

They took my son, my only son. Now his kids are left alone with nobody except for us, that's just not right.

Felix had two sons, a 1-year-old and a 2-year-old. He was going to sell a tablet computer, and he was shot in the head and died, leaving a 1-year-old and 2-year-old behind. He was doing everything he was supposed to do. He graduated from high school, and he worked at a local hotel. He was engaged to be married and left behind two children.

The day before, on May 7, out in northern California, a 45-year-old man fatally shot his wife and their two young daughters in their home, and he got away. His wife Sandy and their two daughters, Shelby, who was 8, and Shasta, who was 4, had been shot multiple times.

There had been calls out to the home for domestic disturbances in the recent weeks. The kids were pulled out of school. Something was clearly going on in that house. This guy was a dangerous guy. In 2002 he had been charged with distribution of drugs, felony possession of a firearm, and possessing a machine gun, and he pleaded guilty. He had been in prison for 10 months.

We are still trying to figure out, only about a week later, if this guy was supposed to have weapons in the first place. We know, even if he was banned from buying weapons, it would not have been that hard for him to get them. We cannot say for certain how he came across the weapons that killed his wife and two kids. Even if he was, as a criminal, on one of these lists, it would not have been that hard for him to simply go to a local gun show or go on the Internet and buy a weapon. If he went either of those routes, according to current law, it is likely he never would have been checked to see if he was a criminal.

Sandy, 34, Shelby, 8, and Shasta, 4, were killed on May 7.

Steven Jones was killed that same day. He was a lifelong resident of Charlestown, MA. He was 21 years old. His friends said everybody loved him. No one would ever expect something like this to happen to him. He wasn't in the streets. He was into sports and partying. This was a shock. Steven Jones was breaking up a fight when a gun went off, and he was killed. His uncle said he was the definition of a good kid. He was there trying to break up a fight, and he ended up getting shot. He was 21 years old.

By now everybody knows what happened over the weekend in New Orleans. A gunman opened fire on people who were marching in a neighborhood Mother's Day parade. The FBI described it as a flareup of street violence which resulted in 19 people being wounded, 10 men, 7 women, a boy, and a girl. The children were both 10 years old. Luckily they were just grazed by the bullets, and they were reported to be in good condition.

There are so many weapons on our streets today, and most of them are illegal. These shootings happen day in

and day out. Mostly it is not the same situation as what happened in New Orleans. Mostly it is not 19 people being shot at a parade. Mostly it is just one-on-one gun violence, but we refuse to do anything about it.

Since the tragedy in Newtown, CT, 3,966 have died from guns, and our response is nothing. It was awful enough to read about the violence at that Mother's Day parade, but I want everybody to know what kind of Mother's Day Nicole Hockley, the mother of Dylan, had on Sunday, what kind of Mother's Day it was for Nelba Marquez-Greene, the mother of Ana, what kind of Mother's Day Francine Wheeler had without her son Ben or Jackie Barden had without her son Daniel.

As awful as it was to think of 19 people being shot in New Orleans at a Mother's Day parade, it was just as horrifying to read an op-ed these four mothers submitted yesterday on Mother's Day. They wrote:

The gravity of the moment that comes with holding your child for the first time—looking into their eyes, rocking them to sleep, allowing their breath to fill your heart, marveling at how nature has taken a part of you and a part of your husband to create someone uniquely beautiful—the seriousness of that moment is only eclipsed by the moment you discover that your little boy or little girl is forever gone, just a few hours after watching them wave at you from the school bus window.

These mothers said:

We are constantly asked, "How do you go on?" The answer lies in the promise we made to our children when they were born, and perhaps more important, the promise we made when they were so senselessly taken from us.

That promise for those four mothers is to do something and try to make sure that never ever happens again. The promise they made was bigger than that. They are trying to do something for the 4,000 families who have lost sons, daughters, mothers, fathers, husbands, and wives since Sandy Hook happened.

Nicole, Nelba, Francine, and Jackie came to Washington, DC, day after day, week after week, and pleaded with this place to do something. They were joined over that period of time by hundreds of other family members also representing the 3,966 families who have been grieving since then.

There has been some level of optimism that we have the capacity here to revisit this legislation; that sometime later this year we can take another shot at trying to make sure another Sandy Hook doesn't happen. We can take another moment to reflect on whether it is OK that thousands of criminals can go onto the Internet or walk into a gun show and get a gun without ever having to show they have the legal capacity to do that. I hope that is the case.

