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# Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

## PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You are more willing to bless and guide us than we are to ask for Your help. Forgive that obstinance in us that resists Your intervention and inspiration with ''I'd rather do it myself!'' independence. Father, enable us to be open to receive Your wisdom, vision, and direction. We know in our hearts that we were never meant to make it on our own. When You step in to assist us, things just go better, problems are resolved, and relationships are more open, real, and mutually encouraging. Grant us the courage to admit our need for You and make this day one of consistent awareness of Your eternal presence in everything. You are Lord of all and come to aid us in our problems—big and small. Thank You, dear God. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

## SCHEDULE

Mr. LOTT. Mr. President, today the Senate will resume consideration of the agriculture appropriations bill. Amendments are expected to be offered, and it is my hope the Senate can consider agriculture-related amendments during today's session of the Senate. All Senators can therefore expect rollcall votes throughout the session.

As a reminder, there will be no votes on Friday, June 25. However, votes are expected very likely into the evening on Thursday in an effort to complete action on the important agriculture appropriations bill.

I might also say that Senator DASCHLE and I are in the process of exchanging some suggestions of how we might further consider the Patients' Bill of Rights issue.

Mr. President, I ask unanimous consent that Senator INHOFE be permitted to speak in morning business for up to 30 minutes.

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

Mr. LOTT. I yield the floor.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

## ORDER OF PROCEDURE

The PRESIDING OFFICER. The Chair now recognizes the Senator from Oklahoma for 30 minutes.

Mr. INHOFE. I thank the Chair.

Mr. KENNEDY. Mr. President, will the Senator yield for just a brief question? The Senator, as he knows, is recognized for 30 minutes. I would like to ask that 30 minutes be reserved on this side as well.

Mr. INHOFE. Reserving the right to object.

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

Mr. INHOFE. I am reserving the right to object.

The PRESIDING OFFICER. Was there a reservation on the request?

Mr. INHOFE. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. I am still reserving the right to object.

Mr. KENNEDY. I will withdraw the request for the moment.

The PRESIDING OFFICER. The request is withdrawn. The Senator from Oklahoma is now recognized.

Mr. INHOFE. I thank the Chair.

Mr. KENNEDY. I apologize to the Senator. If I could make that request——

Mr. INHOFE. I object.

Mr. KENNEDY. I think the matter has been cleared.

Mr. INHOFE. All right. No objection.

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

The Senator from Oklahoma is again recognized.

## THE CLINTON NATIONAL SECURITY SCANDAL AND COVERUP

Mr. INHOFE. Mr. President, I ask that you listen again. I am going to pick up on the incredible but true story of the Clinton administration's betrayal of national security and the scandalous coverup that continues as we speak. In doing so, I fully realize that the majority of Americans will not believe me. They have continued to believe our President even after he has demonstrated over and over that he has no regard for the truth.

Though you would never realize it by listening to the national media or the Clinton spin doctors, the recently released Cox Report has revealed a wealth of information on how the Clinton administration has undermined national security to simultaneously pursue its misguided foreign policies and self-serving domestic political agendas.

On the one hand, there is the mind-boggling story of how the Clinton administration deliberately changed almost 50 years of bipartisan security policies—relaxing export restrictions, signing waivers to allow technology transfers, ignoring China's violation of arms control agreements, and its theft of our nuclear secrets, opening up even more nuclear and high technology floodgates to China and others—thus harming U.S. national security.

On the other hand, there is the continuing coverup—the effort to hide from Congress and the American people the true damage that has been done to national security and the Clinton administration's central role in allowing so much of it to happen on their watch.

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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Over three months ago—on March 15—I spoke on this floor about China's theft of the W–88 nuclear warhead. To remind you, this is the crown jewel of our nuclear arsenal. It is the warhead that has 10 times the explosive power of the bomb that was dropped on Hiroshima and yet just a fraction its size. I spoke about how serious this was to our national security—how it was a story with life and death implications for millions of Americans.

I told how President Clinton was directly responsible for downplaying the significance of and covering up this story. While the information on the W–88 design—the crown jewel of our nuclear arsenal—was stolen in the late 1980's, the theft was first discovered in 1995 by this administration. So people remember, it was the Chinese walk-in informant to the CIA that gave us all this information. I told how it was this administration and this President who deliberately covered up this vital information from Congress and the American people and, at the same time, lulled our people into a false sense of security by repeating the lie that there were no nuclear missiles targeted at America's children.

At that time, I spoke of six proven incontrovertible facts, and let me repeat them now:

1. President Clinton hosted over 100 campaign fundraisers in the White House, many with Chinese connections.

2. President Clinton used John Huang, Charlie Trie, Johnny Chung, James Riady, and others with strong Chinese ties to raise campaign money.

3. President Clinton signed waivers to allow his top campaign fundraiser's aerospace company to transfer U.S. missile guidance technology to China.

4. President Clinton covered up the theft of our most valuable nuclear weapons technology.

5. President Clinton lied to the American people over 130 times about our nation's security while he knew Chinese missiles were aimed at American children.

6. President Clinton single-handedly stopped the deployment of a national missile defense system, exposing every American life to a missile attack, leaving America with no defense whatsoever against an intercontinental ballistic missile.

On March 15, I began my speech by asking the American people to listen as I told them ''a story of espionage, conspiracy, deception, and cover-up—a story with life and death implications for millions of Americans—a story about national security and a President and an administration that deliberately chose to put national security at risk, while telling the people everything was fine.''

In the three months since I made these statements, none has been refuted.

Now, I come before you to tell some of the rest of the story that we have learned since March 15. And it is a truly astounding story. We thought the W–88 story was bad—and it is. But with the release of the Cox Report last month, the American people have been presented with documented evidence that the harm President Clinton has done to U.S. national security is enormously worse than we thought.

On March 15, I said that, as damaging as the W–88 breach was, I believed we had not yet scratched the surface of the national security scandal exposed by this one revelation. I must say that I was right—even beyond my own worst fears.

Let's not be distracted by the self-serving Clinton spin: that everybody does it; that it all happened during previous administrations; that this is only about security at the nuclear weapons lab; that there is equal blame to go around on all sides; that President Clinton acted quickly and properly when he found out; and that the only problem is now being fixed.

I am here today to tell you that all of this is wrong. The Clinton spin is nothing more than a dishonest smokescreen designed to divert attention from the real issues. It is also, I believe, an attempt to dissuade people from actually reading the Cox Report and discovering for themselves that the Clinton spin is a snare, a delusion, and a lie.

This is why I want to take some time to walk through some of the more important revelations in the Cox Report and to remind my colleagues that we have an obligation to tell the American people the truth—the truth that the media is inexplicably ignoring and that the President seems to hope the people will never find out on their own.

First, let us begin with a simple fact: Sixteen of the 17 most significant major technology breaches revealed in the Cox Report were first discovered after 1994. With the lone exception of the W–70 technology that was discovered back in the 1970's during the Clinton administration, all the rest of them were discovered since 1994. Again, that is when they had the individual who came into the CIA and exposed all of those.

Let me repeat—sixteen of the 17 most significant major technology breaches revealed in the Cox Report were first discovered during the Clinton administration. Those who tell you otherwise are willfully lying to you.

Second, of the remaining 16 technology breaches, one definitely occurred during the Reagan administration—the W–88 Trident D–5. Seven occurred sometime before 1995, though it is unclear exactly when. And eight occurred—without question—during the Clinton administration.

Let's take a closer look at these. The seven that occurred before 1995 included breaches of information on all of the currently deployed nuclear warheads in the U.S. intercontinental ballistic missile arsenal: the W–56 Minuteman II; the W–62 Minuteman III; the W–76 Trident C–4; the W–78 Minuteman Mark 12A; and the W–87 Peacekeeper. In addition, there was the breach of classified information on reentry vehicles, the heat shield that protects warheads as they reenter the Earth's atmosphere when delivered by long-range ballistic missiles.

Let me repeat that all of these technology breaches were first discovered in 1995. They were discovered when a Chinese ''walk-in'' agent actually approached the CIA at a location outside of China and handed them a secret Chinese government document containing state-of-the-art classified information about the W–88 and the other U.S. nuclear warheads. We still don't know why he did this, but he did.

The Cox Report also tells us that the Energy Department and FBI investigations of this matter have focused exclusively on the loss of the W–88, which we know happened around 1988. There have been no investigations undertaken about the loss of the other warheads, the timing of whose loss cannot be as clearly pinned down.

Next, we move to the other eight major technology breaches revealed in the Cox Report. All of these were not only first discovered during the Clinton administration, they also happened during the Clinton administration:

No. 1, the transfer of the so-called Legacy Codes containing data on 50 years of U.S. nuclear weapons development including over 1,000 nuclear tests;

No. 2, the sale and diversion to military purposes of hundreds of high performance computers enabling China to enhance its development of nuclear weapons, ballistic missiles, and advanced military aviation equipment;

No. 3, the theft of nuclear warhead simulation technology enhancing China's ability to perfect miniature nuclear warheads without actual testing;

No. 4, the theft of advanced electromagnetic weapons technology useful in the development of anti-satellite and anti-missile systems;

No. 5, the transfer of missile nose cone technology enabling China to substantially improve the reliability of its intercontinental ballistic missiles;

No. 6, the transfer of missile guidance technology (by President Clinton to China) enabling China to substantially improve the accuracy of its ballistic missiles—these same missiles that are targeting U.S. cities;

No. 7, the theft of space-based radar technology giving China the ability to detect our previously undetectable submerged submarines; and

No. 8, the theft of some other ''classified thermonuclear weapons information'' which ''the Clinton administration'' (not the Cox committee) ''has determined . . . cannot be made public.''

We used to think China was decades behind us in terms of building a modern advanced nuclear arsenal. Now we learn that, later this year, China is planning to test its new JL–2 long range ICBM, a submarine launched ballistic missile with MIRV capability—meaning multiple independently targeted warheads on each missile—almost a replica of our Trident ICBM.

This missile will have a range of over 13,000 kilometers and could reach anywhere in the United States from protected Chinese waters.

In addition, we know that China has been helping North Korea, among others, with weapons and technology. North Korea is also expected to test its long range Taepo Dong II missile later this year.

I am reminded of something that happened last August when I made a request to sort of see where we were and where North Korea was in terms of a threat to the United States.

In a letter that I received from General Shelton, who was depending on our intelligence system for his response, he said it would be at least three years before the North Koreans would have a multiple-stage rocket. That was August 24. Seven days later, on August 31, they fired a multiple-stage rocket.

I remind my colleagues we have no defense against either of these potential threats, because of the policy decisions of the Clinton administration. Someone very smart back in 1983 determined that we would need a national missile defense system in place by Fiscal Year 98. We were on track to meet the deadline until 1993 when President Clinton, through his veto power, stopped this missile defense system.

But as the Cox Report points out, nuclear espionage by China is only one part of the problem. China's efforts to acquire U.S. military related technology is pervasive. Operating through a maze of government and quasi-government entities and front companies, China has established a technology gathering network of immense proportions.

The Congressman from Pennsylvania, Congressman CURT WELDON, has done extensive research in putting this together, and other charts to show exactly what capacity China has to collect our nuclear secrets.

When there is time to look at it, it shows you operational entities of the Chinese military in red, the Chinese military entities and those in contact involving financial entities in green, and you have the Chinese military front companies in blue.

You can see that this is well thought out. It took many years to put it together to make it effective.

They are willing and able to trade, bribe, buy, or steal to get U.S. advanced technology—all for the purpose of enhancing their long-term military potential. Their success is often determined largely by our willingness to make it easier for them to get what they want.

The Cox Report has shed light on the fact that the Clinton administration has actually helped China in its technology acquisition efforts or made it easier for them to commit thefts and espionage. You know the truth is always difficult and controversy is difficult. It is easier to take polls and tell people what they want to hear. But I have to make a decision—who do I love more—this President or America.

I find that to be very easy in this case.

The following are just some of the things that the Clinton administration has done. And I want to applaud Congressman WELDON for helping to bring many of these things to light.

No. 1, in 1993, the Clinton administration removed the color-coded security badges that had been used for years at Energy weapons labs claiming they were ''discriminatory''—as if that makes any sense whatsoever. Now just a few weeks ago, in the wake of all these revelations, the Energy Department has reinstated the color-coded badges.

But during the time that these thefts took place, they were not able to wear these badges.

No. 2, in 1993, the Clinton administration put a hold on doing FBI background checks for lab workers and visitors, an action which helped to dramatically increase the number of people going to the labs who would previously have not been allowed to have access.

No. 3, in 1995, the Clinton administration took the extraordinary action of overturning its own agency's decision to revoke the security clearance of an employee found guilty of breaching classified information. When this happened, it sent a message to employees throughout the Department, that this administration was not serious about countering breaches of classified information.

No. 4, the Clinton administration deliberately, and many would say recklessly, declassified massive amounts of nuclear-related information in what the Clinton administration touted as a new spirit of openness.

No. 5., in the W–88 investigation, the Clinton administration turned down four requests for wiretaps on a suspect who was identified in 1996 and allowed to stay in his sensitive job until news reports surfaced in 1999.

No. 6, in 1995, someone at the Department of Energy gave a classified design diagram of the W–87 nuclear warhead to U.S. News & World Report magazine which printed it in its July 31 issue that year. Representative CURT WELDON is still trying to get answers about how this leak was investigated and what was determined. He has good reason to believe the investigation was quashed because it was going to lead straight to President Clinton's Energy Secretary.

No. 7, career whistle-blowers at the Department of Energy who tried to warn of serious security breaches—including Notra Trulock, the former Director of Intelligence for the Energy Department, and Ed McCallum, the former Security and Safeguards Chief—were thwarted for years by Clinton political appointees who refused to let them brief Congress and others about what they knew. Trulock was demoted but will now get to keep his job. McCallum appears to be on his way to being scapegoated and perhaps fired for trying to tell the truth.

Members will remember we had extensive hearings. Notra Trulock testified under oath that he thought that the theft of the W–88 was so significant, he wanted to give it to Congress. He was refused being allowed to do that by the then-Acting Secretary of the Energy Department.

No. 8, rejecting advice from his Secretaries of State and Defense, President Clinton approved switching the licensing authority for satellites and other technology from the State Department to the Commerce Department, making it easier for China to acquire U.S. missile technology.

No. 9, President Clinton granted waivers making it easier for U.S. companies to transfer missile and satellite technology to China during the launching of U.S. satellites on China's rockets.

No. 10, in 1994, President Clinton ended COCOM, the Coordinating Committee on Multinational Export Control, the multinational agreement among U.S. friends and allies that they would not sell certain high-technology items to countries like China. When this happened, it opened the commercial floodgates. Ever since, there has been a wild scramble for competition to sell more and more advanced technology to China. As a result, the proliferation has never been worse than it has been in the last 6 years.

No. 11, in a series of decisions throughout his Presidency—and many surrounding the 1996 election—Clinton has consistently relaxed export and trade restrictions on various forms of high technology of interest to China.

Again, I applaud Congressman WELDON who put this chart together. This timeline was not put together because President Clinton took office in 1993, but that is when all the compromises took place. This timeline shows categories including machine tools, telecommunications, propulsion. All were compromised, or as we normally say stolen.

No. 12, President Clinton has ignored or downplayed numerous Chinese arms control violations by not imposing sanctions required by law. While we are selling more and more high tech to China, China is sending prohibited military technology to countries such as Pakistan, Iran, North Korea, Syria, Libya and Egypt.

What does the Clinton administration do? They do nothing. What are the motives for all this? Why did the Clinton administration act the way it did, with almost total disregard for any traditional concern for U.S. national security?

The Cox Report did not answer these questions because it was only concerned with the facts of the security breaches themselves, not what was behind it.

But FBI Director Louis Freeh did assign one man to look into this. His name was Charles LaBella, who became head of the Justice Department's China Task Force. He and his investigators

spend months looking into the connections, trying to connect the dots with campaign contributions, foreign influences and administration actions. What he found is laid out in a 100-page memo he prepared for Janet Reno. We know this memo argues in favor of the appointment of an independent counsel to carry on the investigation.

But the memo itself has reminded secret, even through it has been subpoenaed by Congress. Janet Reno, who rejected its recommendation for an independent counsel, has refused to release the memo to the Congress or to the public. It is time for that memo to be released.

FBI Director Freeh has testified that the public knows only about one percent of what the FBI knows about the Chinagate scandal. It is time for the truth to come out. It is time for the public to get some sense of the other 99 percent which is contained in the LaBella memo.

Mr. President, over the last six years, President Clinton and his administration have shown a pervasive disregard for national security. In both actions and inactions, this President has broken ranks with the bipartisan consensus about national security that helped us win the cold war.

His policies and attitudes-towards export controls, nuclear weapons, militarily important high technology, and dealing with our adversaries in the world—have been strikingly different from those of all of his predecessors in the modern era.

His administration has acted as if the end of the cold war gave them carte blanche license to open the commercial and technology floodgates to countries like china simply because it was good for business, or good for getting campaign contributions, or good for other domestic political reasons.

The traditional concern about national security—about protecting our nuclear secrets, about maintaining our military and technological superiority, about sanctioning those in the world who engaged in flagrant and hostile espionage and proliferation—all that went out the window, replaced by other priorities this President somehow thought were more important.

President Clinton claims he has ''redefined'' national security. In fact—as the Cox Report conclusively documents—he has ''harmed'' national security. This is the message that every American must understand.

My hope is that we never again have a President who is so disrespectful of, and inattentive to, traditional national security concerns.

Yesterday at the joint hearing of the Armed Services, Energy and Intelligence Committees, I asked whether or not it would be possible to put in place some safeguards so that no future President could ever again so successfully undo the country's national security defenses as this President has. We are working on an answer.

Some of us will continue to speak, out—seeing it as our highest duty of public service. As I said on March 15—and repeat again here today—I only hope America is listening. We have a nation to save.

The truth will get out. Winston Churchill said:

> Truth is incontrovertible: Panic may resent it, ignorance may deride it, malice may destroy it, but there it is.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent to speak in morning business.

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

## PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, last evening Senator DASCHLE was prepared to offer an amendment to the agricultural bill that was at the heart of the Patients' Bill of Rights. I believe that will be offered shortly on behalf of the Senator from California, Senator FEINSTEIN. We will have an opportunity to get into that discussion and debate.

I am hopeful, as are others, that we can work out a process and procedure by which we can have a full discussion and debate on this issue, and where we can have an orderly way of disposing of various amendments on the Patients' Bill of Rights. I am, however, somewhat distressed and disturbed by some of the comments I have read this morning on the AP relating to my friend from Oklahoma, Senator NICKLES, the Republican assistant majority leader.

He said he was willing to vote on the issue if the Democrats would agree to limit debate, but he said he was worried that Democrats will pressure some Republicans into supporting amendments that will increase the cost of health care, and therefore the number of Americans without any insurance. He also said he was worried the Democrats will force votes that can be misconstrued for political purposes. He would rather allow a yes or no on the entire package with only a handful of amendments.

I have more confidence than the assistant majority leader in our colleagues' ability to make discerning decisions about the merit of these various amendments, and that having been elected by the people, we are charged to make judgments on these measures. This is a new reason for not bringing legislation to the floor. Apparently, one of the leaders is concerned the members of their party would not be able to exercise a balanced and informed judgment in the best interests of the particular States the Senators represent. Of course, if that is going to continue to be the position of the leadership, it does not bode well for a full discussion and debate on this issue.

We have seen for the last 2 years a policy of delay and denial of the ability to debate the issues that we referred to yesterday and on other occasions, and which we will have an opportunity again to debate today. But it is out of frustration that Senator DASCHLE has used the unusual procedure of offering this legislation on an appropriations bill, in the hopes we can work out an orderly process or procedure. I certainly support that process, since we have effectively been closed out from any opportunity to debate this issue.

It is a simple, fundamental, basic issue: whether decisions relating to the health of patients in this country are going to be decided by the health care professionals who have the training and skill and competency to make those judgments and decisions, or whether the decisions will be made by accountants in the insurance companies or the HMOs. That is really the basis of this whole debate and discussion. That is why virtually every leading health care organization, virtually every major professional health organization—the spokesmen and spokeswomen for children, for women's health, for the disabled, and for the patients' coalitions—has universally supported our proposal.

It is not, certainly, because it says ''Democrat'' on it. These organizations support measures on the basis of the merits, whether they are proposed by Democrats or Republicans.

There is uniformity among the various groups and organizations that the basic, fundamental issue of who decides what is medically necessary is really at the heart of the whole debate. It is reflected in different ways, as we illustrated in the course of the discussion over the past few days and today, but that is basically what is at the core of this proposition.

The Democratic leader indicated that if we took up the Republican proposal that was passed out of committee on a party-line vote—even though we had more than 20 amendments at that time dealing with the substance of the issues—we would limit our side to 20 amendments. He indicated he would be willing to limit discussion of these various amendments to a reasonable time period, expecting the opposition would have similar amendments.

Frankly, though, if the Republicans have the opportunity to put their bill before the Senate, I do not understand why they would need a great many more amendments. They already have their bill. If we had our bill before the Senate, we would not have to have a great many amendments because it is our bill. I think we can all understand the logic of that. If we have a particular proposal before us, we ought to be able to debate the changes that may be offered from the other side.

