 2 years so
2120 we have these kinds of situations, but if somebody dropped
2121 out, lost their job and couldn't get a job for 3 months a day
2122 when they show back up they would be reassessed at their new
2123 age. So if they started at 20, they get 40, they lose their
2124 job, they come back at 40, 3 months and a day later they get
2125 reassessed. Is that how--

2126 Ms. {Greenlee.} There are two things we have to achieve
2127 together in that--

2128 Mr. {Guthrie.} I mean, that is just a real issue that--

2129 Ms. {Greenlee.} Right, the fact that people may come in
2130 and out of the program in a very legitimate way that we need
2131 to price but we also need to protect from gaming the program
2132 at the same time.

2133 Mr. {Guthrie.} Thanks. I appreciate it.

2134 Mr. {Pitts.} The gentleman's time has expired. Madam
2135 Secretary, thank you for your testimony and your response to
2136 the questions. Earlier this month, Secretary Sebelius

2137 promised Dr. Gingrey during her testimony before this
2138 committee that HHS would engage in a transparent process in
2139 the development of the CLASS program. My hope is that you
2140 will share information with this committee as you develop the
2141 program's structure.

2142 Ms. {Greenlee.} Yes.

2143 Mr. {Pitts.} Thank you, and that concludes the first
2144 panel, and the chair thanks the Secretary for your very
2145 informative testimony and responses.

2146 Mr. {Dingell.} Mr. Chairman?

2147 Mr. {Pitts.} Yes, Chairman.

2148 Mr. {Dingell.} Very briefly. Thank you for having this
2149 hearing. It has been very useful and it is moving us towards
2150 seeing that this program works well. This is the purpose for
2151 which oversight was designed and it is our responsibility,
2152 and I commend you for it. Thank you.

2153 Mr. {Pitts.} Thank you, Mr. Dingell, for those
2154 comments.

2155 So you are excused at this time and we will call the
2156 second panel to sit at the table, and I will introduce them
2157 at this time. Thank you. And let me introduce the witnesses
2158 and they will testify in this order, and I ask that they will
2159 summary with 5-minute statements each. We will make your
2160 written testimony part of the record. First of all, Mr.

2161 Allen Schmitz is a Principal and Consulting Actuary with the
2162 Milwaukee office of Milliman, focusing primarily on long-term
2163 care insurance. Mr. Schmitz was part of a team of actuaries
2164 from the American Academy of Actuaries that has provided
2165 actuarial analysis and review of the CLASS program. Mr.
2166 Schmitz has also recently served on the Society of Actuaries'
2167 long-term care insurance section council and currently leads
2168 the International Actuarial Association long-term care team.

2169 Dr. Joe Antos is Wilson H. Taylor Scholar in Health Care
2170 and Retirement Policy at the American Enterprise Institute.

2171 Dr. Antos is also a Commissioner of the Maryland Health
2172 Services Cost Review Commission, a help advisor to the
2173 Congressional Budget Office and an Adjunct Professor at the
2174 Gillings School of Global Public Health at the University of
2175 North Carolina at Chapel Hill. Before joining AEI, he was
2176 Assistant Director for Help and Human Resources at the
2177 Congressional Budget Office. Dr. Antos received his PhD in
2178 economics from the University of Rochester.

2179 Mr. Warshawsky currently serves as the Director of
2180 Retirement Research at Towers Watson, a global human capital
2181 consulting firm. He conducts and oversees research on
2182 employer-sponsored retirement programs and policies, Social
2183 Security financial planning and health care financing. In
2184 addition, Mr. Warshawsky was confirmed by the Senate to serve

2185 as a member of the Social Security Advisory Board for a term
2186 through 2012. He previously served as Assistant Secretary
2187 for economic policy at the U.S. Treasury Department.

2188 Mr. William Minnix, Jr., has served as the President and
2189 CEO of LeadingAge since 2001. LeadingAge is an association
2190 of 5,400 not-for-profit organizations focused on advancing
2191 policies that support the empowerment of people to live fully
2192 as they age. For more than 35 years, Mr. Minnix has been an
2193 advocate for innovation in not-for-profit aging services, and
2194 during his tenure with LeadingAge established the LeadingAge
2195 Center for Aging Services Technologies.

2196 Mr. Tony Young is the NISH Senior Public Policy
2197 Strategist addressing employment issues as they affect
2198 individuals with significant disabilities. Mr. Young is
2199 particularly involved with the AbilityOne program, whose
2200 mission is to provide employment opportunities for people who
2201 are blind or have severe disabilities in the manufacture and
2202 delivery of products and services to the Federal Government.
2203 In 1998, Mr. Young received the Disability Achievement Award
2204 by the American Public Health Association's Disability Forum.
2205 This award is given to a person who has a long history of
2206 making substantial achievements in the field of disability
2207 science or policy benefiting persons with disabilities.

2208 So welcome. We look forward to your testimony, and Mr.

2209 Schmitz, you are recognized for 5 minutes.

|
2210 ^STATEMENTS OF ALLEN J. SCHMITZ, FSA, MAAA, PRINCIPAL,
2211 CONSULTING ACTUARY, MILLIMAN, AMERICAN ACADEMY OF ACTUARIES;
2212 JOSEPH ANTOS, PH.D., WILLIAM H. TAYLOR SCHOLAR IN HEALTH CARE
2213 AND RETIREMENT POLICY, THE AMERICAN ENTERPRISE INSTITUTE;
2214 HON. MARK J. WARSHAWSKY, CURRENT MEMBER OF THE SOCIAL
2215 SECURITY ADVISORY BOARD, DIRECTOR OF RETIREMENT RESEARCH,
2216 TOWERS WATSON; WILLIAM LAWRENCE MINNIX, JR., LEADINGAGE, CEO,
2217 ADVANCE CLASS, INC., CHAIR; AND ANTHONY J. YOUNG, SENIOR
2218 PUBLIC POLICY STRATEGIST, NISH, THE ABILITYONE PROGRAM

|
2219 ^STATEMENT OF ALLEN J. SCHMITZ

2220 } Mr. {Schmitz.} Thank you, Chairman Pitts and Ranking
2221 Member Pallone for the opportunity to testify today.

2222 My name is Al Schmitz, and I am here on behalf of the
2223 American Academy of Actuaries. We published an analysis of
2224 the CLASS Act legislation in 2009, which modeled an earlier
2225 version of the program. Based on that analysis, we concluded
2226 that the program would not be sustainable in the long term
2227 and that it would be unlikely to cover more than a small
2228 percentage of the intended population. Those same concerns
2229 persist with the CLASS program as enacted.

2230 The CLASS program is a voluntary, guaranteed issue,

2231 employment-based program. It is important to note that the
2232 CLASS program is required to be actuarially sound over a 75-
2233 year period with no support from taxpayers. Nevertheless,
2234 the actuarially sound requirement will be very difficult to
2235 achieve under the current program design.

2236 A primary concern is the considerable potential for
2237 adverse selection in this program. Without addressing many
2238 of the program's issues, the program will be unsustainable in
2239 the long term. An effective, actuarially sound public long-
2240 term care program will limit the effect of adverse selection,
2241 and this is critical in a voluntary program in which
2242 participants may opt in and opt out. Those with greater need
2243 for long-term care coverage are more likely to opt in and
2244 those individuals without that need are more likely to opt
2245 out. This adverse selection increases the average insured
2246 risk and results in higher average premiums which in turn may
2247 lead to less participation from healthy individuals and even
2248 more adverse selection. This can result in a premium spiral.

2249 Important provisions on the CLASS Act that affect
2250 adverse selection include guaranteed issue with a weak
2251 actively at work requirement, opt-out and opt-in provisions
2252 that allow participants to delay coverage until it is needed,
2253 premium subsidies requiring a premium of only \$5 per month
2254 for students and those below the poverty line, a waiting

2255 period that is not long enough to control adverse selection,
2256 rate increase limitations for certain individuals older than
2257 age 65, and benefit design features such as cash benefits and
2258 unlimited lifetime maximums that have been and continue to be
2259 problematic in the private long-term care insurance market
2260 because they are susceptible to induced demand and may drive
2261 higher premiums and lower participation.