As a means to getting people to that moment where we can try to have some coming together on behalf of all of these families, I encourage everybody

to read this op-ed written by Nicole and Nelba and Francine and Jackie. It is called "Keeping A Mother's Promise." Because if, after reading this, people in this Chamber can look these mothers in the eye and say that in the wake of Sandy Hook and in the wake of 4,000 other deaths since then, our answer in the Senate is to do nothing, then what on Earth are we here for?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

HEALTH CARE FUNDRAISING

Mr. ALEXANDER. Mr. President, Friday's Washington Post reported that Secretary Sebelius of the Department of Health and Human Services "has gone, hat in hand, to health industry [executives], asking them to make large financial donations to help with the effort to implement President Obama's landmark health care law. . . ."

I ask unanimous consent to have printed in the RECORD the Washington Post article following my remarks.

The article further said that the "unusual fundraising push" comes after Congress has repeatedly rejected the administration's requests for additional funds to set up the Affordable Health Care Act. The article said many of the Secretary's calls have recruited support for Enroll America, described as the most prominent nonprofit working on the health care law's implementation. Its president, Anne Filipic—the article goes on to say—joined the group in January after serving as White House deputy director for public engagement.

Today, the New York Times included an article by Robert Pear: "Cabinet Secretary Solicits Large Donations to Publicize Health Care Law." I ask unanimous consent to have that article printed in the RECORD following my remarks.

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

Mr. ALEXANDER. In the article, it said:

. . . Ms. Sebelius had made calls soliciting support from the health care industry, including insurance and pharmaceutical executives.

. . . a spokesman for Ms. Sebelius, said she had suggested that health care executives and others support the work of Enroll America, a private nonprofit group that shares the president's goal of securing coverage for people without insurance.

An insurance executive said that some insurers had been asked for \$1 million [in] donations, and that "bigger companies have been asked for a lot more."

Administration officials said private donations were needed because Congress had provided much less money than Mr. Obama requested to publicize the new law and get people enrolled in health plans subsidized by the government.

The article further talks about Ms. Filipic. She worked on Mr. Obama's 2008 campaign. She was deputy executive director of the Democratic National Committee. She worked in the Obama White House as deputy director of the Office of Public Engagement. She said her time is not political in her work for enroll America.

She says:

We are thrilled to be working with Secretary Sebelius and to have her support.

Several executives who received these calls for money said "they were uncomfortable with the discussions because the federal government has the power to approve or reject the health plans they want to sell in insurance markets that will be run by federal officials in more than 30 states."

Secretary Sebelius's fundraising for and coordinating with private entities helping to implement the new health care law may be illegal, should cease immediately, and should be fully investigated by Congress.

Later this week, I will be sending a letter, with several of my colleagues, to the Government Accountability Office asking them to examine the issue. We will be asking the GAO to examine the amount of coordination between the Department of Health and Human Services and Enroll America and whether Secretary Sebelius is trying to do through a private entity activities that Congress has refused to allow the Department to do.

Such private fundraising, as these articles describe, circumvents the constitutional requirement that only Congress may appropriate funds. If the Secretary and others in her Department are closely coordinating with the activities of Enroll America, which is headed by the former White House aide, then those actions may be in violation of the Anti-Deficiency Act.

The limits of the Anti-Deficiency Act were fully explored by Congress during the Iran-Contra incident, when Reagan administration official Oliver North raised funds and directed their spending through private entities in support of Nicaraguan rebels even though Congress had refused to appropriate such funds.

This produced a select joint committee of the Congress, including many of its most distinguished Members—the Iran-Contra joint select committee. The Senate ranking members were Senator Inouye and Senator Warren Rudman of New Hampshire. The House leaders were Lee Hamilton and Dick Cheney, who was the ranking Republican.

The report of the Iran-Contra Joint Select Committee—Senate Report No. 100-216—at page 413 said:

The constitutional plan—

Referring to the U.S. Constitution—

did not prohibit the President from urging other countries to give money directly to the Contras.

The rebel group in Nicaragua.

But the Constitution does prohibit receipt and expenditure of such funds by this government absent an appropriation. This prohibition may not lawfully be evaded by use of a nominally private entity, if the entity is in reality an arm of the government and the government is able to direct how the money is spent.