The other side has the right, their right as the majority, to lay their bill down. So when we say we need 20 amendments and they say they will need 20 as well, I do not quite follow that. But so be it.

I think we will find from the discussions taking place at the leadership

level, and I heard the exchanges last evening, I heard from our leader he was prepared to move ahead. He urged there be cooperation by all Members. That certainly would be the case, I know, for those who are most involved in the Patients' Bill of Rights. They would be willing to expedite consideration of various appropriations bills with the understanding we will have an opportunity to debate this issue in a reasonable period of time with a chance to offer amendments.

We will hold the Senate accountable to answer the questions that parents have about their children and medical care: Will you will be able to get specialty care when a child has special needs, or just be given access to a general pediatrician? Will you get a pediatric oncologist if the child has cancer? What about access to new prescription drugs? Will children and others have access to the clinical trials?

The opposition fails to mention that gap in their program. The most they do about it is to include a study about clinical trials. I think most American families understand the importance of clinical trials in their family's life experience or their health care. They may not have been part of a clinical trial themselves—although my family has, my son has, and very successfully, I will add. But I doubt if there is a family that does not have a member of their extended family who has not been involved in those programs.

Patients need to have access to necessary prescription drugs. This is so important to many different groups in our society: those challenged with mental illness, those with disabilities or other chronic conditions. There are many in our communities who require those essential prescriptions drugs. We do not see those guarantees in the Republican plan. There was reference to those: They will get access to those—but at exorbitant prices. They didn't mention that. They said: We'll make sure they have access to those drugs—but the plan can charge exorbitant prices.

We will have an opportunity to come back to the issue on prescription drugs, though probably not on this piece of legislation. But there are important guarantees which we provide in our Patients' Bill of Rights. We will come back to those measures. They are important.

I will say a few words now about the subject matter that will be included in the amendment offered by the Senator from California. It will deal with medical necessity. This is an interesting concept, because it reaches the heart of this issue, this debate. When consumers sign up for health care coverage, they assume, I think—it is not presumptuous to assume this—they assume they will be able to get from their doctors and their health care facilities the best care that the medical profession has to offer. Right? Wrong. Our bill will ensure that the best care is given. Their bill does not.

You say: I do not understand that. Let me clarify it. The Republican legislation that was reported out of the Health committee permits the HMO to decide what is medically necessary. They let the HMOs decide what is medically necessary. Then, when you have a certain illness and your doctor believes you should receive X, Y, or Z treatment, but the HMO defines ''medical necessity'' in a particular way, your doctor is restricted in the kind of treatment they can give you to whatever it says in the particular contract.

I do not think most consumers, when they sign up for health insurance, look into or read the various definitions in those contracts. You have scores of different definitions, each allowing for abusive actions that can have devastating effects on the health of patients across the country.

We have one included in here from a HMO that happens to be in Missouri. This is what it says: X company, I will not mention the name here, will have the sole discretion to determine whether care is medically necessary. Here it is—a small provision in the contract that an individual may never see.

If they came in and said: The doctor says you may very well need to have this kind of treatment.

And then the HMO says: Oh, no, they do not need that treatment, it is too expensive.

And the patient says: Why? Is that in my best interests of my best health?

Maybe the doctor will say: Yes.

Then the person says to the HMO: My doctor says it is in the best interest of my health to have that treatment.

Then the HMO says: Let me tell you something. Our definition of what is medically necessary for you is in the sole discretion of our HMO. We say you don't need that treatment. You signed that contract, and that is what you are going to get.

Then the person says: I appeal. I appeal this. I appeal. I want the best.

Under the Republican proposal—listen to this—the HMOs will decide who will listen to that appeal. They will also decide that appeal on the basis of what the contract says. That person gets an appeal, and then it goes to their HMO. The appeal officer looks at this and says: Here it is, it is their sole discretion whether care is medically necessary. And that is it; you are out.

Then that person says: Maybe I will bring a case. Let's get this out into the courts. This is absolutely outrageous. It is violating the basic, common law of good medical treatment.

The patient does not get to the courts. It is nonappealable under the Republican proposal. You are stuck there, your child is stuck there, and your wife may be stuck there. A member of your family is stuck there.

What does our bill do? It says that plans must use the best evidence and practices to determine what is medically necessary. It uses the best up-to-date scientific information or, if that is not available, clinical practices.

At a hearing in our committee earlier this year, there was some question about the definition and the use of various words in our proposal. We said: You develop the words. We have tried to take those words, which have been recommended by the best practitioners and by the medical associations, and put those in the bill. If the opposition has better words, we welcome them, we will embrace them, we will include them. Work with us, and we will work with you. Do they understand what we are trying to get at? We want to ensure that any individual who signs up with a plan is going to get what professionals in a particular field believe is in their best interest.

I have in my hand 30 definitions of what is medically necessary, depending on the HMO. Why should American citizens play roulette, and allow their health care to depend on which HMO they are a member of? That is what is happening.

Is this such a revolutionary idea? It is not. This basic concept has been supported not only by the medical societies, the medical associations, nurses associations, but countless other patient groups and others. The only people who oppose it are those who seek to preserve the status quo. It is similar to what is used to treat our parents and our grandparents under Medicare, and we do not hear any complaints about it.

I ask any Member on the other side to bring in a single letter which demonstrates how that best standard of medically necessary is either being abused or not effective for those people under Medicare. Bring them in. Shouldn't that be the answer? Mr. President, 39 million Americans are being treated that way. Bring in the examples. I will give my colleagues examples on the other side. Let's debate that issue. Let the Senate decide. I will give my colleagues examples.

If my colleagues want to take a little time, I will go right through these and let the Senate hear this debate.

They may say on the other side: Is that some new idea, some crazy Democratic concept? We know it is being used today to treat our parents. They welcome it. It is good and sound.

We want to make sure people are protected. That is what we are concerned with. That is why this issue reaches the heart of the whole debate and why the whole question of medical necessity is of such importance.

If that is not a core factor, if we do not have the best judgments guiding what is medically necessary, and if we do not have the assurance this is going to protect the doctor to make that judgment, then this legislation is not worth the paper on which it is written.

We can name any bill a Patients' Bill of Rights. But if it has a medical necessity definition that is so construed as to deny people adequate protection or that and they are able to question the doctor giving the best information on the best medical process and procedure,

we are not giving those assurances that the consumers of this country need and deserve, and we will not avoid the human tragedies which we have heard mentioned day after day in the Senate. We hear instance after instance where timely treatment is being denied because doctors are not able to practice what is medically necessary.

This is the heart of this debate today. I can mention some other definitions. I see other colleagues in the Chamber who want to address the Senate. I am going to come back and review with the Senate some other definitions that have been included in the HMOs and how they have worked in ways which have been tragic to the medical profession.

I have a definition from another major HMO, one of the largest in the country. I am not interested in using names, but I will be glad to if Members are questioning this issue. This is their definition in use today:

> Health care services that are appropriate and consistent with the diagnosis in accordance with accepted medical standards and which are likely to result in demonstrable medical benefit and which are—

Listen to this—

> the least costly of alternatives.

There it is, ''least costly of alternatives.'' Not what is in the best interest of the patient, not what can save that person's life, not what can reduce pain and suffering and offer the best hope and opportunity for the future but which is least costly.

Here is another HMO. This is the definition of medical necessity in another very prominent HMO:

> . . . the shortest, least expensive or least intensive level of treatment, care or services rendered or supplies provided.

How many Americans, when they go in to look at their HMOs and sign that contract, say: Look, I have a health insurance proposal. Look what it's going to do. It's going to cover me and going to cover my family and going to cover my children, and going to cover my wife. This is what it's going to cost. This is what the drug benefit is.

How many are going to look at the fine lines and look into ''medical necessities'' and are going to wonder whether they are using the most modern and comprehensive care for ''medical necessity.'' Virtually none of them are going to. That is why we have so many examples of the kinds of tragedies that have been mentioned. We will talk about those later in the day.

I see my friend and colleague from California. We all look forward to hearing from her on the amendment she will be proposing.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Nevada is recognized.

Mr. REID. How much time is remaining for Senator KENNEDY?

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes 30 seconds.

Mr. REID. The Senator from Massachusetts has 7 minutes. There are three of us. Will the Senator yield his time to the three of us to divide equally?

Mr. KENNEDY. I yield it to the leadership here, Senator REID, to allocate in whatever way he desires.

Mr. REID. Would the Chair advise the Senator when he has used 2½ minutes?

The PRESIDING OFFICER. The Chair would be delighted.

Mr. REID. Mr. President, the question always arises as to whether we have sufficient time in this body to take care of all the business before us, especially the appropriations bills, and still have time to properly handle the Patients' Bill of Rights? The obvious answer is yes.

We have had a number of bills brought before this body this year. We have had, for example, the military bill of rights with 26 amendments, the Education Flexibility Act with 38 amendments, the supplemental appropriations bill with 66 amendments, the first budget resolution with 104 amendments, and the budget process reform bill with 11 amendments. We are asking for 20 amendments. Certainly we have the opportunity to do that.

I agree with my friend, the Senator from Massachusetts, that we are talking about real people's problems. He has spent a great deal of time emphasizing the importance of the access to specialists.

I have a letter from a girl from Minden, NV, by the name of Karrie Craig. She wrote:

> . . . my mother found out she had cancer [in] November 1997. After about two years of going in circles with her primary care physician, she was [finally] admitted to a urologist.

I ask unanimous consent the letter be printed in the RECORD.

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

EXCERPT OF A LETTER TO SENATOR REID DATED 1/11/99 FROM KARRIE CRAIG OF MINDEN, NV

> . . . my mother found out she had cancer November of 1997. After about two years of going in circles with her primary care physician, she was admitted to a urologist. Her primary care doctor had prevented this visit with a specialist until my mom was very sick. I believe that the HMO company looked down upon specialized doctor visits, as they are more expensive. What my mother found out was she needed an operation for a small growth, left in her bladder from birth. Actually, after surgery they realized she had advanced bladder cancer that only a sooner visit to urologist would have prevented. Within five months my mother died.
>
> The only good thing about the HMO services was they provided us with Hospice services the last week and a half of my mom's life. I feel that HMO's policies of primary care physicians and the negative feelings they portray about specialists causes more problems that it solves. In the end, my mother cost the company more money than if she would have been permitted to see a specialist earlier.

Mr. REID. In short, this letter says that after the 2 years passed, it was too late. Had her mother received permission to see a specialist early on, she may still be alive today. By the time she was referred to the specialist, a tumor had developed. It was later determined that she had advanced bladder cancer that a sooner visit to the urologist could have prevented. Her mother died. This is a real-life case that illustrates the importance of access to specialty care.

I hope the majority will allow us to go to the Patients' Bill of Rights at the earliest possible date. This is something we need the do.

I yield to my friend from Illinois 2½ minutes.

Mr. DURBIN. I thank the Senator from Nevada for yielding to me.

This debate really gets down to some very fundamental and basic questions about whether, when you go into your doctor's office and present yourself with an illness, you can trust that your doctor is going to be honest with you, tell you what is best for you or your family, or whether you have to worry about the fact that there may be some insurance company bureaucrat involved in this decision.

When it comes down to these basic life or death situations for a member of a family, there is enough emotional strain on an individual in trying to keep their wits about them, trying to keep their family together; but to think that you not only have to battle those things in your own mind but then, on a daily basis, battle the insurance company bureaucrats, that, to me, is the worst part of what we are debating.

I want to show you a photograph of a great little boy. He is 11 months old. His name is Roberto Cortes. He is from Elk Grove Village, IL—a cute kid, but a kid who has a serious problem, spinal muscular atrophy. He is currently on a home ventilator, as you can see in this photograph.

That is enough of a strain on any family—to try to make sure this little fellow has a chance to live a good life. But the sad part of this debate is that the parents of this little boy are self-employed. They have a little business.

The Republican Patients' Bill of Rights provides no protection whatsoever to self-employed people. Roberto Cortes and his family would not be protected at all by the Republican version of the Patients' Bill of Rights.

The Democratic version, supported by over 200 groups, representing doctors and hospitals and consumers and labor and businesses across America, would provide protection to the Cortes family. That is how basic this is.

When the Republicans tell us: We don't have time to debate this issue; we don't have time to debate whether or not you have a fighting chance when it comes to your health insurance, they are just wrong.

You are going to hear a lot about this issue from Members on the Democratic side. We are not going to quit until we get a chance to have this debate.

Since I see my colleague from California is here, and I know she has an important contribution to make to this discussion, I yield the floor back to the Senator from Nevada.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that this side be granted an additional 15 minutes in morning business.

The PRESIDING OFFICER. Is there objection?

Acting in my capacity as an individual Senator from the State of Kansas, I object.

Mr. REID. I ask unanimous consent that the minority be granted 15 minutes of additional time in morning business and the majority be granted 15 minutes additional time in morning business.

The PRESIDING OFFICER. Is there an objection?

Acting in my capacity as an individual Senator from the State of Kansas, I object.

Mr. REID. Mr. President, how much time is left for the Senator?

The PRESIDING OFFICER. Two minutes 30 seconds.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. FEINSTEIN. I thank the Chair, and I thank the Senator from Nevada.

Mr. President, when we return to the bill, it will be my intention to offer an amendment to the agriculture appropriations bill. I think that my amendment will deal with one of the most fundamental concerns in health care today; that is, the restoration to the physician of the basic right of patient care, patient treatment, and to be the determinator of patient care and the length of hospital stay.

I think one of the things we have seen emerge in health care throughout the United States in the past 2 to 3 years is the development of the so-called green eyeshade of an HMO determining what is appropriate patient care, regardless of the physical condition of an individual patient.

The amendment I will offer essentially says that a group health plan or a health insurance issuer, in connection with health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered, if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit. In other words, if you have coverage for a treatment in your plan, the physician determines that treatment based on you, based on your needs, based on your illness—not based on the calculation of a green eyeshade in a health insurance plan.

My father was a surgeon. He was chief of surgery at the University of California. My husband, Bert Feinstein, was a neurosurgeon. I grew up and lived a good deal of my life in a medical family. In all of that time, the doctors determined the appropriateness of care, the doctors determined the length of hospitalization, the doctors determined whether a particular treatment was suitable for an individual—not an arbitrary HMO, not physicians out of context of an individual physician and patient.

Every person sitting in this gallery today is different, one from the other. They are different in how they react to drugs. They are different in how they react to radiation—

The PRESIDING OFFICER. The time allotted to the distinguished Senator from California has expired.

Mrs. FEINSTEIN. If I may finish my sentence.

Mr. NICKLES. If I might just interrupt. I apologize. I was not on the floor earlier.

## EXTENSION OF MORNING BUSINESS

Mr. NICKLES. I ask unanimous consent that each side have 20 minutes of additional time for morning business.

The PRESIDING OFFICER. Is there an objection?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The time has expired in regard to the Senator from California.

Hearing none, without objection, it is so ordered.

Mr. REID. Mr. President, I ask through the Chair to the Senator from California, how much additional time does the Senator need?

Mrs. FEINSTEIN. If I could have another 7 to 10 minutes at this time, I would appreciate it very much.

Mr. REID. How about 7 minutes?

Mrs. FEINSTEIN. I will do my best with 7 minutes.

Mr. REID. Okay.

The PRESIDING OFFICER. The distinguished Senator is recognized for 7 minutes.

Mrs. FEINSTEIN. I thank the Chair. I thank the Senator from Nevada.

At an appropriate time, I will submit that amendment.

Let me tell you some of the things we are increasingly told: That is, that doctors have to spend hours hassling with insurance company accountants and adjusters to justify medical necessity decisions—why a person needs another day in a hospital, why a patient needs an MRI, why a patient needs a blood test, why a patient should get a particular drug, this drug rather than that drug. Doctors increasingly say they have to exaggerate or lie so their patients can get proper medical care.

In USA Today, an article was run saying that 70 percent of doctors interviewed said they exaggerate patients' symptoms to make sure HMOs do not discharge patients from hospitals prematurely. Seventy percent of doctors indicate that they do not tell the truth about a patient's condition so they can be assured that that patient gets adequate hospital care.

Now, is this what we want? I don't think it is. I think the doctor's decision, based on an individual's condition, should be the overriding decision that determines medical necessity. The amendment I will introduce will ensure that that happens.

In the HHS inspector general's report of June 1998, the following finding was made: Most doctors think working in a Medicare HMO restricts their clinical independence and that HMOs' cost concerns influence their treatment decisions. Mr. President, every patient is different and brings to a situation his or her own unique history and biology. Only a physician who is trained to evaluate the unique needs and problems of a patient can properly diagnose and treat an individual.

A Los Angeles doctor by the name of Lloyd Krieger said:

> Many doctors are demoralized. They feel like they have taken a beating in recent years. Physicians train years to learn how to practice medicine. They work long hours practicing their field. Under this health care system, that training and hard work often seems irrelevant. A bureaucrat decides how doctors are allowed to treat patients.

Dr. Krieger says:

> When I tell someone he is fit to leave the hospital after an operation, I am often given an accusing stare. Sometimes my patient asks: Is that what you really think or are you caving in to HMO pressure to cut corners on care?

Here's another example: A California pediatrician treated a baby with infant botulism, a toxin that spread from the intestine to the nervous system so the child really couldn't breathe well. The doctor prescribed a 10- to 14-day hospital stay. That doctor thought that length of stay was medically necessary for that particular baby. The insurance plan cut it short, saying the maximum that baby could remain in the hospital was 1 week. That shouldn't happen.

The amendment I will introduce at the appropriate time, and that I so hope this body will agree to, will ensure that medically appropriate and necessary treatment is prescribed by the physician and not contradicted by a green eyeshade.

I very much hope this body will accept it. I have introduced this kind of amendment now with Senator D'AMATO as a cosponsor and with Senator OLYMPIA SNOWE as a cosponsor. Perhaps the time has come to have the opportunity to pass this amendment and to get it done once and for all.

I thank the Chair, I thank the Senator from Nevada, and I thank the Senator from Massachusetts as well.

I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, is there an order for the conduct of business at this point?

The PRESIDING OFFICER. The Senate is now in morning business, with

the majority having 25 minutes remaining and the minority having approximately 15 minutes remaining.

Mr. COCHRAN. I thank the Chair.

Mr. REID. Mr. President, I say to the Presiding Officer, we were given 20 minutes and we have approximately how much time remaining?

The PRESIDING OFFICER. The Senator has 14 minutes 59 seconds.

Mr. REID. Has the Senator from California completed her statement?

Mrs. FEINSTEIN. I have completed it. I could go on.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The question is: Are we going to be able to go forward with a debate on the Patients' Bill of Rights?

It seems to me that would be the right thing to do. I am a member of the Appropriations Committee. I recognize that we are working under very difficult budget constraints because of the budget we have now in this body. I think it is important we move forward on the appropriation bills. We have done fairly well thus far.

We have already passed four appropriation bills. The agriculture appropriations bill is currently pending. Yesterday, we reported the interior appropriations bill out of the subcommittee. Tomorrow, we will take up three appropriation bills in full committee. I agree that we need to continue to move these bills forward.

I think we could complete all debate on the Patients' Bill of Rights in 3 legislative days. If we had 3 long, hard days, we could do that. If we use the majority's bill as a working model, they should not require any amendments, because it is their bill.

We have acknowledged that we need 20 amendments. As we have stated on a number of occasions, we have had other bills that have been brought before this body, in this Congress, that have had a lot more than 20 amendments. The military bill of rights had 26 amendments; the supplemental appropriations bill had 66 amendments; and the first budget resolution had 104 amendments. Twenty amendments is a reasonable request.

We could agree, as far as this Senator is concerned, on having time limits on these amendments. We could do that. We could have good debates on what should be done on the Patients' Bill of Rights. We should do that.

We are not going to allow this legislation to move forward until we have the opportunity to debate our amendments. As I indicated, in this Congress, the Y2K bill had 51 amendments; DOD authorization, 159; defense appropriations, 67; juvenile justice, 52; the first budget resolution, 104; Education Flexibility Act, 38; supplemental appropriations, 66. Relative to these bills, 20 amendments is nothing.

We should proceed to the Patients' Bill of Rights as quickly as possible. We are, in effect, wasting time by having to come here and talk about why we need the opportunity to consider this legislation. It is not a question of whether we are going to debate the Patients' Bill of Rights, but when we are going to do it. We are going to offer our Patients' Bill of Rights as an amendment to every vehicle moving through this body. Under Senate rules, we can't be stopped from doing that.

We believe it is important that Americans have access to specialty care. We are talking about the real life stories of real people who have been and will continue to be denied access to specialty care until we pass a meaningful Patients' Bill of Rights.

As I mentioned earlier, Karrie Craig from Minden, NV, wrote me a letter. In her letter, she explained to me that her mother is dead because she was not able to see a specialist, even when her primary care physician recommended that she see one. She was denied specialty care because her managed care organization, not her physician, did not think it was necessary.