2262 There has been significant focus on participation levels
2263 as a critical yardstick in measuring the viability and
2264 success of this program, and while higher participation
2265 generally makes it easier to obtain a reasonable spread of
2266 risk, it should be made clear that it is the mix of
2267 individuals with different risk characteristics enrolled in
2268 the program at any one time and not participation alone that
2269 is key to long-term sustainability. High participation from
2270 only higher-risk individuals will threaten the program.

2271 Key factors influencing participation are affordability
2272 and marketing. The premium levels must be affordable,
2273 competitive with what is available in the private long-term
2274 care insurance market and of good value to consumers. But
2275 the CLASS program design includes features that increase
2276 adverse selection and result in relatively unaffordable
2277 premiums. A strong marketing program would significantly
2278 increase participation and aid in obtaining a reasonable

2279 spread of risk. In addition, it would encourage individuals
2280 to plan for their future long-term care needs, and getting
2281 people to plan for their future long-term care needs could
2282 help reduce pressure on government which currently pays a
2283 majority of long-term care. A sustainable voluntary program
2284 will have provisions to address many of the adverse-selection
2285 concerns I have outlined.

2286 On behalf of the academy, I offer the following
2287 recommendations for modifying the CLASS program: an actively
2288 at-work definition with the minimum requirement of 20 to 30
2289 hours of scheduled work or comparable requirement,
2290 restrictions on the ability to opt out and subsequently opt
2291 in with the use of either a long second waiting period or
2292 alternative underwriting mechanism, the use of benefit
2293 elimination period and duration limits, benefits that are
2294 paid on a reimbursement rather than cash basis, and an
2295 initial premium structure that provides for schedule premium
2296 increases at either Consumer Price Index or alternative rate.

2297 These modifications along with an effective marketing
2298 effort will improve the sustainability of this voluntary
2299 long-term care program. Without these modifications, the
2300 program is likely to be unsustainable. We are encouraged
2301 that Congress and the Administration are considering changes
2302 to the program design that could help address adverse

2303 selection. Significant additional changes, however, are
2304 necessary to address the concerns I have raised here today or
2305 the CLASS program may not be sustainable.

2306 Again, I thank you for the opportunity to appear before
2307 you today and would welcome any questions.

2308 [The prepared statement of Mr. Schmitz follows:]

2309 ***** INSERT 2 *****

|
2310 Mr. {Pitts.} The chair thanks the gentleman and
2311 recognizes Dr. Antos for 5 minutes.

|
2312 ^STATEMENT OF JOSEPH ANTOS

2313 } Mr. {Antos.} Thank you, Mr. Chairman, and thank you,
2314 Ranking Member Pallone.

2315 CLASS is a new federal long-term care program that is
2316 financed solely through enrollee premiums. Because the
2317 program collects premiums in advance of benefit payments,
2318 CLASS reduces the budget deficit in the near term. Over the
2319 longer term, CLASS increases the deficit and worsens the
2320 fiscal crisis we are already facing due to the mounting costs
2321 of Medicare, Medicaid and Social Security.

2322 The goals of CLASS are laudable. The program aims to
2323 provide persons with functional limitations cash assistance
2324 to help them remain living in their communities but few
2325 people will benefit unless the program is attractive to a
2326 broad who can share the cost and keep premiums affordable.
2327 CLASS will primarily enroll an older, sicker population,
2328 which will drive premiums up sharply. This adverse selection
2329 will create a death spiral of rising premiums and declining
2330 participation that will doom the program as it is now
2331 structured.

2332 The technical defects in CLASS arise from the intention
2333 to make long-term care benefits readily available including

2334 to persons who already have disabilities but are still able
2335 to work. Underwriting is prohibited and enrollees of the
2336 same age are charged the same premium regardless of their
2337 health or disability status. Moreover, low-income people
2338 would pay a \$5 monthly premium. Consequently, premiums for
2339 other enrollees will be high to begin with and grow rapidly
2340 as healthier people refuse coverage or drop out of the
2341 program. Automatic enrollment and the minimal work
2342 requirement will have very little impact on this situation.

2343 Premiums are hard to predict. CBO estimates that
2344 premiums would be \$123 a month for a \$75-a-day benefit. The
2345 CMS Chief Actuary estimates \$240. That tells you that there
2346 is fundamental uncertainty about what is going on in this
2347 program. By comparison, however, private premiums average
2348 about \$184 for a daily benefit, somewhat larger than \$150.
2349 There are differences but nonetheless that tells you
2350 something about the state of the market. With high CLASS
2351 premiums and better deals elsewhere, it is not surprising
2352 that participation is estimated at 2 to 3-1/2 percent of the
2353 market.

2354 It will soon become obvious to many workers that prompt
2355 enrollment in CLASS is not in their best interest, even for
2356 those few who are actively interested in purchasing long-term
2357 care insurance. A 40-year-old who waits 10 years would save

2358 about \$15,000 in premiums with only a small risk of becoming
2359 unable to qualify for CLASS by the time she reaches 50.
2360 Consequently, there will be few younger, healthier people in
2361 the program to subsidize those who will soon draw benefits.

2362 The law requires premiums to be set to keep the CLASS
2363 trust fund solvent over 75 years. That guarantees steep
2364 price hikes as the mix of enrollees shifts towards those with
2365 greater risk. Even if solvency is achieved, the program will
2366 generate budget deficits in coming years. CBO says the
2367 deficit will appear sometime after 2030. The CMS Actuary
2368 says 2025. The question is not whether there will be
2369 deficits but rather when and how much.

2370 As with Medicare, the trust fund does nothing to protect
2371 the CLASS program. Surpluses that accumulate in the fund are
2372 invested in non-marketable Treasury securities, essentially
2373 IOUs that obligate Treasury to find funds to cover the
2374 operation of CLASS when premiums are no longer sufficient to
2375 cover expenses. That money is of course used, the surpluses
2376 are used immediately by the Treasury to fund the ongoing
2377 operations of the Federal Government. It is standard
2378 operating procedure. Although premiums would be set to
2379 maintain a positive fund balance for 75 years, that balance
2380 includes the excess premiums from the first few years that
2381 were in fact spent and it includes imputed interest on

2382 Treasury Secretaries that is not in fact new money.

2383 If adverse selection is not addressed, CLASS will face a
2384 funding crisis. Unless Congress reneges on a public promise,
2385 it fails to pay benefits after having collected billions in
2386 premiums, it would have no choice but to provide a financial
2387 bailout rivaling anything we have seen to date. Congress
2388 could take action to mitigate adverse selection by, for
2389 example, toughening the work requirement or permitting some
2390 form of underwriting. I know that Secretary Sebelius has
2391 said that she has the authority to take the necessary actions
2392 and the CRS analysis that was introduced strongly indicates
2393 that that is not the case. Congress could also ignore the
2394 structural defects of CLASS and force workers to buy it,
2395 despite the fact that very few people now buy long-term care
2396 insurance today, which says something about how people view
2397 the situation regardless of what we analysts think is right.

2398 There is no guarantee that even legislative changes,
2399 even dramatic legislative changes, can cure the CLASS
2400 program's serious defects. Repeal is a logical alternative.
2401 It is far better as a public policy matter to repeal a
2402 defective program than to let it repeal itself through fiscal
2403 failure.