The report also said:

Congress's exclusive control over the expenditure of funds cannot legally be evaded through the use of gifts or donations to the executive branch. Were it otherwise, a president whose appropriation requests were rejected by Congress could raise money through private sources or third countries for armies, military actions, arms systems or even domestic programs.

Let me read this again. This is the joint committee:

Were it otherwise, a president whose appropriation requests were rejected by Congress could raise money through private sources or from third countries for armies, military actions, arms systems or even domestic programs.

That is page 412, page 413 of the Iran-Contra joint select committee report.

Friday's Washington Post reported that the Secretary's spokesman said Sebelius is working with private entities on "our mission" of implementing health care law activities, although Congress has refused to appropriate more funds. If the Department of Health and Human Services closely coordinates with Enroll America and with other such entities, then the analogy with Iran-Contra is strong.

It is hard for me to see the difference. There is a difference in where Oliver North got his money in 1985, 1986, and 1987 with Iran-Contra. Some of it came from the hostages-for-arms sale. But the question is not as much where the money comes from—although in this case the Secretary may be raising it from people she regulates, which could also be illegal—the question is where the money is going. In the case of Iran-Contra, the money was going to a private entity, supporting a rebel army in Nicaragua, in contravention of the Boland amendment passed by Congress. In other words, Congress had said no, and the administration did it anyway.

That is precisely, it seems to me, what is happening here. Congress has said: No, we are not going to appropriate any more money—or as much as you want—to implement the health care law. And the Secretary appears to be raising money from people she regulates, to give it to private entities with whom she coordinates, to do what Congress has refused to do.

The problem with that, first, is the Constitution of the United States gives the power of the purse to the U.S. Congress, in Article I, No. 2, there is a Federal law that says you cannot do through private entities what Congress has refused to do. That is called the Anti-Deficiency law. And, No. 3, there are some Federal laws about raising

money from people you regulate for whatever purpose.

The Secretary's activities may violate those Federal laws prohibiting raising private funds from those she regulates. Federal law permits a narrow band of private fundraising activities, but this has always been interpreted very narrowly.

This would not be the first violation of the Anti-Deficiency Act by the Secretary's HHS. The General Accountability Office found HHS in violation of the Anti-Deficiency Act three times last year.

I am most concerned that the Secretary's actions reflect a deep disregard, running throughout the administration, for the constitutional role of the elected representatives in the legislative branch.

We saw it in the President's decision in January of 2012 to bypass the Senate's role of advice and consent and make appointments—recess appointments, which are authorized by the Constitution—at a time when the Senate said it was not in recess. A Federal court quickly ruled these appointments were unconstitutional, because the Senate was not in recess, but the individuals continue to show up at the National Labor Relations Board and pretend they have the authority to issue decisions.

We see this in a number of executive orders the President has used to circumvent Congress on issues as important as immigration enforcement and in the number of czars whose responsibilities are intended for roles that need the Senate's advice and consent.

We see it at the Department of Education, where the Secretary is turning a simple waiver authority in No Child Left Behind into a conditional waiver with the Secretary using his authority to make decisions that should be made by Congress or should be made locally by State and local governments.

The HHS Secretary's actions may follow an administration pattern, but in this case it is in a pattern that appears it may be illegal and it demands investigation.

So I will be, as I said, with other Members of Congress, later this week, sending a letter to the Government Accountability Office, asking them to look at these facts.

Mr. President, I wish to read a few paragraphs from the Iran-Contra report that was issued by the Joint Select Committee in the late 1980s:

The Constitution contemplates that the Government will conduct its affairs only with funds appropriated by Congress. By resorting to funds not appropriated by Congress—indeed funds denied the executive branch by Congress—Administration officials committed a transgression far more basic than a violation of the Boland Amendment.

That was the amendment that said you cannot use Federal dollars to support rebels in Nicaragua.

The power of the purse—

Continued the joint select committee. This was written at a time when we had a Democratic Congress.

The power of the purse, which the Framers vested in Congress, has long been recognized as “the most important simple curb in the Constitution on Presidential Power.” The Framers were determined not to combine the power of the purse and the power of the sword in the same branch of government. . . . The constitutional process that lodges control of government expenditures exclusively in Congress is the Anti-Deficiency Act, which prohibits an officer of the United States from authorizing an expenditure that has not been the subject of a Congressional appropriation or that exceeds the amount of any applicable appropriation.