We believe that patients should not be subjected to a one-size-fits-all brand of health care. We believe there are situations where the doctor and the patient—not some bureaucrat—should decide what care is necessary. The American people also believe that. We think there are some real problems with the majority's so-called ''Patients' Bill of Rights''. We are willing to debate this issue and to determine whether or not our legislation is better than that of the majority. Clearly, we are willing to set time limits on our debate.

We are allowing a limit on the number of amendments we offer, but the majority should allow this bill to go forward. The most striking loophole in the majority's plan—and it is hard to say what this is because there are so many of them—is that it doesn't cover most Americans. In fact, the Republican bill leaves out almost 120 million Americans. Their bill would only cover a small number of people. Only one-third of the 161 million people protected by our bill would be covered by the Republican proposal.

All Americans who have insurance should be protected. That is what our legislation is all about. The Republican bill uses our title, ''Patients' Bill of Rights,'' but that is all it uses. It does not extend coverage to the people who deserve to be covered.

All Americans deserve guaranteed access to specialty care, and we believe that we should at least be able to debate this issue. There are many different areas we need to talk about regarding the Patients' Bill of Rights.

NATIONAL RIFLE ASSOCIATION

Mr. President, while my friend from the State of Illinois is present, I would like to shift and talk about something else that is certainly important. As I have indicated, we are going to spend whatever time is necessary making sure that we have the right—I should not say the right, but that we have a debate on our Patients' Bill of Rights. We have the right, and that is why we are here today talking about this. So we are going forward until we have the debate on it.

I would like to discuss with my friend from Illinois another issue that seems to have been lost in the shuffle, which is the debate related to guns. I say to my friend from Illinois that I have here a letter from a man from Reno, NV, by the name of David Brody. I would like my friend to comment on this.

He writes:

> I am writing in regards to the enclosed National Rifle Association membership that was mailed to my 13-year-old daughter. I am not a gun advocate and have never voiced an opinion and I certainly believe in our Constitution and the right to bear arms, but I am rather astonished that the membership application is addressed to my 13-year-old daughter.

I say to my friend from Illinois, do you think the NRA should be sending applications to 13-year-old children to join the NRA? This isn't something that is made up. I have here the National Rifle Association 1999 membership identification. It gives her a number, and the letter is addressed to Brittany Brody. The NRA also sent this 13-year-old girl a survey wanting to know how she feels about opposing President Clinton on his gun issues. Does the Senator think this is appropriate to send to a 13-year-old girl?

Mr. DURBIN. I thank my colleague for raising this issue. This really gets to the heart of the debate we had a few weeks ago on the floor of the Senate. Remember how America reacted to Littleton, CO, and the Columbine High School shooting? I think it fixed the attention of this Nation unlike any other event I can remember. We felt we needed to come to the floor of the Senate to try to find a way to reduce the likelihood that guns would get into the hands of children and criminals. The debate went on for a full week, and it ended finally when we had six Republican Senators join the overwhelming majority of Democrats for a tie vote, 50–50, at which point Vice President GORE came to the floor and cast the tie-breaking vote and sent a good, sensible gun control bill over to the U.S. House of Representatives where, unfortunately, the same organization, the National Rifle Association, tore it to pieces, leaving nothing.

So we have our Senate bill, but the National Rifle Association prevailed over in the House. I say to the Senator from Nevada, I wish that I could tell you that I was shocked that the National Rifle Association would be so careless as to send a membership application to a 13-year-old. But when I look at what they did in the U.S. House of Representatives to a good bill, a bill that would have said we are going to have background checks at gun shows so we know that we are not selling to criminals and kids, and Senator Feinstein's amendment that would have prohibited importing these big magazine clips that are just used by gangbangers—they have no value in sport or hunting—and to make sure we

have trigger locks so when kids find a gun in the house, they won't pull the trigger and kill themselves, the NRA opposed that.

Mr. REID. I say to my friend from Illinois, that kind of reminds me of our debate on the Patients' Bill of Rights. They call their bill a ''Patients' Bill of Rights'', but it does not give patients any rights. On the gun issue, they say they had in the House bill protection against gun shows because they had a 24-hour time limit, but they know that most gun shows are on weekends and they can't research on the weekends, so basically nothing would happen; is that right?

Mr. DURBIN. They are very similar, and the Senator is correct. The National Rifle Association is trying to put up some figleaf and say they are really for gun control. America knows better. We have been listening to these folks for a long time. They were opposed to the prohibition against cop-killer bullets—special bullets that would penetrate the bulletproof vests worn by policemen—because it infringed on people's constitutional rights. Give me a break. There isn't a right in the Bill of Rights that isn't limited for the common good.

Mr. REID. I would like the Senator from Illinois to comment on the second and third paragraphs of this letter from Mr. Brody:

> As we strive in our community to ensure that our schools are safe for our children, one of the biggest fears that parents have is a gun at school. We have been able to turn her particular school around from a very violent and non-academic oriented institution to one that we are all very proud of and where the students are doing extremely well.
>
> I am absolutely amazed that the National Rifle Association would have the audacity to mail membership applications to children. At some point, I believe this must be part of our government regulations. Will my youngest 11-year-old daughter be contacted next with another outrageous suggestion that is only supporting violence?

Would the Senator say that Mr. Brody is out of line in writing this letter and crying out for help that his 11-year-old daughter and 13-year-old daughter aren't given a membership—I mean, they got it; she has a card here that looks like a credit card. It says 13-year-old Brittany Brody is a member of the NRA.

Mr. DURBIN. I say to my colleague, I know he is a father and he is proud of his family, and I am, too. Think about this. This father saw this come through the mail. Think of the world we live in, with the Internet and the webs. How many others are trying to lure kids into the purchase of weapons or a membership in a National Rifle Association and the like? I really think when we talk about responsibility and accountability, it applies to parents and it applies to organizations such as the NRA as well.

I say to my friend from Nevada that he raises an excellent point. If we are going to make sure our kids have a fighting chance, we have to keep guns out of their hands. When the Senator from Nevada and I were both growing up a few years ago, there were always troubled kids in the schools. We called them bullies in those days. You feared getting punched in the nose on the playground. I wish that is all our kids had to fear today. Now they have to fear that the bully will get a gun and show up in school, as it happened in Conyers, GA; at Columbine High School; Jonesboro; West Paducah; Springfield, Oregon; Pearl, Mississippi. Those unfortunate incidents are the reality of the dangers our kids can face.

Mr. REID. My time is about to expire, but I am here today to alert this body that we are going to make sure that when there is a call for conferees to be appointed on the juvenile justice bill, that we act appropriately, that we send a message to the conferees that we don't want business as usual, that we want the National Rifle Association to understand that the vast majority of Americans do not agree with them.

The Senator from Illinois would agree that when the conferees are called, we are going to ask for a resolution to send to the conferees that they should follow what is already taking place in the Senate that, in effect, says a majority of the people of this country are in agreement with the Senate; is that true?

Mr. DURBIN. I say to the Senator from Nevada that the Democrats may be in the minority in the Senate. I believe our position for sensible gun control to keep guns out of the hands of criminals and kids is a majority opinion in America. I think our position for the Patients' Bill of Rights, so doctors make decisions and not insurance companies, is a majority opinion in America. We are going to fight for that.

I thank the Senator for his leadership.

Mr. REID. Mr. President, how much time does the Senator have?

The PRESIDING OFFICER. The Senator from Nevada has 12 seconds.

Mr. REID. I yield that time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant 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. Without objection, it is so ordered.

Mr. REID. Mr. President, the Senator from Maryland just arrived. I ask unanimous consent that she be allowed to speak as if in morning business for 15 minutes.

The PRESIDING OFFICER. Acting as an independent Senator from Kansas, I object.

Mr. REID. I ask unanimous consent that the Senator from Maryland be allowed to speak in morning business for 10 minutes.

The PRESIDING OFFICER. The acting Presiding Officer informs the Senator from Nevada that the majority has 25 minutes and that there is a Senator expected on the floor at any moment. Would the Senator like to repeat his request?

Mr. REID. I ask unanimous consent the Senator from Maryland be allowed to speak 10 minutes and that the morning hour be extended for 35 minutes.

The PRESIDING OFFICER. Acting as an independent Senator from Kansas, I object.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for no more than 5 minutes.

Mr. NICKLES. Will the Senator repeat the request?

Ms. MIKULSKI. I ask unanimous consent that I be allowed to speak as if in morning business for no more than 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. If I might engage my colleague from Nevada, are there additional Senators requesting time on his side?

Mr. REID. No.

Mr. NICKLES. This Senator has no objection to the request. I was going to suggest that we give an additional 15 minutes on both sides.

## EXTENSION OF MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that morning business be extended for an additional 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The distinguished Senator from Maryland is recognized.

Ms. MIKULSKI. I thank the whip from the Democratic side, and I also thank the Senator from Oklahoma for his graciousness.

## PATIENTS' BILL OF RIGHTS

Ms. MIKULSKI. Mr. President, I come here today to talk about something that is very compelling to the women of this country; that is, the Patients' Bill of Rights.

The Patients' Bill of Rights is a women's issue, because it is the women of America's families who often make the decisions that are very important in terms of the health care of their family. They are the ones who often read the fine print of insurance documents. They fill out the paperwork in order to make sure their children have access to the health care they need. They are often the ones on the front line either trying to get health insurance for their families or also ensuring they have the best benefit package.

But, guess what. When it comes down to them getting the health care they need, they are often denied it. They are often denied having access to an OB/GYN who is the primary care provider for most American women, because they are called ''a specialist.''

Also, when they face a tremendous problem in their lives, such as a mastectomy, they are often denied the time they need to get the care they need because of the insurance gatekeepers. We call this the drive-by mastectomy situation. We call it a drive-by mastectomy, because a procedure is performed on a woman, she is driven to the hospital, and she is driven out of the hospital—sometimes within hours.

What is a mastectomy? Make no mistake, the term ''mastectomy'' is a technical term. But what it really means to a woman is that it is a breast amputation with all of the horror, terror, and trauma that an amputation brings out. When one faces such a horrific procedure, certainly you should have the kind of care you need. And that should be decided by the doctor and the patient—not by an insurance gatekeeper.

What does a mastectomy mean? For every woman in the United States of America, the one phrase that she is terrified to hear is: You have breast cancer. The next phrase that she is terrified to hear is: It has gone so far that we have to do a mastectomy.

It is traumatic for her, because it is not only body altering, but it is family altering, and it is relationship altering. When one looks at one woman facing a mastectomy, she needs to discuss this with her spouse. He is as scared as she is. He is terrified that she is going to die. He is terrified about how he can support her when she comes home from the hospital. And then they know they have to sort out a relationship under such difficult situations.

When a woman has a mastectomy, they need to recover where they recover best. That is decided by the doctor and the patient. Women are sent home still groggy from anesthesia and sometimes with drainage tubes still in place, with infection, and are not sure if that is the right place.

Make no mistake. We can't practice cookbook medicine. Insurance gatekeepers can't give cookbook answers. An 80-year-old who needs a mastectomy needs a different kind of care than a 38-year-old woman.

We go out there, and we race for the cure. I think it is wonderful. We do it on a bipartisan basis. But if we find the cures, we need access to the clinical trials. It is being denied in the Republican Patients' Bill of Rights. We need to be able to talk to our own OB/GYN. That is called ''a specialist''; we can't do that.

We need to have access to the care. This is the United States of America. We have discovered in this century more medical and scientific breakthroughs than any other century in American history. It is in America where we found how to handle infectious diseases. It is in America where we have come up with lifesaving pharmaceuticals. It is in America where we have had lifesaving new surgical techniques only to find that in America, though we invented something to save your life, we also invented insurance gatekeepers that prevent you from having access to those lifesaving mastectomies. This can't be so.

If we are going to really take America into the 21st century, we must continue our discovery. We must continue our research, and we have to have access to our discoveries.

The Republicans, through Senator D'Amato, offered legislation on drive-by mastectomies. When the Republicans offered their bill in the committee, it was strikingly absent. Senator MURRAY and other Members offered the D'Amato amendment. However, along party lines it was rejected, 10–8. Certainly what was good for D'Amato a year ago should be good now, at least to have the opportunity to debate this year.

The Democratic alternative Senator MURRAY and other Members want to offer simply says that decisions should be made by the doctor in consultation with the patient.

A few months ago I had gallbladder surgery. I could stay overnight for my gallbladder surgery because it was medically necessary and medically appropriate. Surely if I can stay overnight for gallbladder surgery, a woman should be able to stay overnight if she has had a mastectomy.

I yield the floor.

Mr. REID. Mr. President, how much time does the minority have remaining for morning business?

The PRESIDING OFFICER (Mr. HUTCHINSON). The minority has 8 minutes 30 seconds remaining.

Mr. REID. While the assistant leader for the majority is on the floor, I ask unanimous consent we be allowed to extend on an equal basis the time for morning business until 12 noon.

Mr. NICKLES. Reserving the right to object, and I probably will not, how much time remains on our side?

The PRESIDING OFFICER. Forty minutes.

Mr. NICKLES. My colleague would be asking for an additional 10 minutes on each side?

Mr. REID. I think that would be appropriate.

Mr. NICKLES. Mr. President, if my colleague would modify his request and ask for an additional 10 minutes on each side, there would be no objection.

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

Mr. REID. I extend my appreciation to my friend, the senior Senator from Oklahoma, my counterpart on the majority.

Mr. President, I think it is time we did a little comparison as to what we really mean when we talk about the Patients' Bill of Rights.

The majority has something called the Patients' Bill of Rights, but it is this only in name. For example, does the majority's bill protect all patients with private insurance? No. It covers about 40 million; ours covers about 170 million.

What about the majority's ability to hold plans accountable? Does their bill hold plans accountable? No. Does ours? Absolutely, yes.

What about arbitrary interference from the management, from the bureaucrats? In the minority's bill, our Patients' Bill of Rights, there is no arbitrary HMO interference; in the majority's bill, of course there is.

We have heard so much about guaranteed access to specialists. The Democrats' Patients' Bill of Rights guarantees access to specialists; the majority's does not.

That is important. We have heard so much today about the need for the ability to see a specialist when needed. I spoke earlier about the daughter from Minden, NV, who writes to me:

> If my mother had been able to get to the urologist earlier, she would be alive today, but she had to wait for 2 years. The tumor had grown, she died five months afterwards.

She also said in the letter it was such a waste of resources, because the HMO did spend money putting her mother in a hospice while she died. That was very expensive.

That is the whole point of our legislation. There is talk about it being so expensive. It is not expensive. In the long run, it saves the country money to have people taken care of when they need medical care.

Guaranteed access to specialists is what our legislation is all about. It is important we understand that.

What about access to out-of-network providers? They are needed on occasion. Ours gives that access; the Republicans', the majority's, does not.

How about specialists who need to work together to coordinate care? Ours guarantees that; the Republicans' does not.

What about prohibition of improper financial incentives? Some of the plans have incentives. The more you keep people out of hospitals, the more money you make. A doctor has an incentive to keep people out of the hospital. That is wrong. That is absolutely wrong. Our legislation prohibits improper financial incentives; the Republicans', or the majority's, does not.

Access to clinical trials. This really isn't anything fancy, or complicated. There are certain diseases—cancer is the one that comes to mind—where people have no standard therapy left. Should they be allowed to go to the most modern programs that are lifesaving in nature? We don't know for sure they work, but we think they will work. However, we need experiments, clinical trials, to determine if these new procedures work. Our legislation allows these clinical trials to go forward. Our legislation says we don't give up on someone and simply say we have used all standard procedures, we will not allow these great scientists, these medical researchers who have found new ways they believe can cure a disease—we will not allow your mother, father, brother, or sister to have cutting-edge treatments.

Under our program, we say patients should have access to clinical trials.

People's lives are saved every day because of these clinical trials.

Access to OB/GYN—obstetrician/gynecologist. This is absolutely critical for women. It is guaranteed under our legislation that women would have access to OB/GYN physicians. That is extremely important. Under the Republican version, there are certain instances, certain times—very minute, very limited—that women can see an OB/GYN physician. We believe this should be a matter of routine. A woman should be able to see a gynecologist or obstetrician when she believes it appropriate.

We know in America today, when women see a gynecologist, often these physicians become the primary care physician for women. We believe our legislation is what women deserve and what they need in America today.

What about access to doctor-prescribed drugs? We have had a problem develop around the country and in Las Vegas when one of our providers found a new way to dispense drugs. If someone needs one 50-milligram pill, the provider sends them a 100-milligram pill and tells them to cut it in half, giving them the instrument to cut it in half.

That is not the way medicine should be practiced. Just because the HMOs get a good deal on a bunch of medicine, on a bunch of drugs, does not mean that patients should be subjected to that kind of treatment. Shouldn't they be given the prescribed drugs the doctor says they need?

How would you feel if you went to a pharmacist and the prescription ordered a 50-milligram pill and the pharmacist said: I will give you half as many, but they are twice as powerful, so just cut them in half?

That is what is going on in America today with managed care. Our legislation would prohibit these practices.

There are significant numbers of people who are fired from managed care entities for telling the truth, for being advocates, for saying: This is not the way you should be treated. Go talk to your doctor. Go back to someone else. They get fired.

In our legislation, we have protections for patient advocates. If a nurse, for example, says, this is not the way I believe you should be treated, you should go talk to your doctor, or you should appeal a decision, under our legislation, this nurse would be protected for advocating on behalf of her patient. Under the proposal of the majority, there is no similar protection.

Another problem is that managed care facilities put their physicians on an index. They go out every year and hustle doctors in order to get good deals. They find a doctor who will do an appendectomy cheaper than a doctor did last year, so that doctor gets put on their list. All of a sudden, the patient no longer has the right to see the doctor who has been treating him or her for 10 years, because the doctor is not on the HMO's list.

What we say in our legislation is that you can keep your doctor throughout treatment, that you need not change even though the managed care entity, in effect, has fired that doctor. The doctor is fired not for doing anything wrong as far as rendering bad treatment, but simply because they no longer want them on their approved list. Maybe they had an argument with one of the administrators. Maybe they think they charged too much. Maybe they can get a better deal. That is usually what it is, a better deal from other physicians.

Under our Patients' Bill of Rights, we, as I have said, allow patient advocacy. But we also prohibit gag rules. Under the majority's Patients' Bill of Rights, and I use that term very loosely, you will find they have language prohibiting gag rules but it is relatively meaningless. It is not enforceable.

We also believe there should be external appeals. There was a speech made here yesterday that the majority's legislation does allow independent external appeals. That is simply not true. They have words that say that occurs, but it really has no merit. Under our legislation, there is a guarantee of an independent external appeal. And it is done quickly.

There are also very important considerations as to whether or not a person who is part of a plan has the right to go to an emergency room. We have heard numerous examples of people denied payments after going to an emergency room. One of my favorites was a young woman who was out hiking, fell off a cliff, broke her pelvis and leg, was taken to an emergency room, and the cost was over $10,000. It was denied by the managed care entity because she did not get prior approval to go to the emergency room.

If that were only one case where that happened, maybe we would not pay much attention to it. But this happens all the time. People are constantly denied the right to go to an emergency room. Under the majority's legislation, they have a little bit of language that gives a little bit of protection for emergency room access, but this is not enough.

One of the key provisions in our legislation is that we have an ombudsman. What is an ombudsman? An ombudsman is a person you can go to who works for the managed care entity, so if there is a complaint, ''I was denied care and I should not have been,'' it is that person's job to get to the bottom of it. An ombudsman can take a look at that and find out what went wrong. There is someone to go to if there is a problem with the managed care entity. Under our legislation, it is a requirement. It is not even mentioned in the majority plan.

Plan quality—isn't it just right that there be somewhere where a patient, a member of a plan, can go to find out what happens when certain procedures are done in this managed care entity? Are they successful? Are they not successful? Our legislation provides that people who are members of a plan can get information on the quality of their plan. That is critically important.

As I have asked before, why are we here today talking about the Patients' Bill of Rights? We are here because we believe there should be a debate taking place in the greatest debating society in the world, as the Senate is often referred to, on this issue. What should be done with these managed care entities around the country as far as providing information, protecting all patients? Do we want a debate on whether the Patients' Bill of Rights should cover 40 million Americans or whether it should cover 60 million? Do we want to debate on whether we can hold plans accountable? Do we want a debate on whether there can be arbitrary HMO interference in the practice of medicine? Do we want a debate on guaranteed access to specialists? Do we want a debate on access to out-of-network providers? Do we want a debate on specialists being able to coordinate care? Do we want a debate on standing referrals to specialists? Do we want a debate on improper financial incentives given to doctors who are part of these entities? Do we want a debate on access to clinical trials? Do we want a debate on having an obstetrician and gynecologist for women when they want one? Do we want a debate on access to doctor-prescribed drugs? Do we want a debate on patient protection advocacy? Do we want a debate on keeping a doctor throughout your entire treatment? Do we want a debate on prohibition of gag rules? Do we want a debate on how the guaranteed network meets the needs of a patient? Do we want a debate on access to nonphysician providers? Do we want a debate on choice of provider point-of-service? Do we want a debate on emergency room access? Do we want a debate on whether or not these plans should have an ombudsman?