2404 [The prepared statement of Mr. Antos follows:]

2405 ***** INSERT 3 *****

|
2406 Mr. {Pitts.} The chair thanks the gentleman and
2407 recognizes the gentleman, Mr. Warshawsky, for 5 minutes.

|
2408 ^STATEMENT OF MARK J. WARSHAWSKY

2409 } Mr. {Warshawsky.} Chairman Pitts, Ranking Member
2410 Pallone, other members of the subcommittee, I appreciate the
2411 opportunity to share information and thoughts with you on the
2412 new voluntary long-term care insurance program to be offered
2413 by the Federal Government in 2012 called CLASS. I am
2414 Director of Retirement Research at Towers Watson, a firm
2415 consulting on employee benefits and a member of the Social
2416 Security Advisory Board. In this testimony, however, I am
2417 not representing either organization. Rather, I am speaking
2418 as somebody who has done research and written on long-term
2419 care insurance and disability risk for more than 15 years and
2420 most recently about the CLASS legislation.

2421 In this statement, I hope to set forward a framework
2422 that could be used by employers in deciding whether or not to
2423 participate in the CLASS program. First, however, I thought
2424 it would be helpful to provide some statistics about current
2425 offerings of private long-term care insurance by employers to
2426 workers. According to our benefits data source at Towers
2427 Watson, as of 2010 about 50 percent of large employers offer
2428 but do not subsidize long-term care insurance to their
2429 workers. Another 4 percent provide such insurance with

2430 either a partial or full subsidy. The fact that the vast
2431 majority of employers either do not subsidize or even offer
2432 long-term care insurance to their workers despite a tax
2433 advantage to the worker for many employer subsidies reflects
2434 that this insurance is considered a convenience benefit to
2435 employees. That is, long-term care insurance is not a core
2436 benefit for employers because it is not thought to provide a
2437 significant business advantage to the employer offering it
2438 beyond goodwill and convenience to the employee.

2439 Moreover, experience to date with take-up by employees
2440 and employer-offered long-term care insurance plans has been
2441 quite modest. Even in large organizations with well-paid and
2442 well-informed employees for whom Medicaid is unlikely to be
2443 thought a source of long-term care coverage take-up rates
2444 have not exceeded 5 or 6 percent, and that is at the upper
2445 end of the spectrum. This is despite the fact that employer-
2446 offered policies have the advantage over commercial
2447 individual policies that little or no underwriting is done in
2448 the workplace.

2449 We have had extensive discussion about the intended
2450 structure of the CLASS program so I won't go into that, but I
2451 will note that one aspect is that it provides that workers
2452 can be enrolled in the program via one of two methods. The
2453 employers who can decide to participate in the program would

2454 automatically enroll their workers through payroll deduction
2455 with the workers having the right to opt out. Such automatic
2456 enrollment is now common in many 401(k) plans. Self-employed
2457 workers and those whose employers do not participate could
2458 join through an individual enrollment mechanism. According
2459 to my understanding of the language of the law, employers
2460 could only participate in the program if they agreed to
2461 automatically enroll their employees. Also, according to my
2462 understanding of the legislative expectations of the program
2463 and the score given to the program by the CBO, as part of the
2464 broader health reform legislation, it is thought that most of
2465 the enrollment in the program projected by the CBO to be 6
2466 percent of the Nation's working population in 2010 will be
2467 through employers.

2468 Now, the framework, and I will have to be quick. The
2469 overall important consideration to employers is whether the
2470 government aggressively promotes the need and the benefits of
2471 long-term care insurance per se directly with workers. In
2472 other words, they have to make a sale to the American public
2473 that this is the right thing to do as a long-term care
2474 insurance benefit. For example, is it possible for the
2475 government to add informative and candid inserts into regular
2476 communications that workers get from the Federal Government?
2477 Absent such promotions, many employers, even those currently

2478 offering long-term care insurance, are unlikely to want to
2479 participate in an automatic enrollment program when the vast
2480 majority of workers are likely to opt out.

2481 I have in my testimony discussion of the adverse
2482 selection problem, which would concern employers as well, but
2483 I think that has been very accurately and ably discussed.

2484 So let me discuss in terms of some benefits and
2485 drawbacks of the federal program per se. Obviously the
2486 employers will be comparing the benefits and premiums of the
2487 federal program with those available in the private sector.
2488 This will be an intensely facts and circumstances evaluation
2489 and I can't speculate on how it will come out, but there are
2490 sort of two opposing factors. One would favor the government
2491 program and others would favor the private long-term care
2492 insurance. The fact that the government program pays cash
2493 benefits that can be used for any purpose I think is an
2494 attractive feature of the program because it provides
2495 flexibility but the level of benefits that is contemplated in
2496 the government program, \$50 to \$75 a day, is unlikely to
2497 cover the actual costs of care for many disabilities, nursing
2498 home, home health care. But in private insurance, that is a
2499 parameter in the policy and can be selected to be appropriate
2500 to the region of the country and a level of care desired by
2501 the insureds. Also, an advantage to the private insurance is

2502 that there is no 5-year waiting period.

2503 Let me conclude by saying that CLASS program, employers
2504 will need to evaluate at the time whether to offer it to
2505 their workers on an automatic enrollment basis, and it is
2506 worth noting that employers have a lot on their plate at this
2507 time with health care reform and so this is just another
2508 issue.

2509 [The prepared statement of Mr. Warshawsky follows:]

2510 ***** INSERT 4 *****

|
2511 Mr. {Pitts.} The chair thanks the gentleman and
2512 recognizes Mr. Minnix for 5 minutes.

|
2513 ^STATEMENT OF WILLIAM LAWRENCE MINNIX, JR.

2514 } Mr. {Minnix.} Thank you, Mr. Chairman, and I want to
2515 thank especially Congressman Dingell and Congressman Pallone
2516 for their leadership on this issue.

2517 My organization represents not-for-profit aging services
2518 sector. They have been in your communities on average for 75
2519 years. They are the Jewish and Catholic and Lutheran and
2520 Masonic and labor-sponsored organizations. We joined with a
2521 large coalition. I want to remind everyone that we are 270
2522 consumer service organizations that supported CLASS. Senator
2523 Dodd said as far as he knew, that was unprecedented. So we
2524 come to the table today with a lot of people that want this
2525 program. Why? Because they see the need for it inside out.

2526 Long-term care is something most families will face and
2527 nobody wants to talk about. We have been discussing risk.
2528 Here is where the big risk is: It is the single biggest risk
2529 that most American families face today. Just ask those that
2530 have been through it and they are not insured for it. So it
2531 is hard to talk about but who will benefit from CLASS is
2532 potentially every American family. Disabling conditions are
2533 not respecter of political party, age, socioeconomic status,
2534 living venue, background, genetics, what have you. It is the

2535 20-year-old that took the dive at beach week and now a
2536 paraplegic. It is the veteran who comes back from the war as
2537 a double amputee. It is the Alzheimer's person who moves in
2538 with the family.

2539 Families spend 35 hours a week care-giving, and that
2540 mostly involves women who also work full time. They spend on
2541 average out of their own pockets \$5,500 a year in that job,
2542 \$9,000 if they are a long-distance caregiver. So Mr.
2543 Weiner's situation is becoming more and more commonplace.
2544 Those who are poor or have to spend down, we do have Medicaid
2545 and we need to do all we can do to make sure Medicaid is
2546 there for people who need it.

2547 For private long-term care insurance, I own it just like
2548 Dr. Burgess. I bought it 10 years ago. My wife couldn't get
2549 it through no fault of her own. My premiums just went up 60
2550 percent. I can't wait for CLASS to roll out for me and my
2551 wife. Every poll or focus group I have seen about CLASS,
2552 when you ask real people, Democrat, Republican, especially
2553 women, say the time has come for a program like this. We
2554 need a choice not available in the marketplace. What is
2555 wrong with giving people a chance to choose something that
2556 may help them because the options they have today are simply
2557 not there for the masses. So when we talk about risk, we
2558 better be talking about the risk of real people trying to

2559 live out their lives every single day.