Thus, the Anti-Deficiency Act provides:

An officer or employee of the United States Government may not make or authorize an expenditure or authorization exceeding an amount available in an appropriation or fund for the expenditure or obligation; or involve [the] government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.

I ask unanimous consent to have printed in the RECORD following my remarks these excerpts from the joint committee’s report; and I refer the RECORD to Article I, Section 8 and Article 1, Section 9 of the Constitution, which says:

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law. . . .

Then two other things. One is the purported authority that the Secretary’s spokesman is citing for her actions in raising money. I have not seen the authority for raising money from people she regulates. But 42 U.S.C. section 300u-1(a) talks about grants and contracts for research programs, and says:

The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) research in health information and health promotion, preventive health services, and education in the appropriate use of health care. Applications for grants and contracts under this section shall be subject to appropriate peer review.

This small section relates to support for contracts for research and information programs in the form of grants or contracts. The parenthetical, “encourage others to support” has to be read as encouraging others to support such programs. It is far-fetched to say it gives the Secretary authority to encourage third parties to give money to nonprofits providing ObamaCare information that the Department of Health and Human Services cannot fund directly because Congress has refused to appropriate.

This small section and the words in parenthesis cannot amend the Constitution of the United States and invalidate Article I. This section cannot supersede the Anti-Deficiency Act, according to the language of the Joint Committee. There is obviously a way to have appropriate public-private contracts. We have them all throughout government, public-private associations to try to improve our country. We do that with HIV/AIDS, we do it with a whole variety of things.

When I was Education Secretary, I worked with the first President Bush to set up the New American Schools Development Corporation, which encouraged a private corporation headed by former New Jersey Governor Tom Kean, which would raise money to create models for private schools.

Then later on President Bush I asked Congress to do some things in support of those schools. All of us encouraged that, but that was quite different. That was an effort that would be typical of many public-private partnerships in which the Federal Government is involved, where in this case we said we want to encourage the support of model schools. Here is a private corporation that is doing that. We encourage that. Congress was not objecting to that. Congress has not said: You cannot do that. Congress has not been asked to vote on an appropriation for the New American Schools Development Corporation. Congress had not said: You cannot do that.

So that would be true with dozens, may be hundreds of public-private partnerships between the Federal Government and private organizations for the same goal. But what we are talking about, and why the analogy between what Secretary Sebelius is doing and what Oliver North was doing in the Reagan administration in the late 1980s is so strong, is because in each case the money seems to be raised privately and spent through private entities for a function for which Congress has refused to appropriate money.

It is not so much where the money came from, it is more where the money is going. The Constitution itself, in Article I, makes it absolutely clear no one can appropriate dollars for a Federal program other than the Congress of the United States. A subterfuge that goes around that, seeks to go around that by raising private money, putting it in private entities for the same purpose that Congress has either refused to appropriate money for or said that you cannot do, that is outside the Constitution. It is not allowed by the Constitution of the United States, and it is against the Anti-Deficiency Act.

Then there is the separate question of whether it is appropriate to raise money from people the Secretary regulates. I am deeply concerned about this. I hope the Secretary will stop this action. I hope the public-private partnerships we have throughout government will continue where they are appropriate, but we need for the executive branch of government to show proper respect to the people of this country who elect their Members of Congress.

We are Article I. They are Article II. The purpose of the power of appropriations is to put a curb on the executive branch. If the Congress says no, then the executive cannot spend money, nor can the executive go through a subterfuge of private organizations and private fundraising in support of the very same objective that Congress has refused to approve.

In this case, the Secretary seems to say the reason they are doing that is because Congress has refused to appropriate more money to implement the health care law. That seems to me to be just admitting a violation of the Anti-Deficiency Act, admitting a violation of the proper division of responsibilities in the Constitution.

Yes, Congress has refused to do that, but that is the Congress’s privilege to do that. When the Congress does that, the administration may not proceed to spend the money the Congress has not authorized, whether directly through the government or indirectly through private entities.

Later this week we will be asking the Government Accountability Office to look into these facts. I am sure we will be hearing more about it. I would hope in the meantime the Secretary will stop making the phone calls, stop coordinating with private entities to do things that Congress has specifically refused to do.