The answer to every one of these questions is yes, we do. That is why we are here in this body. This great debating society says: Yes, let's debate these issues. If the majority is putting forth this bill that they call a Patients' Bill of Rights—and we submit it is only in name a Patients' Bill of Rights—we say we are willing to debate this because the American people are protected under our Patients' Bill of Rights. People need protection. They have been taken advantage of.

In America today there are only two groups of people who cannot be sued: foreign diplomats and HMOs. I was at dinner in Nevada Saturday with a friend who is one of the chief administrative officers for a big managed care entity in northern Nevada. She said to me: I kind of like your plan, except these lawyers.

I said to her: Every other business in America has to deal with lawyers. Why shouldn't people who take care of me, people who take care of my daughter, people who take care of my son, my

wife, if they do something wrong, why should they not also have to respond in the legal system? That is really invalid. People are saying this is going to make all this litigation. That is simply not true. Lawyers, especially when they deal with people's health, have to be very careful litigating. In the entire history of the State of Nevada, which is now not the smallest State in the Union, although certainly not one of the largest, it is about 35th in population, in the entire time we have been a State, there have only been a handful of cases, medical malpractice cases that have gone to a jury. So this is a bogeyman that does not exist.

What we are saying is we want a debate on the Patients' Bill of Rights. We think ours is certainly one in keeping with the standards the American people want. In the light of day, we are willing to debate what the Patients' Bill of Rights on the other side has, which is nothing. It is a Patients' Bill of Rights in name only. We want to come to this body and have a reasonable number of amendments. That is a concession on our part, a reasonable number of amendments. We should be able to offer all the amendments we want, but we believe so strongly about this issue that our leader has said to the majority leader we are willing to limit our amendments to 20 and to set a time for completing this bill.

That certainly seems fair and reasonable when one considers that in this Congress, we already have taken up bills which have not taken a lot of time but had far more amendments.

Y2K problem, 51 amendments; DOD authorization, 159 amendments. We spent 4 days on that bill. On the Y2K problem, we spent 13 days on it and many of those were very short days.

Defense appropriations, 67 amendments. We were able to finish that bill in 1 day. We debated the juvenile justice bill for 8 days, and we were able to dispose of 52 amendments.

We are saying, with something as important as people's health care and well-being, we are willing to take 20 amendments. We feel we can finish the bill in 3 days with 20 amendments. Certainly, we are entitled to that time. We had 8 days on juvenile justice. In that regard, we came up with some good legislation.

On the budget resolution, which is a guide for this body and which I believe was not a very good piece of legislation—I voted against it as did most everyone on this side of the aisle—there were 104 amendments, and we disposed of that bill in 2 days.

In short, we certainly should have this debate, and we should do it right away. We recognize we are only going to have one more legislative day this week and then we go back to our States to do other things. Let's do it next week. Let's begin this bill next week, and after the Fourth of July break, we can come back and work on the appropriations bills. We are not going to complete any of the appropriations bills until we have a meaningful debate on the Patients' Bill of Rights, one where we are not gagged and we are allowed to offer the amendments we want to offer as to the substantive merits of this legislation.

I hope the majority will allow this debate to take place. It will take place. It is only a question of when it will take place. We will save a great deal of time and anxiety if we just get to it. As Mills Lane, the famous fight referee, now the TV judge says: Let's get it on.

We are willing to get it on with this debate. We feel so strongly about the merits of our case, we are willing to debate it in the dead of night or early in the morning. We do not care when we do it, but let's do it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KERREY. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

## AMENDMENTS TO AGRICULTURE APPROPRIATIONS

Mr. KERREY. Mr. President, I had intended to come over and talk on the ag appropriations bill. I am not going to talk about the ag appropriations bill since we are not on it. I am going to talk about a couple of amendments I intend to offer, if we ever get to that point. I will put us back into a quorum call when I am through.

There are many important things in this ag appropriations bill that I strongly support. I have a great deal of respect and appreciation for the work that both Senator COCHRAN and Senator KOHL have done on this piece of legislation. Every appropriator, every Senator who has the responsibility of working on the Appropriations Committee, understands we are seeing a decline, a deterioration in our capacity to invest in our future as a result of a growing problem we have with our budget; that is, a larger and larger share that is going to mandatory programs and a smaller and smaller share available for these long-term investments, whether it is in soil, whether it is in research, all the other things that are in this particular piece of legislation. The problem is only going to get worse.

I didn't come to talk about that, but I did feel obliged to say I understand that all these men and women who serve on the Appropriations Committee are under an awful lot of pressure, and that pressure is going to grow.

We currently take from the American people about 20.5 percent of GDP to spend on Federal programs. That one-fifth of total GDP that we have been taking for the last 50 or 60 years has remained relatively constant, though at 20.5 it has not been at that high level since 1945. I say that only because there is an upper limit as to what we can take. I think we are there. Indeed, I support cutting taxes right now; I believe we can cut taxes. Indeed, part of the reason I am for it is that, at 20.5, in order to send a signal, we need to understand there is an upper limit. Otherwise, we are apt to spend it on a variety of things, and all the fiscal discipline we have had throughout most of this decade will be evaporated in a hurry.

But as to this bill itself, whenever it becomes appropriate, I intend to offer a couple amendments. As I said, while this piece of legislation does support a number of very important aspects of agriculture spending, from agriculture research to food stamps, in fact, it can't, given its mission, address the enormous amount of changes sweeping across rural Nebraska. I get calls all the time from farmers who ask me: Does anybody in Washington understand what is going on? I answer, genuinely, yes. I think both Republicans and Democrats are scratching their heads trying to figure out what we can do.

I was encouraged by the chairman's comments during the markup of the dire emergency supplemental bill for Kosovo; he does understand that both Republicans and Democrats understand there is a need to do an additional supplemental appropriations bill at some time for emergency purposes to help agriculture. But this merely underscores the problem we are experiencing in rural America today. Unfortunately, what is happening is that family farmer, who very often has a job outside of agriculture, is not certain there is any opportunity left.

I want to say to my colleagues, though, I am very much a free market person; I support free trade. I believe we ought to have rules and laws that support the free enterprise system.

In agriculture, we do a lot more on these family farms than just produce food. The food is important, a vital part of our export strategy, and it has economic value that one cannot deny. But these farms produce human beings. All of us who have had the pleasure of working with boys and girls who are working for the 4–H organization, or the Future Farmers of America, when you see these young men and women, you see kids with unusually good character and values that are acquired as a result of living in an environment where you understand that this biblical motto that says you can't reap what you don't sow is true; where you live constantly in an environment of understanding that, though you may have a good or a bad farm program, and like or not like what is going on in Congress, still the most important act you have is the act that occurs when you are on your knees in the morning, or in

evening, or you are bowing your head at lunch or supper and praying and being grateful for what you have but hoping that Mother Nature delivers enough and the right amount of rain, enough and the right amount of other conditions that are necessary in order to produce this product.

As the distinguished occupant of the Chair knows, being from Arkansas, food production is unusual because, unlike manufacturing businesses, it is produced out of doors. It may seem like an obvious fact, but in my businesses I regulate the environment. I have an air conditioner; I have a heater; I have a furnace that produces heat in the winter; and I have an air conditioner that produces cool air in the summertime. I can control that environment 365 days a year. I did get wiped out once by a tornado in 1975, but I don't, in the normal course of business, worry about hail or about not getting enough rain. I don't have a growing season where I can be wiped out with a single event, and I don't have all my annual sales gone just like that as a result of something way beyond my control.

So we understand that we have basics that we are dealing with. I hope we understand that agriculture produces people with values. There is a rural policy aspect of our farm program that is not really economic. We want people to live in rural America. We understand that our program has to provide them with some hope of economic prosperity, and we understand that these farms produce more than just some thing, some commodity that has economic value.

The question is how to do that. We had a great debate in 1995 over Freedom to Farm. Though I didn't vote for it, let me say that I was very sympathetic to the idea that the Government should not be out there regulating every single thing the farmer does. Under the old farm program, that happened. Farmers were saying to me: I am not making decisions anymore. All my decisions are made down at the Farm Service Agency. I have to go down and find out from USDA and Soil Conservation Service and other people what I can do before I make plans.

They wanted those handcuffs taken off. They were also very uncomfortable and not happy with the Government's performance in owning grain reserves. They watched the Government operate those reserves at times that caused the price to go low and subsidies to go up, and then their neighbors were saying to them: You are farming for your welfare check.

They didn't like being on welfare. I am not here this morning to attack Freedom to Farm, but I do think there are a number of things about our underlying law that deserve attention and deserve modification.

First of all, we are spending way more than we thought we were going to spend. Last year, we spent $20 billion. It is estimated we will spend more than that this year. We have an Uruguay Round commitment not to spend more than $19 billion on production or price-related support. We are already at $12 billion to $13 billion, and there is an anticipation that there will be additional spending, especially for loan deficiency payments under the soybean program.

The Commodity Credit Corporation is out of money for the first time since 1987. CCC borrowing has an authority of $30 billion, so this is not what we considered to be too low of a ceiling but with the combination of direct payments, loan deficiency payments, dairy price supports, and export programs, we have already exhausted what we thought was a generous amount of money to provide the Commodity Credit Corporation. These are all technicalities.

(Mr. BURNS assumed the Chair.)

Mr. KERREY. Now we have a new ''Mr. President'' in the Chair with slightly different agriculture interests but still substantial agriculture interests. So I feel that I am speaking to a kindred spirit. I notify anybody who happens to be watching this on television that the occupant of the Chair is the only person here listening to me other than the pages and the staff. I appreciate very much that he is now looking at me. I appreciate that.

Freedom to Farm was supposed to cost $43.5 billion over 7 years. It has cost more than that already. That is before we have an additional payment, which is likely to occur. We have 2 more years to go. I said earlier I am not attacking either Freedom to Farm or those who support it. I understand exactly why it was there. There are many aspects of it that I like a great deal. But I will offer, when it is an appropriate time, two amendments to this appropriations bill that I hope get due consideration by both supporters and opponents of Freedom to Farm.

First of all, I will offer an amendment that will reestablish the farmer-owned reserves. I will offer it, as I said, as an amendment to the bill at the appropriate time. The farmer-owned reserve is a proven tool; it works. I will not offer documentation this morning, but I will if the debate becomes a serious debate. It is a tool that will increase market prices; it will decrease expenditures by the Government. History has shown that for feed grains every 100 million bushels removed from the immediate market stream increases prices 3 to 5 cents. Wheat is double that, 8 to 10 cents a bushel. This sets very strict release trigger points based upon existing loan rates, and though critics have said this puts a ceiling on the market price, a market price of $2.78 for corn and $4.12 for wheat looks rather appealing, I argue, both today and in the foreseeable future for any family out there producing either one of those two commodities.

Increased market prices, not Government payments, are the most equitable way to provide income to farmers. The farmer-owned reserve is embraced in Nebraska as a commonsense way to help farmers without throwing out Freedom to Farm. The idea originally came to me in testimony that was offered by the Nebraska corn growers at a hearing that was conducted by Congressman BILL BARRETT in Nebraska.

The corn growers and the wheat growers have endorsed this idea. They understand that it has worked in the past. It is a way to decrease the payments that are being made by taxpayers and increase the margin of the price the farmers are receiving at the market. I hope when I have an opportunity to offer that amendment we can get by some of the normal ideological fears about the farm program itself and put this reasonable change into law.

I also intend to offer an amendment to put the antitrust authority for agriculture on a par with the antitrust authority over other industries; that is, to remove it from Packers and Stockyards and take it under the law over to the Antitrust Division of the Department of Justice. I would love for the jurisdiction to stay at USDA. By it staying at USDA, I retain authority as a result of being on the Agriculture Committee. I am not on the Judiciary Committee. I understand that I am surrendering some jurisdiction when I do that. But the fact is that the USDA will never have the resources to be as aggressive as Justice, and producers, in my view, who want competition, who want the marketplace to work now more than ever, need to know that somebody in Washington, DC, is going to be making certain that that marketplace is, indeed, competitive.

The appropriations bill provides no new funding for Packers and Stockyards. Indeed, the recommendation is to provide $2.5 million less than last year's appropriations. I understand that last year's appropriations provided for a one-time revolving GIPSA. I criticize the committee for cutting GIPSA's budget. However, the fact still remains that Packers and Stockyards will have no additional resources next year.

In the meantime, the Antitrust Division appropriations in Commerce-State-Justice is $14 million more than we had in 1999.

To his credit, the President asked for an additional $600,000 to investigate packer competition. But not to his credit, the President proposed to pay for it with additional user fees, which the committee quite appropriately refused to do. It leaves us with the status quo. What I am hearing from Nebraska producers is, that is not enough.

I pause to say that last year during debate in the Agriculture Appropriations Committee, I offered an amendment that would increase competition, that would provide for a change in the law so prices that were offered under contract or formula had to be reported. The distinguished occupant of the Chair, with his great courage, great wisdom, and great leadership, enabled that amendment to be agreed to in the

agriculture appropriations. Unfortunately, it was stuck in the murky process that led to $500 million or $600 million being spent. It was dropped, unfortunately. We will be back to revisit that issue again.

This is very much an issue that dovetails with mandatory price reporting. Earlier this year, Americans who went to motion pictures shows, who went to movie theaters to watch a movie, were concerned because in their communities they didn't have access to movies that were nominated for Academy Awards. They feared, quite correctly, that the theater owners were not allowing them to see movies that they wanted to see. There is a concentration of ownership in the theater business. So where did they go? They went to the Antitrust Division of Justice. Guess what. The Antitrust Division of Justice opens an investigation against concentration of ownership, trying to ask the question, Do we have competition in the marketplace, and is the lack of competition having a negative impact upon people who are consuming motion pictures, who go and spend 6 or 8 bucks—whatever it costs—in their local communities to see the movies that they wanted to see? They have the law on their side. People who go to motion picture shows have the law on their side.

Our packers are out there saying, my gosh, if the Federal Government is willing to forcefully intervene on behalf of those consumers, why are they not willing to forcefully intervene on our side?

We met with Joel Klein. We have met with other agencies of government. They say to us—especially Antitrust—that they simply lack authority.

The Federal Trade Commission said the same thing to us—that the only thing we have on our side is the Packers and Stockyards Administration. But Congress constantly underfunds this agency. As a consequence, they have been either unable or unwilling, since this law has been enacted, to file any antitrust action against individuals who are out there in the business.

I believe in the American way. I don't want anybody to be prevented from becoming as big and as prosperous as they want. These larger companies, in my view, are organizing for success. They contribute an enormous amount of tax revenue to the Federal Government. They contribute by building jobs. They are doing lots of really good things.

But if you are going to have the United States of America be the land of opportunity, you have to have the rules written so that a man or woman who wants to start a small business has a chance to compete and has a chance with an operation with a small amount of resources. They are not going to have anybody lobby the Government. They are not likely to have the money to hire an accountant, or lawyer, or all of the other sorts of people you can hire when you became a larger entity. They are not likely, as a consequence of commanding fewer resources, to be able to survive by pricing their product under their cost for very darned long. As a result, they are vulnerable.

That is why we have antitrust laws. The laws are there to protect not just the small businessperson but to protect the United States of America so that we are the land of opportunity. That is where the jobs are created. That is where the innovation occurs.

I will offer this amendment transferring authority from Packers and Stockyards, regrettably, because, as I have said, I have jurisdiction over that, being a member of the Agriculture Committee, and I don't like to surrender jurisdiction. But the evidence to me is overwhelming. Consumers have somebody on their side in the Antitrust Division at Justice. Consumers and producers, when it comes to Packers and Stockyards, do not.

In conclusion, as I said earlier, when it comes to the agriculture crisis, I intend to work in a bipartisan fashion.

I know the distinguished occupant of the Chair is very concerned about what is going on in rural America today. I hope we are able to do much more than just talk. I don't intend to try to command an issue. I prefer to produce results.

My hope is that either on this piece of legislation or at some later time we can take action and have the farmers in Nebraska and the farmers in Montana and the farmers in Oklahoma and throughout the country say they believe the Congress understands what is going on in rural America today and is making a concerted effort to finally do something about it.

I yield the floor.

Mr. NICKLES. Mr. President, I compliment my colleague, the Senator from Nebraska, for his statement.

## EXTENSION OF MORNING BUSINESS

Mr. NICKLES. Mr. President, for the information of all of our colleagues, we have been negotiating with the minority leader. I say ''we.'' Senator LOTT, I, others, and Senator KENNEDY have been negotiating, trying to come up with some type of time agreement on the so-called Patients' Bill of Rights.

As I stated yesterday, it doesn't belong on the agriculture bill. We are working, and I think we are making good progress. Hopefully, we will have an agreement in the not too distant future as far as the timing to take up the bill.

With that in mind, I ask unanimous consent that the Senate continue in morning business until the hour of 1 o'clock with the time to be equally divided.

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

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

## PATIENTS' BILL OF RIGHTS

Mr. DASCHLE. Mr. President, I will take just a few moments to share with my colleagues where we are with regard to our negotiations, and then talk a little bit about the bill itself, the Patients' Bill of Rights.

Senator LOTT and I have had a number of discussions this morning. We are trying to find a way to proceed. I think it is fair to say that we are continuing to lose precious time in an effort to try to resolve our procedural differences. I am hopeful we might be able to reach some agreement. I am not wedded to the latest proposal I have shared with the majority leader, but we do need a time certain for consideration of this bill in the very near future. We certainly need to have the assurance that the amendments we will offer will be considered and voted upon by the Senate.

Those are our two principles: No. 1, a time certain for consideration of this bill; No. 2, some assurance that we will have the opportunity to debate amendments and have votes.

We recognize that with 45 Democrats we may not have the necessary votes to win a contest with our Republican friends on a comprehensive bill. However, we do know there are a good number of Senators who have expressed their support for various issues in our bill. We hope we can work through those issues and have the assurance we can have a good debate and good votes.

We cannot agree to any time certain for final passage if we cannot agree that we will have at least an opportunity to debate these amendments and have votes.

Again, our two principles: A date certain, and an opportunity to have up-or-down votes, or even tabling votes, on the amendments we want to offer.

I am hopeful we can work through those two principles and find a way that is mutually acceptable. The majority leader, as always, is attempting to be as responsive as he can. I appreciate the cooperative spirit with which we have been undertaking these discussions over the last 24 hours.

One of the reasons we feel so strongly about amendments is that they cause the Senate to focus on what it is we are talking about when we say the words ''Patients' Bill of Rights.'' I don't know that a lot of people fully understand the magnitude of those words. What does ''Patients' Bill of Rights'' actually mean? We want to be able to spell out what it means.

I want to give one example, because it will be an amendment if we can't get an agreement. Our first amendment will deal with medical necessity. Medical necessity simply suggests that

medical decisions ought to be made by medical professionals, not bureaucrats. Our amendment would prevent arbitrary interference by insurers regarding treatment decisions such as hospital length of stay. It also would establish a fair definition of medical necessity. Medical necessity, in our judgment, should simply be an opportunity to use good, professional, medical judgment about the course of action involving a patient. That is what we mean by medical necessity.

I will read for our colleagues two other definitions of medical necessity that are currently in insurance policies for HMOs. I must add, I am not making this up. The first is from a Missouri insurance contract. I will read the definition of medical necessity taken right from the insurer's policy.

> The company will have the sole discretion to determine whether care is medically necessary. The fact that care has been recommended, provided, prescribed or approved by a physician or other provider will not establish that care is medically necessary.

Let me just make sure everybody understands what this says. It says we do not care whether a doctor or a nurse or any kind of provider has recommended, provided, prescribed, or approved a given treatment. We are going to be the ones to make the decision about medical necessity, not them. Could it be any more blatant than that?

Mrs. BOXER. Will the Senator yield for a question on that, just to make sure I understand it? And I am so happy to hear my leader on the floor on this issue.

Mr. DASCHLE. I am happy too.

Mrs. BOXER. For example, a doctor examined a child and determined that child had a rare form of cancer. I had a constituent with this circumstance. It was a rare form of cancer, say, of the kidney, which happened to be the case, and she needed immediate surgery by a specialist who had done this operation before, because, by the very nature of it, it is a very dangerous operation, and the doctor said this is the only way this child could live.

Is my friend saying in that particular situation the bureaucrats and the businessmen in the HMO could essentially say: That is very interesting, but the child will have to go see the cancer doctor who is in our plan, and she may not go and see this specialist who actually could, in fact, save her life because he or she has done this operation before? Is that the essence of it?

Mr. DASCHLE. That is the essence of it. The Senator from California has put her finger on it precisely. What it is saying is, we as an insurance company or we as a HMO will override whatever decisions are made by doctors, by nurses, by nurse practitioners, by any kind of provider, if we find it is in our financial interest to do so.

Mrs. BOXER. What my friend is saying, further, is that in the Democratic Patients' Bill of Rights, we were going to offer an amendment as soon as we could on this—and that would be our first amendment—to ensure that the definition of what is medically necessary is made by the physician and health care professionals, not by the business people with the green eyeshades who have no degree in medicine. Is that correct?

Mr. DASCHLE. The Senator is absolutely right. Let me just say, she asks exactly the right question because there is a followup requirement here which we will deal with in another amendment. What happens if there is a dispute? Right now, the insurance company holds all the cards.