2560 Now, who will benefit from CLASS? Consumers, we have
2561 talked about, the taxpayer. It is a self-contained program.
2562 Business will benefit from it. We have had discussions with
2563 the business community. A Met Life study says that it is
2564 costing business, care-giving is costing business \$17 billion
2565 a year, and when I talk to business leaders, many of them
2566 say, you know, we know this is happening but we are really
2567 not sure about what to do about it. Part of Advance CLASS,
2568 which is a group that formed out of these 270 groups, is
2569 committed over the next several years to educating the
2570 public. There are 270 groups, touches the lives, has
2571 communication with tens of millions of people every year, and
2572 of the things that is paramount for all of us to do over the
2573 next several years is educate the public because the more
2574 people enroll, the better the effect on Medicaid. It puts
2575 money back in families' pockets that are willing to assume
2576 responsibility for care-giving, and it will help the
2577 taxpayer. It also will help business, because whether we
2578 like it or not, the need for care-giving is not going away.
2579 It will increase.

2580 You know the history of CLASS and we have had on both
2581 sides of the aisle conversations about this ad nauseum. The
2582 biggest unknowns about CLASS, the biggest one is that no one

2583 can be sure how many people will sign up. I heard Secretary
2584 Greenlee say they are going to roll out a plan and that is
2585 the actuarial study we ought to all be looking at, because
2586 the day the plan rolls out and you can say here is what is
2587 looks like, here are the options, here are the premiums, then
2588 we have all got a big education role. The biggest risk is
2589 status quo doing nothing. The risk of moving forward with
2590 CLASS is minimal compared to what we face otherwise.

2591 Thank you for your interest in this issue.

2592 [The prepared statement of Mr. Minnix follows:]

2593 ***** INSERT 5 *****

|
2594 Mr. {Pitts.} The chair thanks the gentleman and
2595 recognizes Mr. Young for 5 minutes.

|
2596 ^STATEMENT OF ANTHONY YOUNG

2597 } Mr. {Young.} Good morning, Chairman Pitts, Ranking
2598 Member Pallone and members of the Health Subcommittee. I am
2599 Tony Young, as you know, a Senior Public Policy Strategist
2600 with NISH. I work in a program called the AbilityOne
2601 program. We assist people with very significant disabilities
2602 and blindness to obtain jobs through federal contracts. In
2603 fiscal year 2009, the AbilityOne program helped over 47,000
2604 people who are blind or have severe disabilities obtain
2605 employment.

2606 The national voluntary CLASS program could help
2607 individuals and their families manage the impact when a
2608 sudden, unexpected event results in a lifelong need for
2609 assistance with basic human functions. Such an event can
2610 happen to anyone at any time and most who learn they need
2611 long-term services and supports have few options for
2612 financing that care. Many try to rely on their own resources
2613 or on help from family members for their care. However,
2614 unless they are extremely wealthy or they have very good,
2615 dedicated family support, they will not be prepared for the
2616 financial and emotional costs. That is why I am here today.
2617 My experience demonstrates the need of a national voluntary

2618 CLASS program.

2619 I was 18 when I acquired my disability while body
2620 surfing. In high school, I was very active in sports,
2621 lettering in football and track, even selected Second Team
2622 All-Met Right Guard for the Washington Post. There were
2623 social clubs, school activities, dating, dancing, pool
2624 parties and preparing for college. It all ended abruptly and
2625 without warning on a hot summer day in August 1970. I went
2626 from near-total independence to near-total dependence in the
2627 crunch of a C4 vertebra.

2628 After 10 months of medical and physical rehabilitation,
2629 I was sent home to live with my parents. There was no
2630 information available on how or where to get help. There
2631 were long months when my parents managed all of my personal
2632 assistance while working full time. We were fortunate enough
2633 to have good health insurance at that time so the medical
2634 bills did not bankrupt the family. This continued for nearly
2635 3 years.

2636 Slowly we discovered that some services were available.
2637 They came from a local visiting nurse service. I received
2638 home visits for personal care, physical and occupational
2639 therapy and medical monitoring. These services helped to
2640 relieve some of the personal care burdens on my family but it
2641 soon became apparent that I would need more flexibility and

2642 more responsive supports as they aged.

2643 There are three things I would like you to keep in mind
2644 during my testimony today. First, I am one of the fortunate
2645 few. I was not forced to go into a nursing home. I was not
2646 forced to become impoverished in order to be eligible for
2647 Medicaid. I was able to obtain the long-term supports and
2648 services I needed. Had someone like me had CLASS prior to
2649 such an unexpected life-changing accident, my family and I
2650 would have some security, that the personal assistance and
2651 long-term supports I needed would be available to us. I want
2652 the opportunity for my wife and eventually my son to plan for
2653 a future disability.

2654 Keep in mind that a person born with a disability, one
2655 who acquires a disability in adult life or develops
2656 disabilities in later life are not automatically triggered
2657 into the CLASS benefits. In order to trigger benefits, an
2658 individual must meet a threshold of functional limitations.
2659 There are different thresholds and different benefit levels
2660 depending on the level of limitations. Some individuals will
2661 choose not to trigger the benefits at all.

2662 I know that some of you have concerns over the solvency
2663 of the program. Believe me, I want and need CLASS to be
2664 solvent too. I want it for my family and for millions of
2665 other Americans to have a sustainable program for the future.

2666 As we have already today, the HHS Secretary has authority,
2667 indeed, the responsibility, to ensure that the program is
2668 solvent for 75 years. The Secretary has announced important
2669 steps to ensure the sustainability of the CLASS program by
2670 addressing earnings minimal levels, adjusting premium levels
2671 to account for inflation and strengthen the fraud, waste and
2672 abuse loopholes that might threaten the program. These
2673 reforms are important to the program and I believe that the
2674 Secretary must be given the time to make these and other
2675 changes to strengthen the CLASS program. Thank you.

2676 [The prepared statement of Mr. Young follows:]

2677 ***** INSERT 6 *****

|
2678 Mr. {Pitts.} The chair thanks the gentleman, and we
2679 will start questioning. I yield myself 5 minutes for
2680 questioning.

2681 Dr. Antos, during Congressional debate on health care
2682 reform, we heard bipartisan concerns with the structure of
2683 the CLASS program. We have repeatedly heard Senator Conrad's
2684 quotes, regularly calling the program a Ponzi scheme. Could
2685 you please explain the budget gimmick that was used to claim
2686 program savings, even though by most accounts this program
2687 will significantly add to the Nation's deficit?

2688 Mr. {Antos.} Thank you, Mr. Chairman. Well, I think it
2689 is a time-honored tradition in Congress to use this
2690 particular technique, so I wouldn't want to call it a
2691 gimmick. But the fact is that premiums will be collected for
2692 the first 5 years before any benefits are paid, and there is
2693 a 5-year vesting period so that that means even--and I wasn't
2694 clear when the program will begin but suppose it starts next
2695 year. Even after 2017 or 2018, there will still be premiums
2696 coming in from an individual before there is any possibility
2697 that they could draw down benefits. This idea of collecting
2698 the money in advance and putting it in a trust fund is a
2699 well-known political concept but it has nothing to do with
2700 budget rules. Trust funds are a separate kind of accounting

2701 mechanism. The budget follows essentially cash in and cash
2702 out. And so in the normal course of events with the
2703 government, while this trust fund will accumulate balances,
2704 that money is immediately disbursed to finance the other
2705 operations of the government, and eventually when money needs
2706 to be drawn on that trust fund, the way it works is that the
2707 Treasury has to go to its usual sources to find the money,
2708 which is generally deficit financing, generally borrowing
2709 money from Americans and others who buy government
2710 securities.

2711 Mr. {Pitts.} Thank you.

2712 Mr. Schmitz, one of the challenges of long-term care
2713 insurance and health insurance is adverse selection, which
2714 occurs when insurance benefits attract a larger number of
2715 high-risk participants. The American Academy of Actuaries'
2716 analysis noted that the CLASS program in its current form has
2717 the potential for adverse selection. Could you please speak
2718 to the potential magnitude of that selection and how such an
2719 effect could put the viability of the entire CLASS program at
2720 risk?