I ask unanimous consent to have printed in the RECORD at the end of my remarks an article published July 8, 1991, “Bush Sets Up Foundation to Start Model Schools” as an example of an appropriate way to have a public-private partnership or a private enterprise that is encouraged by the government but not in a way that seeks to do something Congress has refused to do.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. I ask unanimous consent to also have printed in the RECORD the names of the members of the Iran-Contra select committee.

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

[From The Washington Post, May 10, 2013]
BUDGET REQUEST DENIED, SEBELIUS TURNS TO HEALTH EXECUTIVES TO FINANCE OBAMACARE
(By Sarah Kliff)

Health and Human Services Secretary Kathleen Sebelius has gone, hat in hand, to health industry officials, asking them to make large financial donations to help with the effort to implement President Obama’s landmark health-care law, two people familiar with the outreach said.

Her unusual fundraising push comes after Congress repeatedly rejected the Obama administration’s requests for additional funds to set up the Affordable Care Act, leaving HHS to implement the president’s signature legislative accomplishment on what officials have described as a shoestring budget.

Over the past three months, Sebelius has made multiple phone calls to health industry executives, community organizations and church groups and asked that they contribute whatever they can to nonprofit groups that are working to enroll uninsured Americans and increase awareness of the law, according to an HHS official and an industry person familiar with the secretary’s

activities. Both spoke on the condition of anonymity to talk openly about private discussions.

An HHS spokesperson said Sebelius was within the bounds of her authority in asking for help.

But Republicans charged that Sebelius's outreach was improper because it pressured private companies and other groups to support the Affordable Care Act. The latest controversy has emerged as the law faces a string of challenges from GOP lawmakers in Washington and skepticism from many state officials across the country.

"To solicit funds from health-care executives to help pay for the implementation of the President's \$2.6 trillion health spending law is absurd," Sen. Orrin G. Hatch (R-Utah) said in a statement. "I will be seeking more information from the Administration about these actions to help better understand whether there are conflicts of interest and if it violated federal law."

Federal regulations do not allow department officials to fundraise in their professional capacity. They do, however, allow Cabinet members to solicit donations as private citizens "if you do not solicit funds from a subordinate or from someone who has or seeks business with the Department, and you do not use your official title," according to Justice Department regulations.

HHS spokesman Jason Young added that a special section in the Public Health Service Act allows the secretary to support and encourage others to support nonprofit groups working to provide health information and conduct other public-health activities.

Sebelius is working "with a full range of stakeholders who share in the mission of getting Americans the help they need and deserve," Young said. "Part of our mission is to help uninsured Americans take advantage of new, quality affordable insurance options that are coming thanks to the health law."

Young said that Sebelius did not solicit for funds directly from industries that HHS regulates, such as insurance companies and hospitals, but rather asked them to contribute in whatever way they can.

But the industry official who had knowledge of the calls but did not participate directly in them said there was a clear insinuation by the administration that the insurers should give financially to the nonprofits.

Meredith McGehee, policy director for the nonpartisan Campaign Legal Center, which researches government ethics issues, said she was troubled by Sebelius's activities because the secretary seemed to be "using the power of government to compel giving or insinuate that giving is going to be looked at favorably by the government."

The success of the Affordable Care Act largely hinges on whether enough people sign up for insurance coverage. If only a small number of sick people participate, premiums would spike.

But spreading information about the law to the 30 million uninsured Americans has been a struggle, partly because there isn't enough money to fund the effort, HHS officials have argued.

The Affordable Care Act included \$1 billion to be used in overall implementation of the law. Congressional Budget Office projections, however, estimated that federal agencies will need between \$5 billion and \$10 billion to get the law up and running over the next decade. And because many states have refused to partner with the federal government in setting up the law, the burden on HHS has grown.

HHS has repeatedly requested additional funds from Congress to assist in the implementing but has been turned down.

After Congress rejected a request in March for nearly \$1 billion in additional spending

for fiscal 2013, the White House asked for \$1.5 billion for fiscal 2015 to set up and run dozens of exchanges that will provide Americans options for health insurance. The new marketplaces will launch in October for open enrollment.