The insurance company says: In the case of a dispute, we will make the decision about whether the patient is right or wrong. Our bill says: No, wait a minute; we are going to have a fresh review of the facts by an outside authority. They will make the decision as to whether the procedure was medically necessary or not. There has to be somebody outside the insurance company making that decision, or what good is it for us to guarantee these very important rights to all patients?

But I really appreciate the Senator from California making that point.

I yield to the Senator from Illinois.

Mr. DURBIN. I thank the minority leader for coming to the floor.

For those who have been following this debate for the 10 days or more now that we have tried to focus the attention of the Senate on this Patients' Bill of Rights, this is the health insurance issue which American families are focused on already. We have talked about a lot of things on Capitol Hill, but it is time to talk about the things that are important to them.

In the example the Senator from South Dakota and the Senator from California addressed, about a doctor being overruled, is it not also the case that in some of these same insurance policies the doctor cannot even tell the patient that he has been overruled by an insurance company, that, in fact, it is not his best medical judgment, but, in fact, the judgment of some bureaucrat in an insurance company that is going to dictate the treatment the patient receives?

Mr. DASCHLE. The Senator is absolutely right. In fact, in response to the good question posed by the Senator from Illinois, let me read the second statement of policy by another insurance company regarding this very question. Here is the statement of policy relating to medical necessity of a second insurance company.

Again, my colleagues, I am not making this up. We did not write this. This is written by the insurance company:

> Medical necessity means the shortest, least expensive or least intense level of treatment, care or service rendered, or supply provided, as determined by us, to the extent required to diagnose or treat an injury or sickness.

This is actually out of the policy:

> Medical necessity means the shortest, least expensive or least intense level of treatment, care or service rendered, or supply provided, as determined by us. . . .

Do we need a Patients' Bill of Rights, when you take this right out of a health insurance manual: Medical necessity is determined by the shortest or least expensive way with which to provide service to a patient?

It doesn't end there:

> The service or supply must be consistent with the insured person's medical condition at the time the service was rendered, and it is not provided primarily for the convenience of the injured person or doctor.

No wonder people go nuts when they talk about insurance policies today and what is going on out there, when they combat an insurance company that includes a provision like this. They may not have read all the fine print, but when a company says we are going to determine medical necessity by what is the shortest or least expensive—the Senator from Illinois is exactly right—this overrides everything.

Mr. DURBIN. I ask the Senator from South Dakota, the Democratic leader, to yield for this question. This is clearly an interesting and important debate on health insurance and protection for American families. What is stopping the Senate from engaging in this debate?

Mr. DASCHLE. I must say, some of our colleagues on the other side tell us they would rather not have to vote on this. They do not want to have to vote on amendments about medical necessity. That is what is stopping it right now. We are at an impasse because we believe this is such an important issue that votes and amendments on questions like medical necessity ought to be a part of any legitimate debate on a Patients' Bill of Rights. That is why we are not in agreement today. We feel those amendments are required if we are going to have a good debate. Our colleagues have at least today refused to allow them.

Mr. DORGAN. I wonder if the Senator from South Dakota will yield?

When he talks about medical necessity, I am reminded of two specific issues. One, the doctor who testified at a hearing before the Congress who worked for a managed care organization, who said: I caused the death of a man. She said it to a near-empty hearing room when the television cameras were gone. She was the last witness of a day.

I caused the death of a man, she said. I wasn't reproached for that. I wasn't issued any sanctions. In fact, my employer really felt quite good about it. I was rewarded for it. I withheld treatment that could have saved that person's life.

She was dealing at that point as an employee of an HMO, and a patient apparently needed some kind of heart procedure that was very expensive. The HMO said it was not a medical necessity. The patient died. This lady left her employment and later testified before the Congress and said it was a matter of dollars and cents. I caused the death of a man, but I was lauded for that by my employer because, to

them, it was a matter of dollars and cents. So that relates to medical necessity. What is necessary?

The second item I was thinking about, I know the Senator from South Dakota was at an event one day; the Senator from California, Mrs. BOXER, was at the same event. Dr. GANSKE, a Member of the House of Representatives, who is a Republican and has been a strong supporter of the Patients' Bill of Rights, held up a poster, a colored picture of a young boy. That young boy had no upper lip and no structure beneath his nose—a giant gaping hole. He was born with a very severe birth defect. It looked awful. One was hardly able to look at that young boy's face and not immediately say what incredible disfigurement this young boy has.

Dr. GANSKE, who was speaking that day, said: The HMO said there was not a medical necessity for this young boy to receive repairs. In dollars and cents, the repair of that horrible disfigurement did not make any sense to the HMO. But then he showed a picture of this young boy having gone through reconstructive surgery, and you saw a face, a wonderful face of a young boy which had been repaired and now that young boy had hope. One could sense the smile in that picture, and that is what medical necessity is.

It is not convenience. It is not just dollars and cents. It is investments in human beings, giving hope to a young boy.

I have one other person, if I may, whom I want to mention and whom I have mentioned before. He is a young boy born with horrible problems. The doctors said he would have a 50-percent chance of walking by age 5 if he had a certain kind of therapy.

The HMO said: A 50-percent chance of walking by age 5 is ''insignificant,'' which means that in dollars and cents they withhold the therapy and the young boy is not able to walk. He doesn't have the chance to learn to walk.

That is dollars and cents versus medical necessity. That is what is at issue. What is at issue is the ability to empower patients with the opportunity to get needed medical treatment, not necessarily the cheapest treatment, but the best treatment, not necessarily the treatment that someone in an insurance office a thousand miles away thinks might or might not be necessary, but what the doctor in the doctor's office thinks is necessary for that young boy's life, such as the reconstructive surgery of that boy's face.

That is what I think about when the Senator speaks about medical necessity. This is not theory. It is not some abstract term. It is an important part of lives, and that is why the Patients' Bill of Rights is so critically important and why the difference between what we are talking about and others are talking about is so stark.

We adopt the title, Patients' Bill of Rights, and then they say: We have one, too. Sure you have one. It is like picking up a turtle shell without a turtle in it. It is a shell. It does not mean anything. It does not provide the guarantees for people. That young boy would not have had his reconstructive surgery. The other young boy would not have had a chance to walk. And the list goes on. That is why these differences are so important.

Medical necessity, guaranteed emergency room treatment, the gag rule, understanding all your medical options for treatment, not just the cheapest—all of these things are critical differences, and it is why I believe they do not want to allow the Senator from South Dakota to bring the bill before the Senate. We need to vote on these things, if not in total, then one by one, to find out where do my colleagues stand on it. Do they stand for the right of emergency room treatment? Do they stand for the right of reconstructive surgery for that young boy? Where do they stand on these specific issues?

That is what is going to happen in the coming days. Like it or not, we are going to force them to face that, because the American people deserve the opportunity to have a Patients' Bill of Rights passed by this Congress empowering them.

Mrs. BOXER. Will the Senator yield for 30 seconds before he responds?

Mr. DASCHLE. I yield to the Senator from California.

Mrs. BOXER. In 30 seconds, I want to put a bigger picture on it. I had the pleasure of being at a press conference with the Senator from Maryland, Ms. MIKULSKI, and she made a point. She said this century has been the greatest century known to humankind for finding new options for care, new research, gene research. We know more now than we ever knew before, and how ironic it is that at a point in time, going into the next century, when we know more than any other nation in the world, in this country HMOs are denying our people access so they cannot benefit from this research.

As the Senator from South Dakota talks about medical necessity, if he can weave that into his comments, I will be very interested in his response.

Mr. DASCHLE. The Senator from California makes a very important point. It is our research and the extraordinary benefits that have come from it that have made a difference in people's lives all over the world. How ironic, after the American people spend valued tax dollars in support of research which is changing the quality of life for millions of people, that there are insurance companies denying patients the opportunity to benefit from research today.

What happens? The benefits of that research goes abroad. It goes to Europe. It goes to Asia. It goes to Latin America. Thank goodness it does. But why should it go there and not be allowed here?

We use the term ''clinical trials.'' It is a technical term. I like to get away from it, because I am not sure people understand what clinical trials are. Basically, when we talk about clinical trials, we talk about the right to ensure we benefit from innovative research. We should encourage experimental treatments when they are in the interest of the patient, and the doctor recommends them. That should be part of a Patients' Bill of Rights. But there is a chasm between Republicans and Democrats on that issue. Our Republican colleagues said: No, oh, no, that ought to be a decision the insurance company makes, not the doctor, not the patient.

I hope we keep talking about research and who benefits and how preposterous it is that in this country, even though we have these fundamental and extraordinary new possibilities to improved lives, there are insurance companies at this very moment that have just denied somebody access to that research.

The Senator from North Dakota is always so eloquent and so compelling in his comments. Again this morning he demonstrated why he enjoys the extraordinary respect of Senators on both sides of the aisle. One cannot talk in human terms, in personal terms very long, as he did, and not understand the importance of this issue. You can talk legalisms all you want. But if you put it in human life terms, as the Senator from North Dakota did—he put it in terms of life and death; he put it in terms of helping a young child—all of a sudden the light comes on and you understand why, when an insurance company actually has the audacity to write, ''Medical necessity means shortest, least expensive, or least intense level of treatment,'' why that young boy did not get his facial problems fixed. It certainly did not fit ''shortest, least expensive, or least intense level.''

That case probably is expensive. It is not a short recovery. It is intense. It is the absolute reverse of the definition this particular company uses for medical necessity. Of course, it was medically necessary if that young boy's life meant anything. Of course, it was required if our society is going to be responsive at all. But for any company to say, we don't care what the doctor says, we don't care how inappropriate it may be to override a decision made by a doctor and his or her patient, we are going to decide the medical necessity of a treatment based on how short it is, how inexpensive it is or how much it lacks intensity, that says in spades why this debate is important. It says why we will not give up our rights to offer amendments to ensure that issues like this are properly addressed. We will not walk away from this debate.

We must have an opportunity to have a good debate with good amendments on issues as important as this, and we can do it. There is a way to work through this procedure. This can be a win-win situation. I want to find a way with which to ensure we can get a lot done in the next 10 days, and yet accomplish what we believe so strongly

must be a part of the Senate's agenda in this session of Congress. I yield the floor.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## INVESTIGATING WAR CRIMES

Mr. SPECTER. Mr. President, I have sought recognition to compliment the prompt action of the Federal Bureau of Investigation in sending a forensic team to gather evidence in Kosovo for the prosecution of those indicted under the War Crimes Tribunal in the former Yugoslavia, which would include President Milosevic.

Earlier this morning, FBI Director Louis Freeh announced that some 59 agents of the Federal Bureau of Investigation, working with the Armed Forces Institute of Pathology, have been dispatched to Macedonia—will be in Kosovo—and will be, starting tomorrow, preserving evidence for the prosecution of those under indictment by the War Crimes Tribunal.

This is a very important step because we have already had a series of reports about tampering with evidence, about the removal of massive grave sites. The prompt action by the Federal Bureau of Investigation, moving to the scene of the crimes to gather evidence for use in court, is of the utmost importance.

For some 12 years, as an assistant district attorney and later as district attorney in Philadelphia, I had experience in the gathering of evidence for use in the criminal prosecution process. I can personally attest to the importance of prompt action.

If you do not get the evidence while it is fresh, it may disappear; its quality may change unless it is preserved. So the very prompt action of the FBI in moving on this is very important. It is especially important as the evidence is unfolding of the crimes against humanity by the Serbian Armed Forces under the direction of President Milosevic.

President Milosevic has already been indicted. The acquisition of this evidence will be key in preparing for the trial of the case. The long arm of the law extends very far. It is my prediction that one day President Milosevic will be in the dock at the Hague in the criminal court there, as will be Radovan Karadzic, the former head of Bosnia, General Mladic, and the others who are under indictment.

As I have noted before on the floor of the Senate, I believe that a condition of the cease-fire should have been having Milosevic turned over to the NATO forces. We learned from the bitter experience in Iraq—20/20 hindsight—we would have been wiser to have taken the steps necessary to take Saddam Hussein into custody. Our failure to do so has caused enormous problems. We have seen with Milosevic that he has started some three wars, and if he is at liberty, who knows what he may do in the future. That action has already been taken.

It is vitally important that the evidence be preserved so that when—and I do not say if—but when Milosevic and the other indictees are taken into custody, we will be in a position to have the prosecutors at the War Crimes Tribunal present that evidence.

I have had the honor to visit the War Crimes Tribunal in the Hague on a number of occasions. The prosecutors there are a very fine team. They have received support from a variety of Federal agencies. The CIA has been helpful with the overhead satellites. The Department of State has been of continuing assistance. The Department of Defense has been of assistance. Now the action by the FBI, with the approval of the Attorney General, is very important.

This is unprecedented for the FBI to undertake this kind of acquisition of evidence. There are precedents in the field where the FBI has worked overseas on the Khobar Tower bombing in Saudi Arabia and with the U.S. embassies in Kenya and Tanzania. The FBI was deployed to El Salvador for the investigations of murders that occurred in 1983. The FBI was involved in the investigation of war crimes in the former Yugoslavia in 1993, and involved in a polygraph examination in a murder case in Guatemala in 1995, and supported the investigation of a murder in Haiti in 1995.

The authority for the FBI to act on these premises is set forth in the Federal statute in 28 United States Code, section 533. The regulations which have been promulgated under that statute make a specific reference as follows:

> As provided for in procedures agreed upon between the Secretary of State and the Attorney General, the services of the Federal Bureau of Investigation laboratory may also be made available to foreign law enforcement agencies and courts.

The War Crimes Tribunal would fit within that qualification as an international court.

The FBI will be undertaking a variety of evidence-preserving matters in Kosovo. They intend to establish the exact location of the crime scenes. They will photograph the scenes, the deceased victims, the evidence, map the crime scenes, collect the physical evidence related to indictments, examine victims for indications of the cause of death, indications of restraint and physical abuse, and preliminary identifications. They will collect appropriate samples from victims for possible future identification using DNA techniques. They will work on forensic and scientific investigations with the Armed Forces Institute of Pathology. I think this is very good news, acting as promptly as they are, moving in with very substantial equipment and personnel to undertake this important work.

The gathering of this evidence is indispensable for the trials. We have an opportunity here at the War Crimes Tribunal to establish an international precedent of tremendous importance for the future. It is the establishment of the rule of law in international matters to let any future Milosevics, who might be inclined to commit crimes against humanity, know they will be brought to justice, that there is an international rule of law. I believe the apprehension and trial of Milosevic himself is very important, because it will be the first time that a head of state will have been subjected to the criminal process.

I applaud what the Department of Justice is doing here. I applaud what the FBI is doing. I had an opportunity to discuss this matter yesterday with Director Freeh; I have talked to him from time to time. I think this very prompt action will be enormously important and instrumental in securing justice for the convictions of the people who are now under indictment.

I thank the Chair.

In the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. SPECTER. Mr. President, on behalf of our distinguished majority leader, I ask unanimous consent that the period for morning business be extended until the hour of 2 p.m. under the same terms as previously submitted.

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

Mr. SPECTER. I thank the Chair. Again, in the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## THE FARM CRISIS

Mr. DORGAN. This morning, as chairman of the Democratic Policy Committee, I convened a hearing on the farm crisis. About 10 to 12 of my colleagues came to the hearing. We had a number of family farmers from across the country testify.

We had Woody Barth, a farmer from Solen, ND, testify; Rob Lynch, a farmer from Zillah, WA; Glenn Brackman, a

farmer from Lafayette County, AR. We had some folks from Illinois, Iowa, and Kentucky. We talked about the farm crisis and about public policies that ought to be employed by this Congress to respond to the farm crisis.

I pointed out that a lot of people are not aware of the farm crisis. It is probably a circumstance that farmers working in quiet desperation, many of them threatened with losing their farms, are going through a period that most Americans do not understand and don't know about.

Every day we hear the stock market is up or down, mostly up—the stock market has gone to 11,000, now back down a bit. But the fact is, this country generally hears good economic news about where the stock market is going, about new information technology, about the progress of new companies, about the new day, about the global economy. Yet the folks who stay at home and produce America's food on our family farms are in desperate trouble.

Wendell Barry, a farmer from Port Royal, KY, testified today. He is also an author, a wonderful guy, kind of a philosopher-writer type. He wrote some things. In fact, he has written a book called ''Another Turn of the Crank.''

I will read a couple things he has written that I think really bear on this issue. I do it in the context of the bill that is to be on the floor. We did have the agriculture appropriations bill on the floor of the Senate. It will come back, hopefully, as soon as an agreement is reached with respect to the Patients' Bill of Rights.

When it comes back to the floor, Senator HARKIN and I intend to offer an amendment similar to the amendment we offered during the emergency supplemental appropriations bill. That amendment lost on a 14-to-14 tie vote in the conference.

We also offered a proposal in the agriculture appropriations subcommittee. But this is the time, when the agriculture appropriations bill is on the floor, for the Congress to decide what it will do with respect to emergency responses to the farm crisis.

There are some who might counsel we should do nothing, that it doesn't matter whether there are farmers in this country. They would say: Food will be produced anyway, and it doesn't matter much who produces it. We can farm America from California to Maine with corporate farms, and that is just fine.

I do not happen to share that view. I think that is a view that is devoid of all common sense. It suggests there is no worth and no value at all to the culture of family farming, that family farming doesn't contribute to our country, that the fact there are people living out on the land is irrelevant. The fact that those people combine to make small communities and build our main streets and build our churches and create good neighborhoods is irrelevant; that kind of investment and that kind of creation in our country doesn't count.

I guess those who think that way look through the lens of perhaps Wall Street or others who see only dollars and cents, only rows of columns. You add them up or you subtract them. You reach a balance, and that is the cost. It just eliminates, of course, the question of what is the value. Are family farmers contributing value to this country? Will the loss of family farmers matter to our country? The answer is yes on both counts.

Mr. Wendell Barry from Port Royal, KY, writes:

> As we all know, we have much to answer for in our use of this continent from the beginning, but in the last half century we have added to our desecrations of nature a deliberate destruction of our rural communities. The statistics I cited at the beginning are incontrovertible evidence of this.

He cited statistics about the loss of farms, the depopulation of our farm belt, and so on.

> But so is the condition of our farms and forests and rural towns. If you have eyes to see, you can see that there is a limit beyond which machines and chemicals cannot replace people; there is a limit beyond which mechanical or economic efficiency cannot replace care.
>
> I am talking here about the common experience, the common fate of rural communities in our country for a long time. It has been, and it will increasingly be, the common fate of rural communities in other countries. The message is plain enough, and we have ignored it too long: the great, centralized economic entities of our time do not come into rural places in order to improve them by ''creating jobs.'' They come to take as much value as they can take, as cheaply and as quickly as they can take it. They are interested in ''job creation'' only so long as the jobs can be done much more cheaply by humans than by machines.

Mr. Barry writes, about liberals and conservatives, an interesting admonition:

> Long experience has made it clear—as we might say to the liberals—that to be free we must limit the size of government and we must have some sort of home rule. But it is just as clear—as we might say to the conservatives—that it is foolish to complain about big government if we do not do everything we can to support strong local communities and strong community economies.

He is right about that.

We must decide as a Congress whether we are going to support America's family farms. I spoke at the hearing today, when I questioned the witnesses, about where I come from. I have told colleagues often about that. I come from a rural county in southwestern North Dakota that is the size of the State of Rhode Island. That county had 5,000 people when I left, and there are now 3,000 people living in that county. The county next to it is about the same size and there are 900 people living in that county.

We are fast depopulating rural America. Rural economies in small towns are shrinking like prunes. We now have prices for commodities, when the family farmer raises a crop and hauls it to the market, that are deplorable. The family farmer is told when he or she takes a truckload of wheat to the country elevator—the grain trade says: This doesn't have value. The food you produce is not of great interest to us. It is not worth very much.

At the same time, we have people who come and testify before the Congress that the Sudan, for instance, old women climb trees to try to find leaves to eat. We know much of the world is hungry, and we also know that while much of the world is hungry, the grain market tells our farmers their food isn't worth very much.

Something is not connected there, and this Congress must try to reconnect it.

We only have two choices, it seems to me. One is an opportunity, on an short-term emergency basis, to pass an emergency farm bill. It seems to me the question for this Congress is: Are we going to pass a short-term emergency bill to try to help family farmers? Second, are we going to repair the farm program, and the trade agreements, and other things that conspire to injure family farmers?

On the first issue, Senator HARKIN and I intend to offer an amendment for $5 billion to $6 billion to try to provide short-term emergency help for family farmers on this agriculture appropriations bill when it is brought back to the floor. We will have a fight about that. I don't know how that will turn out. I hope Congress will say that family farmers matter.

It was interesting to me that when the President sent a request down for military aid to restore and refresh the accounts in the Pentagon for conducting airstrikes in Kosovo, Congress said to the President: No, you are wrong about that, Mr. President, you didn't ask for enough money. We insist that you give $6 billion more. Mr. President, you shortchanged us in your request for defense, so we are going to give you what you ask for and we are going to add $6 billion more to your request for defense.