2721 Mr. {Schmitz.} Sure. The adverse selection that is
2722 potential in the CLASS program as it is designed is driven by
2723 a number of things. It is going to be a voluntary program on
2724 a guaranteed-issue basis, and to make a voluntary program

2725 work, there needs to be risk classification. You need to
2726 adhere to actuarial risk classification principles, and the
2727 way it is currently designed, the risk classification
2728 principles will not be followed because you will have
2729 unhealthy individuals who will be more likely to join the
2730 program. So you end up with a situation not just because of
2731 initial selection but also throughout the program as healthy
2732 individuals, they may be the ones who decide to leave and you
2733 end up with a group that the premiums end up rising and you
2734 end up with a rate spiral. The other things that are
2735 important to look at with respect to this, in order to try to
2736 make this program work, there is going to have to be
2737 significant marketing of the program. That is going to be a
2738 critical piece in order to get the participation from healthy
2739 individuals that it is looking for.

2740 There also needs to be--there is a concern in terms of
2741 adverse selection as to what is available in the private
2742 long-term care insurance market, because right now, the way
2743 CLASS is designed, there is really not a good way to
2744 supplement the way it is structured. And so what is going to
2745 happen is, the private market is going to end up competing
2746 with CLASS and so if there is an individual who is healthy,
2747 who is able to get underwritten in the private market, is
2748 perhaps married, the private market offers significant

2749 marital discounts, that individual is going to find a better
2750 deal in the private market. And so what you will end up with
2751 is the more unhealthy individuals will end up in CLASS and so
2752 there will be a problem with adverse selection from that
2753 perspective.

2754 Mr. {Pitts.} The chair thanks the gentleman and yields
2755 5 minutes to Ranking Member Pallone for questions.

2756 Mr. {Pallone.} Thank you, Mr. Chairman.

2757 I wanted to start with Mr. Minnix. Basically you
2758 pointed out that there are a lot of things that people pay
2759 out of pocket are not covered right now. I could give you
2760 just from being a caretaker to my parents that that is
2761 certainly true. So explain to us why we need CLASS. In
2762 other words, what is wrong with Medicare? What are the
2763 limitations with Medicaid? What are the problems with
2764 private long-term insurance that even if none of these alone
2765 can fully address the long-term needs of the elderly and
2766 disabled, and we know that in terms of allowing them to stay
2767 at home or in the community? What is wrong with the sort of
2768 mix-and-match approach to the problem, which is I think
2769 essentially what we are doing with CLASS?

2770 Mr. {Minnix.} Sure. Well, Medicare covers acute and
2771 some postacute needs on a limited basis until somebody is to
2772 the point, say, of they have rehabilitated to their maximum,

2773 and Medicare is a very good program in that regard. Then
2774 there are--but Medicare does not cover someone to come in
2775 inexpensively to help you get bathed and dressed or someone
2776 to monitor your medications if you are living in your
2777 daughter's home. Nobody pays for that.

2778 Mr. {Pallone.} Exactly.

2779 Mr. {Minnix.} If you are fortunate enough to survive
2780 underwriting of private long-term care insurance and can
2781 afford it, okay, you have got some coverage there. And then
2782 there is Medicaid. We have a colleague at our work whose
2783 mother moved in with him. She would have been an ideal CLASS
2784 kind of person but obviously CLASS wasn't in existence. The
2785 woman died. A week later she was notified that she was
2786 number 176 on the waiting list for a Medicaid-eligible home
2787 and community-based services in her community. Well, that is
2788 just crazy. So what do regular people do? They patch it
2789 together. They sweat it out. They pool their money if they
2790 can. And CLASS comes in beautifully to help look at that
2791 need.

2792 One of the issues we found in our studies is that young
2793 people have seen this in their own families, and one of the
2794 things we think is going to help in the marketplace is
2795 younger people because what they have seen in their families
2796 may well be willing to say you know what, I have seen it in

2797 my own family, I am willing to pay premiums. So we are
2798 excited about the opportunity of educating people to say I
2799 want to get in this early.

2800 Mr. {Pallone.} I want to ask another question.
2801 Basically in terms of who it targets, the funding mechanism,
2802 the benefit package, the things that you think we need to do,
2803 do you think the program is designed to achieve the goals and
2804 deal with some of these problems that you have spoken about?

2805 Mr. {Minnix.} I think the law provides a very good
2806 framework, and now what we have to do is see a final plan,
2807 and I think we have heard Assistant Secretary Greenlee and
2808 Secretary Sebelius say, and we support that. It ought to be
2809 a sound plan that it looks like a lot of people will buy
2810 into. I am confident that both of those things will happen.

2811 Mr. {Pallone.} Now, let me ask Mr. Young, because you
2812 are talking from personal experience, would you describe how
2813 the program could benefit your family, your wife, who works
2814 full time, I believe? In other words, you talked about some
2815 of the problems that you have had and difficulties others
2816 had. Tell us how CLASS once it goes into effect is going to
2817 help, particularly with caregivers, both the patient, I
2818 guess, as well as the caregivers.

2819 Mr. {Young.} The burden, the cost, I should say, of
2820 long-term services and supports goes well beyond what we pay

2821 out of pocket. I pay \$17,000 a year now for about 18 hours
2822 of services in the morning and a couple of hours in the
2823 evening. All the rest of the support that I need, whether it
2824 is grocery shopping or laundry or preparing meals or, you
2825 know, hanging out with my son, any of those activities that
2826 makes a family go really fall on my wife, and for our
2827 purposes, a little extra would give us an opportunity to
2828 bring in that much more assistance that would ease her
2829 burden, give her some rest every once in a while. With a
2830 six-year-old child and a C4 quadriplegic husband and a full-
2831 time job, she doesn't get much downtime, and even a little
2832 bit more would be very helpful.

2833 Mr. {Pallone.} Thank you. Thank you, Mr. Chairman.

2834 Mr. {Pitts.} The chair thanks the gentleman and yields
2835 5 minutes to Vice Chairman Dr. Burgess.

2836 Dr. {Burgess.} Thank you, Mr. Chairman.

2837 Dr. Antos, you described, I think you called it a death
2838 spiral of increasing premiums and decreasing benefits. What
2839 happens if you move too far out along that timeline? Will
2840 the Secretary have any ability to modify the program as you
2841 understand it if that scenario develops?

2842 Mr. {Antos.} Well, Dr. Burgess, I think the prudent
2843 thing would be for the Secretary if she has authority to make
2844 the changes now. I think there is considerable doubt about

2845 how much authority she does have to make the changes, and
2846 many of those changes would move in a direction that I
2847 believe folks who are looking forward to benefits from this
2848 program would find very negative, very unfavorable to them.
2849 But the fact is that you have to follow through, they have to
2850 follow through on what they said which is they won't start
2851 the program unless it is fiscally sound, and that is not just
2852 a question of solvency in a trust fund. It is also a
2853 question of the impact on our deficit. There is no
2854 requirement in the law that says the Secretary has to worry
2855 about the deficit, just the trust fund.

2856 Dr. {Burgess.} Correct, but when we say if the program
2857 is started. My understanding was, the program has started
2858 and the passage of the Patient Protection and Affordable Care
2859 Act was predicated on the money coming in from the premiums
2860 paid into the CLASS Act.

2861 Mr. {Antos.} That is right, but since the regulation
2862 isn't coming out until sometime later, I am not sure when, we
2863 don't really know all the details of how things will get
2864 started. With that said, I believe that the basic structure
2865 of the program is so fundamentally flawed that the Secretary
2866 I believe does not have the authority to make such dramatic
2867 changes and it will have to come back here.

2868 Dr. {Burgess.} When we had the initial exposure to the

2869 CLASS Act concept when Mr. Pallone brought it that night when
2870 we were marking up H.R. 3200, I seem to recall at that time
2871 the discussion was the premium was set at \$50 a month and the
2872 benefit was \$50 a day. I get the impression it has morphed a
2873 little bit since then. Can you give us further insight as to
2874 what the likely premium is going to be?