"We requested additional money . . . but we didn't receive any additional funding for the exchanges," Ellen Murray, HHS's assistant secretary for financial resources, said last month at a budget briefing. "So we've had to come up with a Plan B. We've been working very hard to develop that."

In 2012, budget documents show that HHS pulled hundreds of millions of dollars from programs not specifically earmarked for the Affordable Care Act's implementation.

On top of that, the agency announced Thursday that it would use \$150 million in Affordable Care Act funds meant to build additional community health centers to train thousands of health-care outreach workers at facilities that already exist.

"Investing in health centers for outreach and enrollment assistance provides one more way the Obama administration is helping consumers understand their options and enroll in affordable coverage," Secretary Sebelius said in a statement.

Many of Sebelius's calls have gone to current supporters of Enroll America, the most prominent nonprofit group working on the health care law's implementation, an HHS official said. Its president, Anne Filipic, joined the group in January after serving as the White House's deputy director for public engagement.

"We all have a lot of work to do between now and the Marketplace opening in October," Filipic said in a statement. "That's why it's so important that the public, private and non-profit sectors are coming together to educate consumers about the opportunities that will be available to them later this year. Secretary Sebelius recognizes how important the work Enroll America is doing and we're thrilled to be working with her."

Health insurers plan to run their own outreach campaigns alongside the work of the Obama administration. They have a vested interest in recruiting Americans to enroll in their specific products rather than those of their competitors.

"As open enrollment gets closer, health plans will be engaged in a variety of innovative outreach activities," spokesman Robert Zirkelbach, spokesman for the trade association America's Health Insurance Plans, said.

[From The New York Times, May 12, 2013]

CABINET SECRETARY SOLICITS LARGE DONATIONS TO PUBLICIZE HEALTH CARE LAW
(By Robert Pear)

WASHINGTON—Kathleen Sebelius, the secretary of health and human services, has solicited sizable donations from the Robert Wood Johnson Foundation and H&R Block, the tax preparation service, as part of a multimillion-dollar campaign to ensure the success of President Obama's health care law, administration officials said Sunday, even as a leading Senate Republican raised questions about the legality of her efforts.

The foundation is expected to contribute as much as \$10 million, while H&R Block is expected to make a smaller donation of about \$500,000, the officials said.

The senior Republican on the Senate health committee, Senator Lamar Alexander of Tennessee, said the fund-raising "may be illegal." He likened it to efforts by the Reagan administration to raise money for rebels fighting the leftist government of Nicaragua in the 1980s, after Congress had restricted the use of federal money. Aides to Mr. Alexander said Sunday that he would

ask the Government Accountability Office, an investigative arm of Congress, to examine the propriety of the Obama administration's fund-raising efforts.

The Department of Health and Human Services said that Ms. Sebelius's actions to supplement money appropriated by Congress were proper and would continue, despite criticism from Republicans. After first denying that administration officials had engaged in fund-raising, the department confirmed Friday that Ms. Sebelius had made calls soliciting support from the health care industry, including insurance and pharmaceutical executives.

Jason Young, a spokesman for Ms. Sebelius, said she had suggested that health care executives and others support the work of Enroll America, a private nonprofit group that shares the president's goal of securing coverage for people without insurance. Several people who received solicitations said that current and former administration officials had suggested seven-figure donations.

An insurance executive said that some insurers had been asked for \$1 million donations, and that "bigger companies have been asked for a lot more."

Administration officials said private donations were needed because Congress had provided much less money than Mr. Obama requested to publicize the new law and get people enrolled in health plans subsidized by the government.

The Johnson Foundation describes itself as the largest philanthropy devoted exclusively to public health. H&R Block sees a large role for itself in helping low- and middle-income people apply for tax credits that can be used to buy private health insurance.

While Ms. Sebelius asked for support from health care executives, she did not make "a direct fund-raising appeal" to entities regulated by the government, Mr. Young said. In any event, he said, under a decades-old federal law, the secretary can encourage support for private nonprofit entities promoting public health.

The president of Enroll America, Anne Filipic, worked on Mr. Obama's 2008 campaign, became an aide to Ms. Sebelius, was later deputy executive director of the Democratic National Committee and then worked in the Obama White House as deputy director of the Office of Public Engagement. But a former Obama administration official, who spends time raising money or Enroll America, said its work was "not political."