Well, gee, that came from conservatives. I hope those same conservatives will agree that the effort to save America's family farmers is as important. Don't tell me there is not money. There was money to say to the President we want to add $6 billion above what the Pentagon said it needed. If there is money to do that, there is surely money to invest in family farmers in rural America. So my hope will be that we are able, on a short-term basis, to pass an emergency bill; and, second, having done that, we will then revisit the question of the underlying farm program.

This farm program is not working. It ought to be apparent to everyone. The farm program that the Congress passed essentially said let us do whatever the marketplace says ought to be done. But there is not a free market in agriculture. There is not now, and has not been, a free market in agriculture. Our farmers look at trade, and what they

find is that markets are closed to them in many corners of the world. So we raise a product we want to sell overseas and the markets are closed. Or if you raise, for example, beef, you will discover not only are the markets closed in some areas, but in other areas, such as Japan, you will pay a 45-percent tariff to get American beef into Japan, only to find out that the Canadian beef —both live cattle and hogs, and slaughtered beef and hogs—coming down is increasing at a very rapid pace. So we have grain and livestock coming in undercutting our markets. We find foreign markets are not open to us, and we have all of these trade negotiators running around doing trade agreements that have undercut our agriculture producers.

We need a farm program that works and trades policies that make more sense than the current policies. I voted against NAFTA and the United States-Canada free trade agreement, and I voted against the GATT agreement. I did all of that because I think that, while we need expanded trade, we do not, and should not, embrace trade agreements that are fundamentally unfair to rural America.

I recall when I was on the House Ways and Means Committee and the United States-Canada free trade agreement came to the committee, and the Trade Ambassador, who I won't name—Clayton Yeutter—said to us that the trade agreement itself would not result in a massive flood of Canadian grain coming across our border. I said, well, I think it will, and you know it will. ''Put it in writing,'' I said. The Trade Ambassador wrote to us on the committee guaranteeing that it would not happen. It wasn't worth the paper it was written on.

It happened, and it happened quickly. Not only did it happen—massive quantities of durum and spring wheat came across our border flooding our market, undercutting the market for American farmers—but we were then neutered in our ability to respond to it because he also traded away the remedies. So we didn't have a remedy for it.

That was in the United States-Canada free trade agreement. That passed the House Ways and Means Committee 34–1. I was the one. I didn't feel lonely a bit because I knew exactly what was going to happen with the agreement. Farmers' interests were traded away. In my judgment, we ought not accept trade agreements like that, whether it is United States-Canada, NAFTA, or GATT.

Speaking of NAFTA, after the United States-Canada free trade agreement, they negotiated NAFTA. The economists were telling us what a great deal it was. After the trade agreement with Canada and Mexico, the trade surplus we had with Mexico turned into a big deficit in a short time. The trade deficit with Canada doubled in a short time. Instead of creating new jobs in this country, we lost massive numbers of jobs. All these economists who were predicting 300,000 jobs were just fundamentally wrong. We lost a lot of jobs as a result of that.

They said if we just pass these agreements, we will get from Mexico the product of low-skill wages. Do you know what we got? The three biggest products coming in from Mexico are automobiles, electronics, and automobile parts—all products of high-skilled labor. We now have more automobiles imported into this country from Mexico than the United States exports to all the rest of the world. That is what we got with NAFTA—again, undercutting our interests, hurting a lot of producers in this country, and especially injuring family farmers.

Well, the point I am making is this: We had testimony this morning from folks who came from across the country to say we have a very serious problem in rural America. We can't fix that problem on a partisan basis. We need Republicans and Democrats together to agree that, No. 1, there is a farm crisis, and, No. 2, they are willing to do something about it, to respond on an emergency basis, and then to repair a farm program that is fundamentally deficient, which doesn't value family farming, a farm program that says it doesn't matter who farms. That, in my judgment, misses a lot of what is important in American life.

My hope is that in the next couple of days, as we offer amendments—Senator HARKIN, myself, and others—on an emergency basis, we will be able to strike a bipartisan agreement to do the right thing on behalf of family farmers. I know that it is a message that some get tired of hearing, perhaps, but I come from farm country and I care a lot about what is happening out in our part of the country.

North Dakota is a wonderful State. It has a lot of rural counties, and the fact is that not just family farmers but machinery and equipment dealers, Main Street businesses, and so many other people are suffering so much through this economic distress, even at a time when the rest of the country seems to be doing so well.

I had a letter from a young boy who talked about the distress his folks were going through while trying to hang onto their family farm. He said: My dad can feed 180 people, and he can't feed his family. He was talking about the fact that the family farm is so productive in this country, and they are losing so much money. You hear this over and over again.

This Congress, it seems to me, must respond. We are going to try to force that response, first with respect to the underlying agriculture appropriations bill with an emergency package, and, second, hopefully, to revisit and readdress the entire structure embodied in the underlying farm bill.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Mr. President, I ask unanimous consent to address the body for 10 minutes.

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

## THE PATIENTS' BILL OF RIGHTS

Mr. SCHUMER. Mr. President, I am here, of course, to discuss what many of my colleagues have discussed in the past—the need for us to debate totally and openly the Patients' Bill of Rights. It is an issue of great concern to the people of my State. Everywhere I go—urban, rural, suburban—people are asking: What is happening to the Patients' Bill of Rights?

This is an issue many of us have discussed. I know this body debated it for a little while last year, but, unfortunately, things were left unresolved. It has not been left unresolved for the millions of Americans who are now having their medical policies dictated, not by their doctor, not by their nurse, not by their family, but rather by some unknown bureaucrat who has no medical education but is simply part of an HMO.

When you go to hospital after hospital throughout the State of New York and sit with doctors, you see the frustration in their eyes as they tell you story after story. They have been negotiating with these actuaries. They say to the actuary: Are you a medical doctor? How can you tell me the patient does not need this type of operation or this type of medication? They get no good medical answers. To them, it is similar to going to medical school and spending years of internship and residency and it makes very little difference.

For that reason, our health care system—by the way, I give good marks to our health care system. It has been overwhelmingly successful. The average age of Americans is higher than ever before. Not only do we live longer but we live healthier longer.

I look at my parents. Thank God. Praise God. Just last week each of them had a birthday. One is 76 and one is 71. My dad has had a few health mishaps, but he is in good health. It is in part because of our medical system. But we have been losing so many of these benefits in the last several years, because the pendulum has swung too far in the direction of the HMOs. We find more people who have had no training in medicine overruling doctors in medical procedures, because the book of standard operating procedures dictates the limited number of options. We don't want that. Most Americans don't want it.

That is why we need to debate this Patients' Bill of Rights. We need to debate its scope: Should it cover only 50 million Americans, or should it cover

closer to 150 million Americans? We need to debate its provisions: How long a review process should there be? Should it be internal or external? Should an HMO be allowed to have the last word on a life-or-death procedure that the physician believes is very much needed? Should there be a gag rule? Should physicians be ordered not to tell their patients about certain procedures or certain medications that are available? Should women have the right to choose their obstetrician and gynecologist who is often their primary care physician?

These are all important issues. I know there are Members on the other side who talk about freedom of choice. People talk about costs. I don't agree with those arguments, but I would certainly like to debate them in this distinguished Chamber.

I ran, as I know you did, Mr. President, and many others, for the Senate from the House because I thought that we would have the opportunity to debate the great issues. There was certainly no guarantee that we would win. There was certainly no guarantee that my beliefs would prevail. But I thought there was something of a guarantee—that the wide open debate the Senate has been known for for over 200 years would be guaranteed even to somebody who sits way over in this corner of the Chamber, which means you are a freshman at the bottom of the seniority pecking order. It hasn't happened.

The reason this floor is silent right now, and the reason we are not debating other bills, is that many of us believe strongly we should debate the Patients' Bill of Rights. But we also believe the ability to debate issues of importance to us—that has been a hallmark of this body—should not be extinguished, should not be snuffed out.

I would like to know answers to certain things. I would like to know answers to the kinds of examples I have heard about in my State and throughout the country.

I would like to know, for instance, what happened to a woman who had terrible back pain and required two surgeries to repair her spine. The HMO denied coverage for the $7,000 for the second surgery. The doctor then stated to the woman that he would be committing malpractice if he didn't perform the second operation, because the whole procedure entailed two of them; the HMO said one. The patient offered to pay out of pocket. Both surgeries were done. But in this case the surgeon—a very generous person—declined to take the money from the woman. Why did that happen? Why did this physician believe so strongly that the woman needed the second surgery that was denied by the HMO?

How about an incident where a New York man slipped and cracked his skull as he was getting out of the taxi? The taxi driver called 911. The victim was rushed to an emergency room for treatment. But this episode did not have prior authorization as an emergency, so the HMO refused to pay the bill.

Again, what has happened here? Have we become so bureaucratic and so narrow in the way we practice health care in America that common sense has been thrown out the window?

Another example: An HMO denied another New Yorker who suffered from multiple sclerosis physical therapy despite the opinion of the doctor and the neurologist that this was the only way this patient could recover.

Another example: A mother called her HMO at 3:30 a.m. to report that her 6-month-old boy had a fever of 104 degrees and was panting and was limp. The hotline nurse told the woman to take her child to the HMO's network hospital 42 miles away, passing several closer hospitals. By the time the baby reached the hospital, he was in cardiac arrest and had already suffered severe damage to his limbs. As a result, both his hands and legs had to be amputated. The court found the HMO at fault. The family received a large financial settlement. As sure as we are here, that family would give back every nickel and pay more for that not to have happened.

These are not isolated examples. There are so many that it is hard to go through our jobs as Senators of the 50 States without hearing when you go to a town hall meeting, or when you go to a veterans hall, or when you go to a chamber of commerce meeting that somebody makes their complaint about this issue.

These examples need answers. I believe the answers in this bill, the Patients' Bill of Rights, are the right answers. I may be dissuaded from all or parts of that answer by my colleagues. If we don't debate the issues, we are never going to be able to determine that. If we don't debate the issues, we are not going to be able to move forward on a Patients' Bill of Rights.

If we continue in a pro forma fashion—we vote our bill; the other side votes their bill; then the issue is forgotten because we know the bill on the other side will not become law—we are not helping our constituency.

The bottom line is simple: I believe strongly we need the Patients' Bill of Rights or something close to it. My colleagues and I want to debate. We want the opportunity to debate these issues. If the other side changes our mind, so be it; if we change their mind, great.

Without debate, we will have no progress, and we will continue to hear the stories we are hearing, much to the detriment of the health care of the American people.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank my colleagues for their efforts on the floor to highlight the Patients' Bill of Rights, a bill to empower people around the country who rely on HMOs and other managed care programs for their health care needs. I join them today in enthusiastic support for badly needed legislation that will expand protections for patients who are at the mercy of managed care practices.

I strongly support the principles of improving access, quality, and accountability in the delivery of managed care. I believe we can achieve valuable patient protections by passing a bill that ensures some commonsense protections, access to emergency care, access to specialists, and a strong internal as well as external appeals process.

We need to keep medical decisions in the hands of doctors. We have to ensure that managed care entities are held legally accountable for administrative decisions that affect patient care and well-being. Protections are extremely important to restoring a sense of security and control to managed care enrollees and their doctors.

The protections in this bill are being debated on the Senate floor, but they are also being lobbied furiously in the halls of Congress. Some of the most powerful and influential interest groups in this country have a huge stake in seeing this bill fail, while others want it to succeed.

Last week, I announced on the floor that from time to time I will point out the role of special interest money in our legislative process. I call it the 800-pound gorilla sitting in this Chamber every day that nobody talks about, but that cannot be ignored. I said I will start calling attention to this gorilla more often through an effort that I have dubbed, ''The Calling of the Bankroll,'' where I discuss how much money different interests lobbying a particular bill have made in campaign contributions in order to influence our work in this Chamber.

I can't think of a better issue than managed care and the future of managed care to once again call the bankroll.

Let me give four quick examples. One, the managed care industry: What does it want? The managed care industry wants to prevent any further regulation of the industry, and it doesn't want to be held liable when administrative decisions and policies affect the health, or even the very lives, of patients.

What did managed care give? During the last election cycle, managed care companies and their groups made more than $3.4 million in soft money, PAC and individual contributions. This is roughly double what they spent during the last mid-term election cycle of 1993–1994. Their contributions keep increasing.

A second example is the pharmaceutical industry. What do they want? They have a big interest in the kind of drugs managed care patients have access to.

What did they give? Behind their point of view is the weight of at least $10.6 million in PAC and soft money contributions. That is how much the pharmaceutical and medical supplies industries gave during 1997 and 1998.

A third example: The doctors, the AMA, what do they want? Of course,

doctors have an interest in seeing managed care reform. They want to eliminate restrictions on doctor-patient communication. More broadly, they want to prevent managed care companies from exerting further control over the way they practice medicine.

What did they give? The AMA made significant PAC and soft money donations during the last election cycle, more than $2.4 million worth.

A fourth example: Organized labor, what does it want? It is a strong supporter of the Patients' Bill of Rights. Unions are also major campaign contributors.

What did they give? The AFL-CIO alone gave parties and candidates close to $2 million in 1997 and 1998.

I am sure there are other interests that should be included on this list. I urge my colleagues to come to the floor and add to this list so there will be as full a picture as possible of the money behind and against this piece of legislation. I think it is relevant to what is happening on the Senate floor.

Why should Americans care? While many Americans rightly worry about the quality of their health care, I believe the quantity of campaign contributions that may affect that care should also be of serious concern. The huge quantity of campaign contributions influences the very terms of the health care debate itself, how health care is discussed, and whether some health care issues are even discussed at all.

Wouldn't it be better if the public could have confidence that we are deciding crucial issues such as the rights of Americans covered by managed care, without the shadow cast by campaign contributions, without the 800-pound gorilla sitting here on the floor?

I thank my colleagues for the opportunity to call the bankroll on this issue. Information about campaign contributions should be easily available to my colleagues and to the public to clearly demonstrate the connection between what the wealthy interests want in Washington and what the average American gets on Main Street.

It is time to debate, amend, and come to conclusion on a Patients' Bill of Rights. These are health care issues with real consequences for ordinary Americans at the doctor's office, the pharmacy, the emergency room, and the admitting desk.

We have to ask: When your critically ill child needs to see a specialist, do you want to think that laws affecting decisions on care are influenced by campaign contributions or have been made based on a thoughtful, reasoned debate.

I think the American people deserve better than this. Until we have campaign finance reform, our debate on crucial issues such as health care is going to be carried out under the shadow of these huge amounts of money and the influence that so many Americans are convinced they wield.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized in morning business.

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

Mr. DURBIN. I thank the Senator from Wisconsin, the Senator from New York, and so many others who have come to the floor this morning and early this afternoon to talk about the Patients' Bill of Rights. For those who may not be familiar with the term, it is an effort to pass into law protections for individual Americans and their families when they have to deal with an insurance company.

The Rand Corporation tells us that 115 million Americans have had a bad experience with a health insurance company, or they know someone who has—perhaps someone in their family. Those bad experiences run the gamut of being denied access to the doctor you want to go to, being denied access to a specialist in a case where you think one is necessary, or medically necessary in the view of another doctor, being unable to go to the emergency room closest to your home because your policy said no, you have to go across town or perhaps to another location for the emergency room in another hospital, dealing with a doctor who may not be able, under the terms of his contract, to even tell you what is best for you medically, having doctors who are losing out in the debate with bureaucrats at health insurance companies.

One doctor in Joliet, IL, frustrated with the voice on the other end of the telephone at the insurance company who kept saying no, no, no, every time this doctor told the insurance company what the insured patient needed, finally said to this voice: Wait a minute, are you a doctor?

And the voice said: No.

Well, are you a nurse?

No.

Are you a college graduate?

Well, no.

Are you a high school graduate?

Yes.

What gives you the authority in this insurance company to overrule my medical decision?

She said: I go by the rules—the rules of the insurance company.

Rules, frankly, that are driven not so much by the need for quality care but by the bottom line.

The health care system in this country is in a state of crisis. The question is whether this body, the Senate, which is supposed to be the most deliberative body in American politics, will even consider the issue. We are now tied up in knots over whether we can debate this issue. Isn't it ironic. The argument made by the Republican side is, we do not have time to debate this issue. Time? It is 1:30 in the afternoon. We spent the entire morning talking about this issue. Why don't we spend this time actually debating the issue? Let the Republicans put their best plan forward, let us put our plan forward, and let's vote. That is what this body is supposed to be about—not ducking and weaving and avoiding the issue but facing it. That is what it is about.

I stand by the Democratic Patients' Bill of Rights. I think our approach is a better approach. It includes a lot of provisions that, frankly, just make sense to most people.

First, doctors should make medical decisions, not insurance company bureaucrats.

Second, if you need a specialist and your doctor says that is the best thing for you or your baby, you have access to that specialist.

Third, if you are a woman and believe your primary care physician should be your OB/GYN, whom you are confident in dealing with, you have that right.

Fourth, if the insurance company makes a bad decision—if the insurance company denies you care, overrules your doctor, sends you home—you have a right to hold that insurance company accountable.

Let me be honest about what that means. It means the possibility the insurance company might have to go to court. The Republican side of the aisle just says, oh, you are not for health care; you are for more litigation; you want more people in court.

No. But I can tell you, every American, every American company, is subject to that same rule except health insurance companies. They have an exception in the law. You cannot sue them for anything more than the cost of the procedure.

This Senator and everyone in the gallery and all listening will be held accountable for their actions. If I did something so foolish as to drink and drive and hurt someone, I would be hauled into court. I should be. That is something you expect in America. If you ask businessmen, they say: Yes, if we sell a product that is defective and we hurt someone, we are going to be held accountable. But health insurance companies are not held accountable. They make life-and-death decisions, and the Republicans in their so-called Patients' Bill of Rights do not want them to be held accountable. They think insurance companies should be above the law, the only businesses in America above the law. I don't think that is right.

The provisions in the Republican version, as opposed to the Democratic version, leave 115 million Americans behind. Who is involved in that? If you happen to be a farmer—and I come from an agricultural State, Illinois—you are not going to get a protection from the Republican version of the bill, only the Democratic version. If you happen to be a small businessperson, self-employed, you have no protection in the Republican bill. There is protection in the Democratic bill. State and local employee? Same story.

Why would we do that? Why would we write a law saying we respect the

rights of individual Americans in dealing with their health insurance company—unless they happen to be small businesses, unless they happen to be farmers, unless they happen to be the local policemen we rely on for safety in our community? This is worthy of a debate.

I think the Republicans would want to stand up and defend their point of view and let us defend our point of view. Then vote. But that is not what has happened. For 2 weeks we have talked about debating. For 2 weeks we have been here day after day asking for recognition on the floor to talk about this issue, because the Republican leadership does not want to face a debate and does not want to face tough votes, votes that may be hard to explain back home.

I have quoted him before and he is worthy of another quote, a former Congressman from Oklahoma named Mike Synar, who used to say to squeamish Congressmen when a tough vote was coming: If you don't want to fight fires, don't be a fireman. If you don't want to cast tough votes, don't run for Congress.

That is what we are here for, to do the best we can, debate this, and come up with a law that is good for America. Maybe we should bring in some of the better provisions from the Republican side, some of the better provisions from the Democrat side, and put forth a bill that will help the families in this country. But we have been stopped in our tracks. The leadership on the Republican side refused to give us that opportunity.

We tried yesterday, incidentally. We had an effort to amend the agriculture appropriations bill. You say, What does that have to do with health care? Well, people who live in rural areas are concerned about health care, but it was an available bill on which to try to bring up this issue. When we tried, we were stopped again. A vote to table that effort, to stop the debate, to stop the amendments prevailed.

I have here a story, which I am sorry I will not have time to tell you, about Michael Cahill who lives in my home State, in Chicago, IL. It is a long, sad story. Michael had dizzy spells and went to a doctor who thought it might have been an inner ear problem. He was sent back and forth. Finally, he was referred to a neurologist who performed a CAT scan, and 3 years after the symptoms began, they determined he had multiple sclerosis, and then the insurance company said: You have to go back to the original doctor who did not diagnose it properly.

He went through a period—this goes on for pages—of fighting his insurance company. This is a man who comes to realize in his adult life that he has a serious medical illness, one he worries about. He worries about its effect on him and his family and his future. Instead of just fighting the illness, he is fighting the insurance company at the same time.

I wish this were an isolated story. It, unfortunately, is a story that has been repeated time and again. It is a story which reflects the reality most Americans now face when it comes to health insurance.

We only have a limited time left this week and next before we break for the Fourth of July. I am sure there will be many important issues we will consider. But I will bet if I went back to Chicago or any part of Illinois, my hometown of Springfield, and started asking people: What really concerns you? What could we do on Capitol Hill that might have an impact on your life?—if I brought up the issue of health insurance, my guess is a lot of those people would say, Can you do something about this? Are your hands tied? Can the Senate really act on it?

The answer is, we can do a lot. There was a press conference this morning by the women Senators who came forward and talked about some of the terrible things that have occurred in the treatment of women receiving these so-called drive-by mastectomies, where women literally have mastectomies and, under the insurance policies, cannot stay in the hospital overnight. A lot of State legislatures are changing the law in their States, but federally this should be a standard we all agree to, that people can stay in the hospital long enough for a good recovery.