2875 Mr. {Antos.} Well, there is nothing in the law that
2876 says what the premium must be. What is specified is what the
2877 minimum benefit must be, \$50 a day. Beyond that, it is a
2878 matter of actuarial science and guesswork, I would say, and
2879 the--

2880 Dr. {Burgess.} Well, then I guess we better ask our
2881 actuary.

2882 Mr. {Antos.} I would, but I think the key point is that
2883 there is a huge difference of opinion between CBO and the
2884 Chief Actuary at CMS, which tells you how fundamentally
2885 uncertain this whole thing is.

2886 Dr. {Burgess.} And I think that is the point I was
2887 actually trying to make, but let us do hear from our actuary.
2888 You look like you wanted to say something.

2889 Mr. {Schmitz.} Sure. I think that the current design
2890 is structured such that I think the premiums are going to be
2891 difficult to price with the current design because of the
2892 lack of risk classification and the actually rich type of

2893 benefits. This plan is a cash plan, and everybody likes
2894 cash. Cash is easy, cash is flexible, but cash is a very
2895 expensive way to pay long-term care insurance benefits.
2896 People claim earlier, they claim more often. You end up with
2897 what the private industry called ADL creep in that in order
2898 to qualify for benefits, you need assistance with your
2899 activities of daily living. Well, people will start to move
2900 towards claiming that earlier under a cash plan. You also
2901 have lifetime benefits in this plan, and lifetime benefits,
2902 there is significant adverse selection that the industry is
2903 well aware of that they experience on lifetime benefit plans.
2904 So you have these very expensive features in a voluntary
2905 guaranteed-issue program that put all together, you know,
2906 with what is available in the competitive market needs to all
2907 be taken into account when pricing this program, and it is a
2908 very difficult task the way the structure is currently
2909 designed.

2910 Dr. {Burgess.} Is it possible that the premium could
2911 increase under the CLASS as written?

2912 Mr. {Schmitz.} I think it could. I think there is a
2913 risk of not pricing this right away. It is so important to
2914 take in all these considerations right away because if you
2915 don't, we are going to start in the hole, and if we start in
2916 the hole, the thing is not going to--you are not going to be

2917 able to--to dig out is going to be almost impossible. It is
2918 going to be very difficult to actually right the ship and
2919 either increase premiums or lower benefits.

2920 Dr. {Burgess.} Could you see premium increases by as
2921 much as 60 percent?

2922 Mr. {Schmitz.} Well, because of all the issues going on
2923 in this program, it is unknown what the premium increases
2924 might be.

2925 Dr. {Burgess.} Thank you. I yield back, Mr. Chairman.

2926 Mr. {Pitts.} The chair thanks the gentleman and
2927 recognizes the ranking member emeritus, Mr. Dingell, for 5
2928 minutes for questioning.

2929 Mr. {Dingell.} Mr. Chairman, I thank you for your
2930 courtesy.

2931 Mr. Minnix, I want to thank you first for your kind
2932 words about me and my colleagues who have worked on this
2933 matter. I want you to know I intend to continue working with
2934 the Administration and with other stakeholders to ensure that
2935 the program is successful. Mr. Minnix, you note in your
2936 testimony that the CLASS Act will be of assistance to
2937 employers, particularly small businesses. Your testimony
2938 points out that Met Life estimated the cost of lost
2939 productivity for employees to be \$17 billion annually. I
2940 gather this is in good part due to employees having to take

2941 time off for care of older relatives. Am I correct in that?

2942 Mr. {Minnix.} Right.

2943 Mr. {Dingell.} Now, on the other hand, Mr. Warshawsky,
2944 in your testimony you note that the vast majority of
2945 employers do not subsidize or even offer long-term care
2946 insurance partly due to the fact that they do not see
2947 offering such insurance as providing a significant business
2948 advantage. Is that correct?

2949 Mr. {Warshawsky.} That is correct.

2950 Mr. {Dingell.} Thank you. Now, you both discussed the
2951 impacts of CLASS Act for employers, and I would like you
2952 both, if you please, to respond to the following questions,
2953 and if you please again answer yes or no. If you answer no,
2954 would you please for the record submit a detailed explanation
2955 to give us a more full picture of your concerns.

2956 Now, Mr. Minnix and Mr. Warshawsky, I have too often
2957 heard from adult constituents about financial difficulties of
2958 trying to care for their older relatives, mostly their
2959 parents, while trying to raise children of their own. Is it
2960 true that the CLASS Act allows payments to adult caregivers
2961 that would help offset the cost of the care that they are
2962 providing?

2963 Mr. {Warshawsky.} Yes.

2964 Mr. {Minnix.} Yes.

2965 Mr. {Dingell.} Thank you, gentlemen. Mr. Minnix and
2966 Mr. Warshawsky again, is it true that the availability of
2967 CLASS Act would allow adult caregivers to hire home care
2968 assistants to help in the daily care of their elder
2969 relatives? Yes or no.

2970 Mr. {Minnix.} Correct. Yes.

2971 Mr. {Dingell.} Mr. Warshawsky?

2972 Mr. {Warshawsky.} Yes.

2973 Mr. {Dingell.} Now, Mr. Minnix and Mr. Warshawsky, by
2974 hiring these home care assistants to help with the daily care
2975 of elder relatives, wouldn't this help to reduce caregiver
2976 absenteeism in the workplace? Yes or no.

2977 Mr. {Minnix.} Yes.

2978 Mr. {Warshawsky.} Not to a significant amount.

2979 Mr. {Dingell.} Now, Mr. Minnix and Mr. Warshawsky
2980 again, in your opinion then, if the CLASS Act will help to
2981 relieve the financial burden for adult caregivers and also
2982 reduce caregiver absenteeism from the workplace, do you
2983 believe that it would help the employers to see in their
2984 workforce greater productivity? Yes or no.

2985 Mr. {Minnix.} Yes.

2986 Mr. {Warshawsky.} No.

2987 Mr. {Dingell.} No?

2988 Mr. {Warshawsky.} No.

2989 Mr. {Dingell.} Okay. Now, Mr. Minnix and Mr.
2990 Warshawsky, is it not true that a more productive workforce
2991 would be a business advantage for employers? Yes or no.
2992 Mr. {Minnix.} Yes.
2993 Mr. {Warshawsky.} Yes.
2994 Mr. {Dingell.} Now, I would like to look at this. We
2995 have looked at the costs of this to government and the
2996 possibility of failures but we pay for health care for our
2997 people out of a lot of different pockets. On Medicaid, we
2998 pay for health care particularly in the area of long-term
2999 care, and this is an enormous cost for the taxpayers. In
3000 that particular program, there is virtually no contribution
3001 made by the person who receives the help from the federal-
3002 State combined program. But with the program we are talking
3003 about here, we would find that the CLASS Act would allow
3004 persons and in fact encourage them to pay into the program.
3005 Would this not then ease somewhat the burden on Medicaid,
3006 which pays a huge amount of cost and which largely pays costs
3007 for institutional care as opposed to home care? Isn't this
3008 going to help somewhat with regard to the cost of Medicaid,
3009 which is breaking State budgets, causing huge budget
3010 difficulties to the Federal Government?
3011 Mr. {Warshawsky.} Congressman, as I indicated in my
3012 written testimony, it is very unlikely that lower or even

3013 moderate-income workers will purchase long-term care
3014 insurance because of the availability of Medicaid. There
3015 have been many very rigorous fine studies that have been done
3016 on this subject, and they indicate uniformly that that--

3017 Mr. {Dingell.} So you don't think that would be a help?

3018 Mr. {Warshawsky.} Extremely minimal, yes.

3019 Mr. {Dingell.} Mr. Minnix, yes or no?

3020 Mr. {Minnix.} I have the opposite view.

3021 Mr. {Dingell.} Thank you.

3022 Mr. Chairman, you have been courteous. Thank you.

3023 Mr. {Pitts.} The chair thanks the gentleman and
3024 recognizes Dr. Cassidy for 5 minutes for questioning.

3025 Dr. {Cassidy.} To all of you whom I question, I
3026 apologize. I had to step out of the room, so if it is a
3027 repeat question, I am sorry.