In an interview, Ms. Filipic said, "We are thrilled to be working with Secretary Sebelius and to have her support." Ms. Filipic refused to say how much money had been raised through the efforts of Ms. Sebelius, refused to disclose the budget of Enroll America, and refused to say if the group had been requesting million-dollar donations. Mr. Young, the spokesman for Ms. Sebelius, said that her fund-raising efforts began in March, around the third anniversary of the signing of the health care law.

Insurance executives said they supported the president's goal of maximizing enrollment in the new health care program and encouraging healthy people under 40 to sign up, so insurers would not be stuck with a pool of older, less healthy subscribers. But several executives said they were uncomfortable with the discussions because the federal government has the power to approve or reject the health plans they want to sell in insurance markets that will be run by federal officials in more than 30 states.

Ronald F. Pollack, the executive director of Families USA, a liberal-leaning consumer group, is the founder and chairman of Enroll America. He said that he raised \$7 million for the organization in the last two years, and that the group had collected substantially more than \$7 million in more donations this year. He confirmed that "there

have been solicitations in excess of \$1 million."

Health care executives said they were reluctant to make big contributions for several reasons, including the fact that insurers are required to pay more than \$100 billion in new taxes over the next 10 years to help defray the cost of expanded coverage. Drug companies must pay new fees totaling \$34 billion over the same period.

Excerpts of report of the Congressional Committees Investigating the Iran-Contra Affair, Chapter 27, pp 411-413

"The Constitution contemplates that the Government will conduct its affairs only with funds appropriated by Congress. By resorting to funds not appropriated by Congress—indeed funds denied the executive branch by Congress—Administration officials committed a transgression far more basic than a violation of the Boland Amendment.

The power of the purse, which the Framers vested in Congress, has long been recognized as "the most important simple curb in the Constitution on Presidential Power." The Framers were determined not to combine the power of the purse and the power of the sword in the same branch of government.

When members of the executive branch raised money from third countries and private citizens, took control over that money through the Enterprise, and used it to support the Contras' war in Nicaragua, they bypassed this crucial safeguard in the Constitution. . . .

The appropriations clause was intended to give Congress exclusive control of funds spent by the Government, and to give the democratically elected representatives of the people an absolute check on Executive action requiring the expenditure of funds. . . .

Congress' exclusive control over the expenditure of funds cannot legally be evaded through the use of gifts or donations made to the executive branch. Were it otherwise, a President whose appropriation requests were rejected by Congress could raise money from private sources or third countries for armies, military actions, arms systems, and even domestic programs. . . .

The Constitutional process that lodges control of Government expenditures exclusively in Congress is the Anti-Deficiency Act (31 USC Section 1341) which prohibits an officer of the United States from authorizing an expenditure that has not been the subject of a Congressional appropriation, or that exceeds the amount of any applicable appropriation. Thus it provides:

"An officer or employee of the United States Government may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation; or involve [the] government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law."

. . . The Constitutional plan did not prohibit the President from urging other countries to give money directly to the Contras. But the Constitution does prohibit receipt and expenditure of such funds by this Government absent an appropriation. This prohibition may not lawfully be evaded by use of a nominally private entity, if the private entity is in reality an arm of the Government and the Government is able to direct how the money is spent.

BUSH SETS UP FOUNDATION TO START MODEL SCHOOLS

(By Karen De Witt, July 9, 1991)

In a move he described as a milestone in the "educational revolution" he outlined in

April, President Bush today announced the establishment of a foundation to foster the creation of model schools.

In a Rose Garden ceremony, Mr. Bush, who was accompanied by Education Secretary Lamar Alexander, introduced 18 business, education and political leaders as members of the board of the New American Schools Development Corporation, saying they would help "set aside stale preconceptions" about how schools should work and "seek nothing less than a new generation of schools."

Mr. Bush has said he hopes the private, nonprofit corporation will persuade businesses to donate as much as \$200 million for the creation of 535 experimental schools intended to be models of reform for the nation. The schools, one in each Congressional district and two more for each state, are part of Mr. Bush's education legislation now being considered by Congress.

"We want to encourage and experiment," Mr. Bush said. "No one will conduct our educational revolution for us. We've got to do it ourselves. We've done enough hand-wringing about the state of our schools and now let's act."

The Rand Corporation's Institute on Education and Training will serve as the research arm for the new corporation. An advisory panel of educators is to assist the corporation.