Clinical trials are another real concern. Clinical trials are opportunities for medical researchers to come up with new cures. But, of course, they are not the most cost-efficient things. It takes extra time to try to find the patients who are appropriate for the test, get their permission, go through the testing and procedure, and a lot of health insurance companies say: We cannot be bothered by that. It is the bottom line. The longer they stay in the hospital, the worse for us.

But think about it. How can we expect to develop the cures we need in this country, the important things that challenge us and our families, if we do not have that? So we want to make certain clinical trials can still go on as a result of health care in this country.

Let me return for a moment to one of the basic frustrations that seems to attack the medical profession. I spoke to the Illinois State Medical Society a few weeks ago. It was an amazing experience, because as they started to ask questions afterwards, a lot of the questions circled around the question whether or not, as doctors, they could form a union. You know, there was a time if you said the word ''union'' in the presence of doctors, they would say: Wait a minute, we have nothing to do with that; that's some other group of people.

Why are doctors talking about forming unions or associations now? Because they have to have the power to bargain with the health insurance companies. Otherwise, they are being treated as employees and denied their professional rights, rights which they have earned with their education and their licensure.

It is an indication, too, of a concern I have that unless we change the way health care is managed in this country, fewer and fewer women and men will go to medical school. They will opt out of the opportunity of being health insurance company employees or servants and try something else. That is something that is not good for America if it occurs.

I can tell you if I am on a gurney in a hospital needing medical care and I look up into the eyes of that doctor, I want to see the best and the brightest. I will be praying that doctor was top of the class, the No. 1 graduate. I do not want someone who thought about this as a second option in their life, if they ever could.

I am afraid if this debate does not take place, if health insurance does not change, we could jeopardize the possibility of having the kind of men and women we want going to medical school and certainly jeopardize our ability, as individuals and members of families, to have health insurance and health care that we really can count on.

When Americans are asked across the board about their concerns, what they would like to see us work on, they tell us over and over: Take the decisions out of the hands of the health insurance companies and give them back to the doctors and medical professionals.

That is what this debate should be about. This empty Chamber should be filled with 100 Senators, Democrats and Republicans, debating this most important issue. Instead it is empty. We give these speeches calling for the issue to come before the Senate, and we are told by the other side we cannot; it would take too much time. And the clock continues to tick.

We have the time. The question is whether or not we can summon the courage to address an issue which, frankly, is controversial. On one side, the Democratic Patients' Bill of Rights has some 200 different organizations endorsing it. Doctors and hospitals, consumer groups, children advocacy groups, labor, business—all endorsing the Democratic plan. On the Republican side, their plan is endorsed by only one group, but it is a big one—the insurance companies. They do not want to see this changed. They are making a lot of money.

It goes beyond money. It goes to a question of quality of life for America's families. We had a similar debate just a few weeks ago, a debate that really followed the tragedy in Littleton, CO, when families across America and individuals stopped to ponder whether or not it was safe to send their kids to school anymore. It wasn't just Littleton, CO. It was Conyers, GA; West Paducah, KY; Pearl, MS; Springfield, OR; Jonesboro, AR; and maybe your hometown is next.

Finally, after a week of pointless debate, we came down to a sensible gun

control bill that was enacted only when Vice President GORE cast the deciding vote. Six Republicans and 44 Democrats voted for this bipartisan plan. It was sent to the House of Representatives and, unfortunately, there the National Rifle Association prevailed. The bill was basically defeated, and the opportunity for sensible gun control was lost.

I hope we have another chance in this session. I hope we have a chance to address not only gun control but the Patients' Bill of Rights, an improvement in the minimum wage in this country, and doing something about the future of Medicare—these things I believe are the reason we are here. It is the agenda with which most American families can identify—doing something about our schools to improve education. Instead we seem to be caught up in a lot of other issues that are at best only secondary. It is time to move to the primary agenda and the primary agenda is the Patients' Bill of Rights and that is what this Senate should be considering.

I thank the Chair for the opportunity to speak in morning business. I hope that as I end my remarks and we go into a quorum call, which is really a time out in the Senate, that all those who watch this quorum call will ask the same question: Why then, during that moment in time, isn't the Senate even talking about or debating the Patients' Bill of Rights? Why isn't that bill on the floor? Why aren't the Senators of both parties offering their best suggestions on how to improve health insurance in America?

Sadly, that has not happened. I hope it happens soon, and the sooner the better. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Massachusetts.

Mr. KENNEDY. I understand we are in morning business until the hour of 2 o'clock.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Is there a limitation of 5 minutes or 10 minutes?

The PRESIDING OFFICER. There is no limitation.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

## PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I join with my friend from Illinois and others who have spoken before the Senate on the issue of the Patients' Bill of Rights, which, translated into layman's terms, means legislation that will give assurance to all Americans who are fortunate enough to have health insurance policies that medical decisions are being made by trained professional medical personnel and not by insurance company agents.

That is the underlying concept of this legislation, as has been pointed out during the course of the morning with the examples that have been given, and there are scores more. If we get the chance during the debate on the provisions, hopefully later in the afternoon, we will be able to review the various protections that we are attempting to achieve and why they are important to the children and families of this country.

Under the Republican program, there is a guarantee of getting direct access to a pediatrician for a child, but if that child has cancer, there is no guarantee the child will see a pediatric oncologist. Or if one has a disability, there is no guarantee that person will have access to the needed specialists. The guarantee they will have the best care available is important to patients, and there is no country which has better quality health care.

We have a challenge nationwide regarding access to health care, and we have a challenge nationwide in terms of the cost of health care, particularly in a number of different areas. One that comes to mind now is the issue of prescription drugs. We are going to have an opportunity, hopefully in this Congress, to address that issue.

On the issue of what we call quality, meaning that patients are going to get the best health coverage in terms of recommendations made by the professionals who have been trained and who have a wealth of experience in this area, we are trying to make sure that every medical decision will be based upon sound and meaningful medical teaching and experience.

That is the heart of this legislation. It is very important we get this kind of protection. Otherwise, we will continue to have today, tomorrow, and the day after tomorrow the tragic circumstances we have experienced and are being experienced in communities and towns all over this country.

Earlier in the day, we had some important statements and speeches by our colleagues. Senator FEINSTEIN talked about a provision making sure every health insurance proposal has as its basis of treatment the best in terms of medical necessity. The best that is available will be the standard used in providing treatment for individuals.

I took some time earlier today and illustrated how different health insurance programs have different definitions. Sometimes a definition works to the advantage of the HMO and works to the advantage of the insurance company but to the disadvantage of the individual. Such a definition can even threaten the life of that individual.

It may be favorable to the HMO regarding its bottom line financially, but it certainly is not favorable to the patient. We ought to be about the business of doing what is important for the patient.

Senator FEINSTEIN has talked about this issue very eloquently and persuasively today. That certainly would be an area that we ought to be able to debate and discuss. I do not believe we have that kind of standard with the language which is included in the provision being advanced by our Republican friends.

It is not only my opinion that this is important, but it is the opinion of the health practitioners in this country—the doctors, the American Medical Association, the nurses, the various specialists. They are concerned that the Republican proposal does not provide a good standard to protect the health and safety of children, of women, of patients in our country.

We ought to be able to debate that issue. It is a very important issue. Senator FEINSTEIN has spoken eloquently about that particular problem. But we cannot. We are virtually prohibited from being able to do so. We cannot even get this measure up. We were told yesterday to either take the whole package or we were not going to get anything at all. That has been repeated time in and time out. There appears to be the continuation of that policy now by the Republican leadership—delay and deny, delay and deny.

Then later we had the excellent statement that was made by our colleague and friend, Senator MIKULSKI, who was talking about the importance of the kinds of protections that are guaranteed in our Patients' Bill of Rights, particularly with regard to women and children.

She very eloquently pointed out how these gatekeepers who are part of these HMOs—the gatekeeper being the person who ultimately dictates to the doctor what they can effectively prescribe in terms of treatment and in terms of medicines—makes those medical judgments and decisions. That is what is happening out there; and that is startling.

People can say, well, that really isn't happening in America. It is happening. We have given examples of the devastating results that occur as a result of that kind of interference. She illustrated the importance of having those kinds of specialists who are particularly trained and understand the particular needs of women and children.

She talked from her own personal experience in a very significant and important way about how she had a gallbladder operation and was able to stay in the hospital in order to recover. But if a woman had a mastectomy—and she used the word ''amputation'' because she said that is what a mastectomy is—she would still be required to leave the hospital that same day. She reminded us about the unsuccessful efforts we made in the committee to try to alter and close that gap in the Republican bill. It makes no sense how those efforts were defeated.

It seems to me we ought to be able to have some debate. I do not think that issue would take a long period of time. I thought that Senator MIKULSKI, in about an 8- or 10-minute presentation, made a presentation that was powerful and convincing and compelling.

Maybe there is a good argument on the other side. We certainly have not

heard it yet. We never heard it in the committee when we were marking this bill up. We did not hear one. So maybe there is an argument on the other side that we haven't heard yet. A woman who is going to have a mastectomy ought to be under the care of the doctor, and the doctor and the patient ought to decide whether that person can leave the hospital that day or ought to be there 1 or 2 or 3 more days. Leave it up to the doctors and their recommendations. That is not permitted under the majority's bill.

We heard a great deal of talk about that. That is not in the bill that is the Republican proposal. The specific amendment that the Senator talked about on the Senate floor would be an amendment that we ought to be able to debate. We ought to be able to debate why it is not in the Republican bill that will eventually, hopefully, be laid down before the Senate.

There is not that protection for women in this country. There is not that protection that will permit the doctor to make a judgment about how long it will be medically necessary to keep that woman in the hospital if she has a mastectomy. That protection is not there. It was defeated when it was offered.

Let's have a brief debate on that issue, and let's have the call of the roll. Why is it we are being denied that today? Why is it we are being foreclosed from that kind of an opportunity? Why is it we cannot have the kind of debate in relation to the excellent presentation that the Senator from California, Senator FEINSTEIN, made, the excellent presentation that the Senator from Maryland, Senator MIKULSKI, made on two different kinds of phases?

Yesterday we talked with our Democratic leader, Senator DASCHLE, about the importance of clinical trials and the necessary aspects of increasing the clinical trials. Historically, the insurance companies of this country have basically supported clinical trials. There is a very good reason why they should, because—besides the medical reason that it is important for the patient—if the person gets better they will not need as many services, and that means the insurance company will pay out less in the long run. That is something that should be a financial incentive for the insurance companies; and it is.

Let me repeat that. While clinical trials make sense in terms of the treatment for the patient, they make sense for the insurance companies, too. But what we are seeing, under the health maintenance organizations, is the gradual squeeze and decline in terms of the insurance companies' payments for routine health needs of the particular patients.

Under our proposal, they would only pay for routine costs, as they have historically. The research regime pays for the special kinds of attention, treatment, and tests that are necessary in order to review whether that particular pharmaceutical drug or other therapy is useful or not. That is not paid for by the insurance companies. So they only have to pay for the routine health needs—the costs that they would pay for even in the absence of a clinical trial. The regime, the testing group or organization or pharmaceutical company that is having that clinical trial, pays for the rest.

But what we are seeing is virtually the beginning of the collapse of clinical research taking place. I will just make a final point on this issue. The group that has had the greatest amount of clinical research done on them in this country has been children. The greatest progress that has been made in the battle for cancer has been—where?—with children.

Most of the clinical researchers who have reviewed this whole question of our efforts on cancer would make the case that one of the principal reasons that we have made the greatest progress in the war on cancer in children, in extending their lives and improving their human condition, is because of these clinical trials.

We want to continue to encourage participation in clinical trials. They offer hope for the future. If the doctor says this is what is necessary for the life and the health of a woman who has cancer, that this is the one way she may be able to save her life, and there is a clinical trial available, we want to be able to say she ought to be able to go there. The opposition says: Let's study it. I say: Let's vote on it.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## EXTENSION OF MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent to extend morning business until 3 o'clock, with the time equally divided.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object. I have a question and I shall not object. Can our friend tell us if there is any progress being made on getting the Patients' Bill of Rights to the floor so the good Senator from California, Senator FEINSTEIN, can offer an amendment to assure that doctors make the decisions when people are sick and not a bureaucrat? Is there any chance we might have that on the floor this afternoon?

Mr. NICKLES. Mr. President, I am happy to respond. Our colleagues from California may want to join our bill; we have doctors make the decisions. To answer the Senator's question, we are negotiating in good faith. We are getting closer, I believe, to coming to an agreement that would have consideration of the Patients' Bill of Rights be the pending business when we return from the Fourth of July break. Hopefully, we will have that resolved in the not-too-distant future.

Mrs. BOXER. I thank the Senator.

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

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California, Mrs. FEINSTEIN, is recognized.

## PATIENTS' BILL OF RIGHTS

Mrs. FEINSTEIN. Mr. President, I am on the floor because I anticipated that at 2 o'clock we would be returning to the agriculture appropriations bill. I indicated this morning that I would be proposing an amendment to that bill that has to do with giving the physician the right to provide medically necessary services in a setting which that physician believes is best for the patient. I now see that this has been postponed an hour, so I would like to speak to the amendment now and then introduce it at 3 o'clock. I hope there will be no objection to that.

Let me begin by saying, once again, what this amendment does. Essentially, the amendment says that a group health plan or a health insurance issuer, in connection with health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or the setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis, to the extent that such treatment or diagnosis is otherwise a covered benefit.

I read that specific language because it is important to understand that because most people buying a health insurance plan believe that their doctor is, in fact, going to be prescribing the treatment that is best for them, not the treatment that is the least cost effective, not the treatment that might run a risk to the patient but be good for somebody else, but the treatment or the procedure, in an appropriate setting, that is right for that patient. What is right for a patient who is 18 years old may not be right for a patient who is 75 years old, and so on. I will read from the legislation the definition of ''medical necessity'' or ''appropriateness'':

> The term ''medical necessity'' or ''appropriate'' means, ''with respect to a service or a benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.''

That is something that everyone expects, that everyone is accustomed to in this Nation, and I believe that is the way medicine should, in fact, be practiced. I am very pleased to say the language of this amendment, from the

larger Patients' Bill of Rights (S. 6) is supported by some 200 organizations all across the United States, including the American Academy of Emergency Medicine; the American Academy of Neurology; American Academy of Pediatrics; American Association of University Women; American Cancer Society; American College of Physicians; American Heart Association; American Lung Association, and the American Medical Association, which is the largest association of practicing physicians in the country.

Then there is the American Psychological Association; the American Public Health Association; the American Society of Clinical Oncology; virtually every breast cancer organization; the Consumer Federation of America; the Epilepsy Foundation; the Leukemia Society; the National Alliance of Breast Cancer Organizations; the National Association of Children's Hospitals; the National Association of People with AIDS; the National Council of Senior Citizens; the National Black Women's Health Project; the National Breast Cancer Coalition; the Older Women's League; the Paralyzed Veterans of America—on and on and on.

This is a widely accepted amendment that virtually has the support of every professional and patient organization that deals with health care anywhere in the United States.

Let me read a statement from the American College of Surgeons, certainly the most prestigious body for surgeons, and one to which my husband, Bert Feinstein, belonged:

> We believe very strongly that any health care system or plan that removes the surgeon and patient from the medical decision-making process only undermines the quality of that patient's care and his or her health and well-being.
>
> Similarly, the American Medical Association has said, ''Medical decisions should be made by patients and their physicians, rather than by insurers or legislators.''

I have worked on this now for 3 years. In the last Congress, I introduced legislation to allow doctors to decide when to discharge a woman from the hospital after a mastectomy. I did this with Senator D'Amato in the last Congress and with Senator SNOWE in this Congress. And I introduced a bill that would allow doctors to decide when to discharge a person from the hospital after any procedure or treatment, with Senators D'Amato and SNOWE.

Why do we need these bills? Senator MIKULSKI from Maryland this morning made a very impassioned case about mastectomies. And we learned in 1997 that women were being pushed out of the hospital on the same day after a mastectomy.

I was amazed to hear from a woman named Nancy Couchot of Newark, CA, who wrote me in 1997 that she had a modified radical mastectomy at 11:30 in the morning and was released from the hospital by 4:30 that afternoon. She could not walk to the bathroom without help. She said in her letter:

> Any woman, under these circumstances, should be able to opt for overnight stay to receive professional help and strong pain relief.

Victoria Berck of Los Angeles wrote that she went in at 7:30 a.m. and was released at 2:30 p.m. with drains attached to her body. She said, ''No civilized country in the world has a mastectomy as an outpatient procedure.''

It was a very large health care network in California that was doing these ''drive-through'' mastectomies on the same day.

I believe ''drive-through'' mastectomies have been largely stopped, but patients had to rise up, and patients had to say you can't do this to me. You can't push me out a few hours after an anesthetic with drains in my body, having had a radical mastectomy and not being able to take care of myself.

What if the woman is 75 instead of 25? It makes no sense.

We also learned that insurance plans were insisting one-night hospital stays if you had a child.

We learned that babies—infants—were going home with jaundice, and they had to come back to the hospital for treatment once, twice, or three times. There was a lot of ''tsk-tsking.'' What a terrible procedure. How could they do this? Now it has changed because Congress acted, requiring a minimum of two days for childbirth, for a normal delivery. What if you need 5 days for care, or 6 days for care?

The point is that it should be a decision made by the physician. It should not be countermanded by someone unqualified to make that decision.

A California neurologist told us about a 7-year-old girl with an ear infection who went to the doctor with a high fever which developed into pneumonia, and she was hospitalized. The HMO insisted that she be sent home after 2 days. She ended up returning to the hospital three times, sicker each time to the point where she developed meningitis. The doctor said that if she had stayed in the hospital for 5 to 7 days the first time that she could have been given antibiotics, been monitored, and would not have gotten meningitis.

What is the problem?

Let me read the definition of medical necessity in an insurance contract provided to me by the American Medical Association. This is from the Aetna/U.S. Healthcare standard Texas contract. I quote: ''Health care services that are appropriate and consistent with the diagnosis in accordance with accepted medical standards and which are likely to result in demonstrable medical benefit,'' and here is the point, ''and which are the least costly of alternative supplies or levels of service.''

It is not ''and/or.'' It is ''and which are the least costly.''

So if you belong to that plan and there is a drug that is the least costly, perhaps not as effective or perhaps not good for you with your present condition, or because of your age, that is the drug you are forced to take because the insurance plan says so, despite what the doctor says. If there is a diagnostic process that may be less effective than an MRI, that MRI is very often prohibited for you.

What is happening out there? What is the problem?

The problem is that doctors are finding insurance plans overriding their decisions, dictating their decisions, second-guessing their decisions about what is medically necessary.

We aim in this amendment to give that basic right of medical practice back to the physician.

In fact, today doctors all across this Nation will tell you that they spend hours hassling with insurance company accountants and adjusters to justify medical necessity decisions —why a person needs another day in a hospital, why a person needs an MRI, why a patient needs a blood test, why a patient should get this drug instead of that drug.

Seventy percent of doctors across this great Nation say they are forced to exaggerate a patient's symptoms to make sure HMOs don't discharge patients from hospitals prematurely.

Is this the kind of medical care that we want to see HMOs press us toward where a doctor has to lie, fabricate, or exaggerate the condition of the patient to be sure that patient gets what is medically appropriate for that particular patient? I truly think not.

Every patient is different. Every patient brings to a situation his or her own unique history and biology. Doctors should be able to use their best professional judgment in each individual case based upon the needs or condition of the patient.

Pneumonia in a 30-year-old patient is different from pneumonia in a 70-year-old patient. Doctors know the difference, and most of us do, too.

A Maryland nurse said: I spend my days watching the care in my unit be directed by faceless people from insurance companies on the other end of the phone. My hospital employs a full-time nurse whose entire job is to talk to insurance reviewers.

I myself in 1989 had to have a hysterectomy. I was extraordinarily anemic. As I was in the hospital for a blood transfusion, the phone rang. I picked up the phone. It was my insurance company. What they said to me is: Why are you still in the hospital? You are supposed to be out of there by now.

My only response was: I am here because I am currently having a blood transfusion.

A patient shouldn't have to go through this. It happened to me. You can be sure it is happening all across this country.

Doctor Robert Weinman told the San Jose Mercury News that a doctor prescribed a brain wave test for a convulsing epileptic child. The HMO board—consisting of one accountant, the chief financial officer, and one doctor—refused coverage, depriving the

doctor of the necessary diagnostic information.

On June 14, just a couple of weeks ago, a California nurse practitioner told my staff that insurance plans will allow people with ulcers to take Prilosec for only 4 to 6 weeks, even though the gastroenterologists say that it is needed for a longer period. Plans say patients can take Tagamet, which is cheaper but not as effective for this particular condition.

This is what this amendment seeks to avoid.

The doctor should be able to prescribe based on medical necessity what is appropriate to each patient—a hallmark of good medical care.

A California doctor told us about a patient who needed a total hip replacement because her hip had failed. The doctor said that patient should remain in the hospital for 7 days. The plan would only authorize 5 days.

Let me quote once again from a Los Angeles physician.