3028 Mr. Schmitz, folks on the other side of the aisle kept
3029 on saying how this a solution but I think what I am hearing
3030 is that if by statute they have to make it work, meaning they
3031 have to increase the premiums so that it is actuarially
3032 sound, that the way you write how--I think I have a quote
3033 here--``based upon this analysis, it was conclude that the
3034 program would not be sustainable in the long term and it is
3035 unlikely to cover more than a small proportion of the
3036 intended population,' ' not much of a solution. That said, it

3037 also seems as if it would cover even a smaller portion if
3038 there is adverse selection, and I think the Assistant
3039 Secretary, her absence of comment upon my question kind of
3040 affirmed my answer that there would be a great potential for
3041 that adverse selection. Can we imagine what would be the
3042 uptake of a product, an insurance product that the monthly
3043 premiums were \$240 for a benefit that would be accrued when
3044 you are 30 years older?

3045 Mr. {Schmitz.} I think the uptake, it is going to
3046 really depend--the way it is currently structured right now
3047 and those higher premium levels will likely have very low
3048 participation. There needs to be--the structure of the
3049 program as it is right now on a guaranteed-issue voluntary
3050 basis is going to be very expensive.

3051 Dr. {Cassidy.} Now, when you say ``very expensive,'' it
3052 could be \$3,000, \$4,000 a year, correct?

3053 Mr. {Schmitz.} I mean, you end up with a situation
3054 trying to deal with the premium spiral in that well, the more
3055 you raise premiums, the healthy individuals will keep leaving
3056 and so then you have to keep raising premiums and so you get
3057 to a point where eventually you are just going to have
3058 prepaid care. And so without having risk classification in
3059 the program that is going to be adequate to get the
3060 participation from healthy individuals that you need, the

3061 premium rate spiral potentially will make it unsustainable in
3062 the long term.

3063 Dr. {Cassidy.} Mr. Warshawsky and Mr. Minnix, Mr.
3064 Dingell asked you both a question just now and you said no,
3065 you didn't think it would have much an impact. I think it
3066 was about the ability of this payment to offset Medicaid
3067 cost. Was that the question that you all differed on?

3068 Mr. {Warshawsky.} Yes.

3069 Dr. {Cassidy.} Now, you quoted data. You said there
3070 are multiple studies showing it will not have an impact.
3071 Now, Mr. Minnix, you disagree with Mr. Warshawsky. Do you
3072 similarly have data or is that just a feeling that you have?

3073 Mr. {Minnix.} No, we are going on what the CBO said in
3074 their scoring. We also did a--

3075 Dr. {Cassidy.} Now, what specifically did the CBO say
3076 that you would base that on? Because what I was reading is
3077 that it is going to be actuarially unsound in a decade or so.

3078 Mr. {Minnix.} What the CBO said, and I don't have the
3079 specific figure but I think it is a matter of public record
3080 is beginning the sixth or seventh year out it begins to show
3081 Medicaid savings.

3082 Dr. {Cassidy.} Now, the \$2 billion Medicaid savings
3083 that Mr. Waxman quoted earlier, I tried to look up the number
3084 for our national debt for long-term care and Medicaid

3085 program. It is huge. And Deloitte, they did an analysis and
3086 they were saying that it is going to be, like, 35 percent--I
3087 don't have the article in front of me--of New York's budget.
3088 So \$2 billion over the entire Nation, well, that is a lot of
3089 money in absolute terms. As a percent, it doesn't sound like
3090 very much to me.

3091 Mr. {Minnix.} Well, you can take it from a conservative
3092 standpoint and say--

3093 Dr. {Cassidy.} I like that.

3094 Mr. {Minnix.} --that if there is minimal participation,
3095 that is all it saves. A study we commissioned independently
3096 that I would glad to share with you says that if everyone
3097 eligible participated in a similar kind of program--you have
3098 to remember, there are different assumptions.

3099 Dr. {Cassidy.} Now, it would have to be mandated,
3100 right? When you say ``everyone''--

3101 Mr. {Minnix.} I am talking about the political mandate.
3102 I am talking about--everybody is talking theory here.

3103 Dr. {Cassidy.} Well, no, no, because actually the thing
3104 I am after is, Mr. Warshawsky is quoting data and I think Dr.
3105 Antos--

3106 Mr. {Minnix.} I am trying to respond. I have got data.

3107 Dr. {Cassidy.} But they say 2 to 4 percent. Are you
3108 saying there would be 100 percent?

3109 Mr. {Minnix.} I am saying that we commissioned a study
3110 that shows if there was 100 percent of the participation that
3111 the Medicaid savings if a plan like this were in place today,
3112 Medicaid for long-term care would be--

3113 Dr. {Cassidy.} Sorry. I am almost out of time.

3114 Dr. Antos--

3115 Mr. {Minnix.} A \$50 billion savings.

3116 Dr. {Cassidy.} Dr. Antos, do you think it is reasonable
3117 based upon any empiric experience that we would have 100
3118 percent uptake in a voluntary program like this?

3119 Mr. {Antos.} None whatsoever.

3120 Mr. {Minnix.} I don't think that either.

3121 Dr. {Cassidy.} But that is what your study shows. And
3122 what do you think would be more likely, Dr. Antos?

3123 Mr. {Antos.} Well, it is hard to argue with the people
3124 who have done the estimates so far, and they think that the
3125 take-up rate for the total population, not the employed
3126 population, will run 2 to 3-1/2 population.

3127 Dr. {Cassidy.} Thank you all very much.

3128 Mr. {Minnix.} We think it would be significantly more
3129 than that over time.

3130 Mr. {Pitts.} The chair thanks the gentleman and
3131 recognizes the gentlelady from Illinois, Ms. Schakowsky, for
3132 5 minutes for questions.

3133 Ms. {Schakowsky.} Well, first of all, after sitting
3134 here not through all the testimony but through this hearing
3135 and others like it, I have to question the intention of this
3136 hearing. Everyone on the other side of the aisle, on the
3137 Republican side of the aisle, has voted it seems like dozens
3138 of times to simply repeal the Affordable Care Act and the
3139 CLASS Act with it, so I think this is just another effort to
3140 try and set up a panel that aside from our two witnesses, Mr.
3141 Minnix and Mr. Young, to discredit this program.

3142 I was on the President's Commission on Fiscal
3143 Responsibility and Reform, and I started that by saying, you
3144 know, it would be pretty easy to balance the budget. You put
3145 on your green eyeshade, you bring in the actuaries and a red
3146 pencil and you just cut, cut, cut. But that is not who we
3147 are as Americans, and today we are talking about a program
3148 that is designed to not cost one single dollar of taxpayer
3149 funding and we are finding out that oh, hidden in there is
3150 going to be some sort of addition to the deficit reduction.
3151 Now, I would be happy to sit down with actuaries and experts
3152 on all the research and design a real program if you don't
3153 like what is going on, but that is not what we are talking
3154 about. This is an effort to discredit a program that we
3155 think by and large, perhaps with some important improvements,
3156 could help people.

3157 Now, I want to talk a little bit about money, Mr. Young.

3158 You used to be getting the federal support, right, SSDI?

3159 Mr. {Young.} Yes.

3160 Ms. {Schakowsky.} But you aren't anymore?

3161 Mr. {Young.} Right.

3162 Ms. {Schakowsky.} You are now working, paying taxes and
3163 contributing. I don't know how much you are reducing the
3164 deficit by with your income taxes but it is something. So
3165 creating a program--I guess my question is, how will this
3166 help people work as opposed to even have to get long-term
3167 care insurance or, according to the naysayers, be on the
3168 public dole?