Thomas H. Kean, the former New Jersey Governor and chairman of the corporation, said the group had already received \$30 million in donations. Walter H. Annenberg, the publisher and former diplomat, is a member of the board and donated a \$10 million "challenge" grant to encourage other corporations to help.

But with a recession, some companies that plan to contribute to the new program are cutting back on financial commitments to existing education projects.

The Exxon Corporation, for example, told Theodore R. Sizer, a professor of education at Brown University, that it would give him one year's worth of financial aid instead of the five years he had requested for his Coalition of Essential Schools, a nationwide group of schools that have been promoting innovative teaching and learning techniques.

Edward F. Ahnert, executive director of the Exxon Education Foundation, said, "We have not made a decision to cut back our longer-term funding but rather to review our long-term commitments to his program in the light of the New American School Program."

Here is complete list of members of the board of the New American Schools Development Corporation. Thomas H. Kean, president of Drew University and former Governor of New Jersey, chairman. W. Frank Blount, president of the Communications Products Group of the American Telegraph and Telephone Company, president. Louis V. Gerstner Jr., chairman of R. J. R. Nabisco, vice president. James K. Baker, chairman of Arvin Industries, vice president. Frank Shrontz, chairman of the Boeing Company, vice president. Walter H. Annenberg, philanthropist, former diplomat and publisher. Norman R. Augustine, chief executive of the Martin Marietta Corporation. Gerald L. Baliles, former Governor of Virginia. John L. Clendenin, chairman and chief executive of BellSouth. James R. Jones, chairman and chief executive of the American Stock Exchange. Lee R. Raymond, president of the Exxon Corporation. Paul Tagliabue, commissioner of the National Football League. Earl Graves, publisher of Black Enterprise magazine. Joan Ganz Cooney, chairman of the executive committee of Children's Television Workshop. Kay Whitmore, chairman, chief executive and president of Eastman Kodak. James J. Renier, chairman and chief execu-

tive of Honeywell. John Ong, chairman of B. F. Goodrich. Stanley A. Weiss, board chairman of Business Executives for National Security and the BENS Education Fund.

MEMBERS OF THE IRAN-CONTRA SELECT COMMITTEE SENATE

Daniel K. Inouye, Chairman (Hawaii); George Mitchell (Maine); Sam Nunn (Georgia); Paul Sarbanes (Maryland); Howell Heflin (Alabama); David Boren (Oklahoma).

Warren Rudman, Vice Chairman (New Hampshire); James McClure (Idaho); Orrin Hatch (Utah); William Cohen (Maine); Paul S. Trible, Jr. (Virginia).

HOUSE

Lee H. Hamilton, Chairman (Indiana); Dante Fascell, Vice Chairman (Florida); Thomas Foley (Washington); Peter Rodino (New Jersey); Jack Brooks (Texas); Louis Stokes (Ohio); Les Aspin (Wisconsin); Edward Boland (Massachusetts); Ed Jenkins (Georgia).

Dick Cheney, Ranking Republican (Wyoming); Wm. S. Brookfield (Michigan); Henry Hyde (Illinois); Jim Courter (New Jersey); Bill McCollum (Florida); Michael DeWine (Ohio).

Mr. ALEXANDER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

VERMONT'S MATAYKA FAMILY

Mr. LEAHY. Mr. President, Vermonters are fiercely proud of those who serve in our National Guard. For decades—and never more so than in the last decade—when the Nation sounded the call to service, the Vermont National Guard has answered. Today, I would like to pay tribute to Ed and Karen Matayka, two Vermont National Guard soldiers whose perseverance in the face of huge odds is an inspiration to all.

The Army brought Ed and Karen together—they met at combat medic training in Texas—and they have been an Army family ever since. The Mataykas deployed twice together, once to Kuwait immediately following their wedding, and a second time to Afghanistan with Vermont's 86th Infantry Brigade Combat Team in 2010. It was during that second deployment when tragedy struck.

While running a convoy mission in Afghanistan, Ed's vehicle was hit by an improvised explosive device, leaving him with multiple injuries, including the amputation of his legs. Some doctors questioned whether Ed would survive.

Yet he never gave up. With Karen's support and the assistance of skilled Army doctors, Ed is well on the road to recovery. Not only is Ed making great strides in his personal health, with newly authorized assistance for in