3169 Mr. {Young.} Well, if you can't get out of bed in the
3170 morning and you can't get dressed and you can't have supports
3171 that work where, you know, if you need to go to the bathroom
3172 or have a drink of water, you can't work. That is the bottom
3173 line. If there are no supports available for basic bodily
3174 needs, nobody is going to be thinking about how to go to work
3175 or even being in the workforce because you are worried about
3176 basic survival.

3177 Ms. {Schakowsky.} So you think that this kind of
3178 program available to persons with disabilities could actually
3179 make more people as taxpayers as opposed to tax eaters?

3180 Mr. {Young.} Right. Exactly. And the fact that it is

3181 lifelong, it doesn't disappear once you go to work and start
3182 earning some money like Medicaid supports do is invaluable.

3183 Ms. {Schakowsky.} Mr. Minnix, this notion of this tiny
3184 number of people that is projected to get this insurance I
3185 think first assumes that people would rather spend down into
3186 total poverty in order to get on Medicaid as opposed to take
3187 care of themselves, personal responsibility. But as you
3188 said, it will take an education program. Why do you think
3189 that there will be more than this miniscule number that they
3190 are projecting that would actually enroll in this program?

3191 Mr. {Minnix.} I have been serving people in this field
3192 for 38 years. I have seen a little bit of everything. And
3193 one of the things you see over and over again is, number one,
3194 families' willingness to bear responsibility for their loved
3195 ones, and secondly, they begin to run out of money doing it,
3196 and the sandwich generation in the middle begins to say do I
3197 help my children or grandchildren or do I pay for elderly
3198 relatives, and there is no program there to do it. And the
3199 work we have done with focus groups and polls and other
3200 things say the American public is ready to look at this
3201 issue. We have talked to younger people, older people and
3202 middle-aged people and they say yeah, that is beginning to
3203 make sense and I would be willing to pay. So I am looking
3204 forward to the day Assistant Secretary Greenlee rolls out

3205 this plan and we see who salutes, and I am betting it is
3206 going to be more than 2 or 3 percent of the people.

3207 Ms. {Schakowsky.} But you are not just waiting, I would
3208 hope.

3209 Mr. {Minnix.} No.

3210 Ms. {Schakowsky.} Can you talk to us about what kind of
3211 efforts you see to educate people and to make sure that they
3212 know about it, etc.?

3213 Mr. {Minnix.} Well, the Advance CLASS Board, which is
3214 made up of some leaders of the 270 coalition, we have set up
3215 shop. We have got a website. We are beginning to get the
3216 word out, and just things like this will be a huge education
3217 effort so people can talk about it and begin to plan for it.
3218 We are determined to get people to plan for it.

3219 Ms. {Schakowsky.} Is the disability community going to
3220 do that as well, get the word out?

3221 Mr. {Young.} We are together in this.

3222 Mr. {Pitts.} The chair thanks the gentlelady. The
3223 gentlelady's time is expired. The chair recognizes the
3224 gentleman from Georgia, Dr. Gingrey, for 5 minutes of
3225 questions.

3226 Dr. {Gingrey.} Mr. Chairman, thank you, and I am going
3227 to read sort of in response to my colleague from Illinois
3228 from the debt and deficit commission, the National Commission

3229 on Fiscal Responsibility and Reform, the official title of
3230 their report in December of 2010 of which Ms. Schakowsky was
3231 a member, so I am sure she knows exactly what it is here, but
3232 here is what they say in regard to the CLASS Act.

3233 Ms. {Schakowsky.} And you know it wasn't adopted.

3234 Dr. {Gingrey.} Reclaiming my time. ``The Community
3235 Living Assistance Services and Support, the CLASS Act,
3236 established a voluntary long-term care insurance program
3237 enacted as part of the Affordable Care Act,' ' Obamacare.
3238 ``The program attempts to address an important public policy
3239 concern, the need for non-institutional long-term care. But
3240 it is viewed by many experts as financially unsound. The
3241 program's earliest beneficiaries will pay modest premiums for
3242 only a few years and receive benefits many times larger so
3243 that sustaining the system over time will require increasing
3244 premiums and reducing benefits to the point the program is
3245 neither appealing to potential customers nor able to
3246 accomplish its stated function. Absent reform, the program
3247 is therefore likely to require general revenue transfers or
3248 else collapse under its own weight. The commission advises
3249 the CLASS Act be reformed in a way that makes it credibly
3250 sustainable over the long term. To the extent this is not
3251 possible, we advise it to be repealed. Technically repealing
3252 the CLASS Act will increase the deficit over the next decade

3253 because the program's premiums are collected up front and its
3254 benefits are not paid out for 5 years. To address this, we
3255 would replace the deficit reduction on paper from the CLASS
3256 Act with real options that truly save the Federal Government
3257 money and put it on a more sustainable path.''

3258 Let me ask Mr. Antos, have you seen the CRS memo that I
3259 submitted earlier for the record when I was with the
3260 Secretary? Have you seen that? It states that the Secretary
3261 does not have the authority to change income eligibility.

3262 Mr. {Antos.} Yes, I have looked at that. I am merely
3263 an economist, not a lawyer, so I am not qualified to really
3264 opine on this, but I believe that CRS has experts in the law
3265 who can make this judgment. If this is in fact the case,
3266 then it seems unlikely to me that this program can be put on
3267 an actuarially sound basis.

3268 Dr. {Gingrey.} Well, then it is your opinion, Mr.
3269 Antos, I think I understand you correctly, that if the
3270 Secretary does not have the authority and the language in the
3271 law to make those necessary changes that the first witness
3272 said were absolutely essential to put it on a sustainable
3273 glide path, if we can't fix it, do you think that we should
3274 repeal it as the President's commission, of which Ms.
3275 Schakowsky was a member, recommended?

3276 Mr. {Antos.} Well, I think we should deal with the

3277 problem. I think that is the problem with this law. It
3278 doesn't deal with the actual problem. Mr. Young is a great
3279 person who has somehow managed to survive our system. This
3280 CLASS Act really doesn't address it, and to have a program
3281 that is going to fail with certainty and going to make false
3282 promises that can't be kept is a disservice to disabled
3283 people.

3284 Dr. {Gingrey.} And I thank you for that, and of course,
3285 that is my concern and that is why I bring up these points.
3286 In the minute that I have remaining, I would like, Mr.
3287 Schmitz, to ask you, under the law, any individual whose
3288 income does not exceed the poverty line and any individual
3289 who has not attained age 22, is actively employed and is a
3290 full-time student will pay a nominal premium beginning at \$5.
3291 What do you believe will happen to the program's
3292 sustainability if more low-income individuals enroll at the
3293 \$5 premium subsidy than it is actually projected in the bill?

3294 Mr. {Schmitz.} If we end up having more people in the
3295 program at the \$5 subsidy, it is the other individuals who
3296 are going to have to subsidize them and their premium rates
3297 are necessarily going to be higher. It is going to be
3298 important to try to understand and estimate those numbers of
3299 how many people we will be subsidizing, and that is one of
3300 the challenges in pricing this plan is being able to predict

3301 that level of adverse selection. There is a lot of unknowns
3302 and a lot of assumptions that need to be nailed down in this
3303 plan that are pretty volatile to predict.

3304 Dr. {Gingrey.} I wanted to pursue it further, Mr.
3305 Chairman. I see my time has expired, and of course, I yield
3306 back.

3307 Mr. {Pitts.} The gentleman's time has expired. The
3308 chair thanks the gentleman.

3309 This has been excellent testimony, an excellent panel.
3310 In conclusion, I would like to thank the witnesses, thank the
3311 members for participating in today's hearing. I remind
3312 members they have 10 business days to submit questions for
3313 the record. I would like to ask the witnesses to respond
3314 promptly to any questions that are given to you in writing.
3315 Members should submit their questions by the close of
3316 business on March 31st.

3317 The subcommittee hearing is now adjourned.

3318 [Whereupon, at 1:05 p.m., the Subcommittee was
3319 adjourned.]