> Many doctors are demoralized. They feel like they have taken a beating in recent years. . .physicians train years to learn how to practice medicine. They work long hours practicing their field. Under this health care system, that training and hard work often seem irrelevant. A bureaucrat dictates how doctors are allowed to treat parties. . . When I tell someone he is fit to leave the hospital after an operation, I am often given an accusing stare. Sometimes my patients even say: ''Is that what you really think or are you caving in to HMO pressure to cut corners on care?''

Medicine shouldn't have to be practiced this way in the United States of America.

Over 80 percent of the people of my State are in some form of managed care. California has been a laboratory for managed care. Californians are speaking out on the issue. Over one half of Californians say that major changes are needed in our health care system. Californians say they have to wait for care longer, they are rushed through appointments, they have to navigate impersonal systems when they are trying to get care.

A survey of 900 doctors in California found that 7 out of 10 were dissatisfied with managed care organizations. Insurance companies have invaded the examining room, the emergency room, and the hospital room. The ''care'' is rapidly going out of health care. Getting good health care should not be a battle.

I think everyone in this body understands HMOs can be effective good, they can reduce costs in a medically acceptable way. And that is the key—in a medically acceptable way, without adversely impacting the patient. The way to do this is not to countermand the physician, not to tell the physician what drug he or she can or cannot give a patient based on the cost, not to tell a physician he has to conduct a radical mastectomy at 7:30 in the morning, removing sometimes both of a woman's breasts and lymph nodes, and push her out on the street with drains in her chest and pain coursing through her body. That isn't good health care for anyone.

This is a simple amendment. It is supported by virtually over 200 health organizations.

Some might say why not wait until we work out an agreement so a Patients' Bill of Rights—whether it be Democrat or Republican—can come to the floor. I have waited for 3 years for an opportunity to move this kind of legislation. We cannot wait any longer. Senator D'AMATO and I, 3 years ago, held a press conference urging this kind of legislation. Senator SNOWE and I, in this Congress, have introduced similar legislation.

The beauty of this amendment, that I want to bring before the Senate for a vote, is that it states very simply that health insurance coverage may not arbitrarily interfere or alter the decision of the treating physician regarding the manner or setting—hospital, emergency room, outpatient clinic, whatever it is—in which particular services are delivered, if the services are medically necessary or appropriate for treatment or diagnosis.

Every single patient in managed care anywhere in the United States of America will be better off the sooner this amendment becomes law.

I believe to wait is wrong. I believe to wait will cost lives. I believe to wait will increase morbidity. I believe to wait is unfair to the physicians who are trained, able, and ready to carry out their profession.

I am hopeful I will have an opportunity, in 25 minutes when the agricultural appropriations bill is on the floor, to offer this amendment which is broadly and widely supported all across the United States. Once and for all, the physician and the patient will together make the medical decisions—not a green eyeshade somewhere in a remote HMO office.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island. The Chair notes the Senator has 2 minutes 2 seconds.

Mr. REED. I ask unanimous consent to speak for 10 minutes as if in morning business.

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

Mr. REED. Mr. President, I take this opportunity to talk about the Patients' Bill of Rights in one particular area. That is the area of appeals, both internal appeals and external appeals.

Both versions of this legislation, both the Republican proposal and the Democratic proposal, purport to have provisions for appeals of denial of service to consumers of health care in HMOs. Looking closely at the proposals, we find that the Republican process is significantly deficient.

We will hear discussions about these various proposals, but I will highlight a couple of the areas which suggest the deficiencies that are inherent in the Republican proposal versus the Democratic proposal.

First, under the Republican plan, an internal review—one that is being conducted by the HMO itself—that reviewer is restricted from looking at all the evidence in a case.

For example, if a patient thought they were not receiving appropriate care, they might go to another physician outside of their network and ask for an opinion. That type of information cannot be used by the internal reviewer to make a judgment about the decision rendered by the HMO. This narrowly restricted access to information prejudices the review process against the patient. It also leads to something I think is evident today and would be even more pronounced in the future, a growing cynicism that the managed care companies simply want to protect the bottom line, not the health of the patient.

I strongly suggest the internal review process in the Republican legislation is deficient since it will not allow, essentially, a de novo review of the case by the reviewing authority.

The second weakness with respect to the Republican proposal is with regard to external reviews. External reviews are reviews which are conducted by an outside party. Under the Republican plan, a review could only be conducted if there is a claim that some type of medical necessity has been violated, or the proposed treatment is experimental—again, two very narrow grounds.

A patient cannot have an external review if the claim is about contractual rights. In the world of HMOs, it is so easy for the HMO to claim: This is not really an issue of medical necessity. It is not an issue even of innovative treatment. This treatment is just not covered under your plan.

These contracts are pages and pages of small print. When the average consumer or family tries to figure out what the contract says, they are no match for the reviewing authorities and spokespeople for the HMOs.

As a result, there is a very real possibility an aggrieved party will never get an external review. They will be buried in a barrage of verbiage indicating ''it is not covered in the contract'' or it ''doesn't meet our definition of medical necessity.'' I refer to the text provided by my colleague from California where part of the definition of ''medical necessity'' included the low-cost alternative in the provision of services.

All of this, in my view, is an invitation to endless argumentation about legalisms at a time when people need a prompt response to a health care crisis in their family.

There is another deficiency with respect to the external review provisions. Under the Republican proposal, the HMO actually picks the reviewing authority. Now that just does not sound fair. If it does not sound fair to us, it will certainly not sound fair to the families of America.

Mrs. BOXER. Will the Senator yield on that point?

Mr. REED. Certainly.

Mrs. BOXER. Because the Senator has made a point that is rather stunning to me. In other words, he is saying that in the Republican proposal which purports to be a Patients' Bill of Rights, if a patient believes he or she has not received the appropriate treatment and there is an internal review—and let's pass over that—and then there is an external review; in other words, people are coming in from the outside to take a look at whether or not you should have had a different treatment for your cancer, let's say, the Senator is saying to me that under the Republican proposal, the very organization that denied you a certain kind of treatment gets to pick the people who are going to decide if that HMO was wrong? So if they pick their friends, naturally, what chance does the patient have? I say to my friend, this seems like a kangaroo court if I have ever heard of one. Does he not agree?

Mr. REED. I agree completely. The Senator is absolutely right. Both the perception of an unfair, unbalanced procedure, and I would also argue the reality, ultimately, will be such that you are not going to get a fair evaluation of your claim.

I cannot conceive of a company—and the HMOs are famous now for their concern for the bottom line—that would go out of its way to retain people who are sensitive to the needs of patients versus the needs of the company and its bottom line. They will pick reviewing authorities who will invariably decide that this expensive procedure, or this inexpensive procedure, is not needed by a patient.

What you are doing also is creating a degree of cynicism about the whole process of appeals. As a result, rather than making a sound, objective, external evaluation of the merits of the case with all the evidence and telling the patient, no, this is not necessary for you, or, yes, it is, a huge legal, bureaucratic labyrinth is created, at the end of which you find yourself facing somebody who basically works for the HMO.

Mrs. BOXER. I wonder, in comparing these two bills, if my friend has made an analysis of the way the Democratic bill treats the appeals process? And can he tell us the difference here?

Mr. REED. The Democratic legislation tries to create, and I think succeeds in creating, a situation where there is an external review where a party who is not beholden to the HMO, an individual reviewing authority outside of the company will review external appeals. It would be truly independent and there would not be a conflict of interest, and that, I believe, is the appropriate way to proceed.

By creating an independent external review procedure, it will, No. 1, strengthen the confidence of consumers that they are getting a fair shake and, No. 2, it will lead to better judgments about the type of health care that should be necessary.

Mr. KENNEDY. Will the Senator yield?

Mr. REED. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. If I understand the Republican proposal, if you had a child, for example, with cancer, and you had a pediatrician, but what you needed was an oncologist for that child, one who is a specialist in pediatrics, and the HMO denied you that, and you believed this was enormously important for the treatment for the child, under the Republican proposal you have no right to appeal that particular decision. I understand that the right to an independent appeal applies only to certain decisions, and a denial of access to a specialist is not one of them. I believe I am correct.

We heard our wonderful friend, Dr. FRIST, yesterday talk about how any child who had cancer would be guaranteed a specialist and everybody said: Doesn't that do the trick? No.

We know you need not just a pediatrician, but as the Senator from Rhode Island knows—as one who has been a leader in the Senate on children's issues regarding access, and has introduced special legislation on this—that child needs a pediatric oncologist. That kind of specialist is absolutely crucial, if that child is to have a fighting chance; but denial of access to that particular specialist would not be eligible for appeal under the majority's program.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. KENNEDY. Mr. President, I ask for 6 more minutes evenly divided.

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

Mr. KENNEDY. I was just asking whether the Senator's understanding is the same understanding as mine? If the Senator would just reflect on the significance of that, I would appreciate it. How important, really, is specialty care access, I ask the Senator, as an expert on this issue for the treatment of a child?

Mr. REED. The Senator is exactly correct. The way the appeals process is drafted in the Republican legislation, a child who has a serious cancer might be offered the services of an oncologist for adults. In the view of the plan, that would be adequate, sufficient for the purposes of the medical necessity. As a result, the parents of the child, who want access to a pediatric oncologist, may not even get the chance to even protest internally, externally, or in any way.

That is wrong. Frankly, I have been trying to learn as much as I can about pediatric specialties. I, like so many people, once thought an oncologist is an oncologist is an oncologist like a rose is a rose is a rose. It turns out pediatric oncology is a very specialized part of medicine.

I was talking to a specialist recently who pointed out the case of a young child who was discovered with a particular type of cancer and was treated by an adult's oncologist using what is standard procedure for an adult. In fact, using the adult procedure produced additional problems for the child and only further complicated the situation. As a result, the child has to have an additional regime of chemotherapy. All of this could have been avoided, of course, had that child seen a pediatric oncologist immediately.

The provisions in this legislation do not give a fair chance to appeal a denial of access to a specialist like the case I have just outlined. They do not give Americans, but particularly children, a fair chance to get good health care. That is what we want to do and should do.

Mr. KENNEDY. Will the Senator yield just for another moment? It is now approaching 3 o'clock. To the best of my recollection, the good Senator from California, Senator FEINSTEIN, has been here since 10 o'clock this morning, prepared to go ahead and introduce her amendment and has still not been able to do it. There has been an extension of the time limits, evidently because of some negotiations about which all of us are hopeful. But I think we probably could have disposed of the amendment of the Senator and probably the proposal of the Senator from Rhode Island also. I do not know whether the Senator would agree with me or not.

Mr. REED. I do agree. I have been listening to Senator FEINSTEIN's very eloquent and thoughtful comments about the need for access to specialists and the need to have a physician make a decision about your health care and not an accountant.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. REED. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair, acting in his capacity as a Senator from New Hampshire, notes the absence of a quorum. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of New Hampshire, objects. The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

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

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

## EXTENSION OF MORNING BUSINESS

Mr. NICKLES. Mr. President, for the information of all colleagues, we are still in the process of negotiating a

time agreement on proceeding. We are not quite there. We are getting closer.

Mr. President, I ask unanimous consent that morning business be extended for 30 minutes to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I say to the distinguished whip, I have been here for a long time hoping to offer an amendment to the agriculture appropriations bill.

Can you give me any time when that bill might be coming to the floor?

Mr. NICKLES. I will be happy to respond.

It is our intention that the ag bill will not be the vehicle for the Patients' Bill of Rights or any amendments related to it. The unanimous consent request we are proposing or negotiating would bring up the Patients' Bill of Rights when we return from the Fourth of July break, with the bill to be brought up on, I believe, July 11, to be completed by July 15. So no amendments relating to the Patients' Bill of Rights will be offered on the ag appropriations bill.

Mrs. FEINSTEIN. In exchange for a definitive date of bringing up the Patients' Bill of Rights?

Mr. NICKLES. Correct. Absolutely.

Mrs. FEINSTEIN. We would have minority rights to amend that bill?

Mr. NICKLES. That is correct.

Mrs. FEINSTEIN. I thank the Senator.

The PRESIDING OFFICER. Is there objection the request of the Senator from Oklahoma?

Without objection, it is so ordered.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Washington.

Mrs. MURRAY. It is my understanding that the Democrats now have 15 minutes?

The PRESIDING OFFICER. That is correct.

Mrs. MURRAY. Then I will proceed.

## PATIENTS' BILL OF RIGHTS

Mrs. MURRAY. Mr. President, I hope we can work out an agreement, but I rise today really to express my frustration and outrage with the inability of the Republican leadership to allow a fair and open debate on the real Patients' Bill of Rights.

I do not like the idea of tying up must-do appropriations bills to try and force a fair and open debate on access to health care services. However, due to the inability to find a reasonable compromise on the number of amendments, we have been forced to bring this issue to every possible vehicle.

I hope we can work out an arrangement with the majority party to do this and to have our opportunity to offer amendments that we think are very important.

Sometimes we spend far too much time on issues of little significance to the American people. One of the majority's showcase pieces of legislation in 1999 was to change the name of National Airport to the Ronald Reagan Washington National Airport. We spent more time talking about the name change than we have on debating the Patients' Bill of Rights.

When it comes to access to emergency room treatment, or access to experimental lifesaving treatments, we cannot seem to find 3 days for its consideration on the Senate floor. This is the kind of legislation that really does impact American working families. I would argue that it deserves a full and open debate on the Senate floor, allowing us to offer our amendments.

The Republican reform legislation reported out of the HELP Committee is not—and let me repeat, is not—a patients' bill of rights. Oddly enough, it excludes most insured Americans and, in many cases, simply reiterates current insurance policy. It does not provide the kinds of protections and guarantees which will ensure that when you need your insurance, it is there for you and your family.

Let's face it. Most people do not even think about their health insurance until they become sick. Certainly, insurance companies do not notify them every week or month, when collecting their premiums, that there are many services and benefits they do not have access to. It is amazing how accurate insurance companies can be in collecting premiums, but when it comes time to access benefits, it becomes a huge bureaucracy with little or no accountability.

The Republican leadership bill is inadequate in many areas. Let me point out a couple of the major holes that I see in this legislation.

During markup of this legislation in the HELP Committee, I offered two important amendments. The first one was a very short and simple amendment to prohibit so-called drive-through mastectomies.

My amendment would have prohibited insurance companies from requiring doctors to perform major breast cancer surgery in an outpatient setting and discharging the woman within hours. We saw this happen before when insurance companies decided it was not medically necessary for a woman to stay more than 12 hours in a hospital following the birth of a child. They said there was no need for followup for the newborn infant beyond 12 hours. There was no understanding of the effects of childbirth on a woman and no role for the woman or physician to determine what is medically necessary for both the new mother and the new infant.

I offered the drive-through mastectomy prohibition amendment only because an amendment offered earlier in that markup would continue the practice of allowing insurance personnel to determine what was medically necessary—not doctors, not patients, but insurance companies. I offered my amendment to ensure that no insurance company would be allowed to engage in drive-through mastectomies.

My amendment did not require a mandatory hospital stay. It did not set the number of days or hours. It simply said that only the doctor and the patient would be able to determine if a hospital stay was medically necessary. The woman who had suffered the shock of the diagnosis of breast cancer, the woman who was told the mastectomy was the only choice, the woman who faced this life-altering surgery, decides, along with her doctor.

Unfortunately, my colleagues on the other side did not feel comfortable giving the decision to the woman and her doctor. They did not like legislating by body part; and neither do I. But I could not sit by and be silent on this issue. Defeating the medically necessary amendment, offered prior to my amendment, forced me to legislate by body part. And I will do it again to ensure that women facing a mastectomy are not sent home prematurely to deal with both the physical and emotional aftershocks.

For many years, I have listened to many of my colleagues talk about breast cancer and breast cancer research or breast cancer stamps. When it comes to really helping breast cancer survivors, some of my Republican colleagues voted no. I hope we are able to correct this and give all of my colleagues, not just those on the HELP Committee, the chance to vote yes.

The other amendment I offered in committee addressed the issue of emergency room coverage. The Republican legislation falls short of ensuring that when you have a sick child with a very high fever, and you rush them to the emergency room in the middle of the night, the child will receive emergency care as well as poststabilization care. The Republican bill simply adopts a prudent layperson standard on emergency care, not care beyond the emergency.

That means that a child with a fever of over 104 degrees may not receive the full scope of care necessary to determine what caused the fever to prevent the escalation of a fever once the child has been stabilized. As many parents know, simply controlling the fever is not enough; you have to control the virus or infection to prevent the fever from escalating again.

I tried in committee to address the inequities in the Republican bill regarding emergency room coverage. Unfortunately, my amendment was defeated. Let me point out to my colleagues, if they think their language will protect individuals seeking emergency care, they are sadly mistaken.

The insurance commissioner's office in my home State of Washington recently initiated a major investigation of insurance companies that had denied ER coverage based on a prudent layperson's standard. The commissioner's office discovered that despite a

State regulation requiring a prudent layperson standard, there were numerous examples of individuals being denied appropriate care in the emergency room.

In Washington State, a 15-year-old girl with a broken leg was taken by her parents to a hospital emergency room. The claim was denied by the family's insurer, which ruled that the circumstances did not constitute an emergency.

A 17-year-old victim of a beating suffered serious head injuries and was taken to an ER. A CAT scan ordered by the ER physician was rejected by the insurer because there was no prior authorization. This 17-year-old child was stabilized, but the physician knew that only through a CAT scan would they know the full extent of the child's injuries. Yet the insurance company denied payment because they had not approved the procedure. They obviously did not think that a CAT scan was part of ER care.

These are examples of gross misconduct by insurance companies in the State of Washington that are supposed to meet the same standard that is included in the Republican bill. As the insurance commissioner learned, a prudent layperson standard still allows for a loophole large enough to drive a truck through.

I also want to remind many of my colleagues who support doubling research at NIH that we are facing a situation where we have all of this great research we are funding, and yet we allow insurance companies to deny access. Yesterday we heard testimony at the Labor-HHS Subcommittee hearing about juvenile diabetes. It was an inspiring hearing. We had more than 100 children and several celebrities testify. Yet as I sat there listening to the testimony from NIH about the need to increase funding for research and how close we are to finding a cure, I was struck by the fact that the Republican leadership bill would allow the continued practice of denying access to clinical trials, access to new experimental drugs and treatments, access to specialties, and access to specialty care provided at NCI cancer centers.

It does little good to increase research or to find a cure for diabetes or Parkinson's disease if very few people in this country can afford the cure or are denied access to that cure. We need to continue our focus on research, but we cannot simply ignore the issue of access.

I urge my colleagues to join me in supporting a real Patients' Bill of Rights that puts the decision of health care back into the hands of the consumer and their physician, that doesn't dismantle managed care but ensures that insurance companies manage care, not profits.

I don't want to increase the cost of health care. I simply want to make sure people get what they pay for, that they have the same access to care that we, as Members of the Senate, enjoy as we participate in the Federal Employees Health Benefit Program. The President has made sure we have patient protections. Our constituents deserve no less.

I thank the Chair.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I have a couple comments. Again, we are trying to come up with an arrangement. I think all my colleagues are aware of the fact that we have been negotiating on this most of the day. Hopefully, we will come up with an arrangement that is mutually satisfactory to all participants in the debate.

I will respond to a couple of the comments, because maybe they haven't been responded to adequately. There has been a lot of discussion about the Republican package doesn't do this or the Democrat package does so many wonderful things. The Democrat package before the Senate increases health care costs dramatically.

I stated, maybe 2 years ago: When the Senate considers legislation, we should make sure we do no harm. By doing no harm, I stated two or three propositions. One, we should not increase health care costs; that makes health care unaffordable for a lot of Americans. Unfortunately, the package proposed by my colleagues on the Democrat side—the Kennedy bill—increases health care costs 4.8 percent, according to the CBO, over and above the inflation that is already estimated for this next year, estimated to be about 8 percent.

If you add 5 percent on top of 8 percent, that is a 13-percent increase in health care costs. The result is, probably a million and a half Americans will lose their health care if we pass the Democrat package.

I have heard a lot of my colleagues say: We need to pass the Kennedy bill; it is going to do all these wonderful things, because we are going to protect, we have a prudent layperson. It is just a great idea. We have emergency care. It is a wonderful idea. We are going to guarantee everybody all this assortment of benefits. We are going to mandate all kinds of little coverages that all sound very good.

But they do have a cost. If we make insurance unaffordable and move a million and a half people from the insured category to the uninsured category, I think we are making a mistake; I think we are making a serious mistake.

There are some costs involved, and there is a little difference in philosophy. Some of our colleagues said the Republican package doesn't cover this or doesn't do this, doesn't do that. What we don't try to do is rewrite health care insurance, which is basically a State-controlled initiative. We don't have the philosophy that Washington, DC, knows best. There is a difference in philosophy.

The Kennedy bill says: States, we don't care what you are doing. We know what is best. We have a package, an emergency care package, that you have to have ER services under the following scenarios. We don't care what you are doing, States.

I just looked at a note. Forty States have emergency care mandates. The Kennedy bill says: We don't care what you are doing, States. Here is what we say, because we know what is best.

I wonder if the State of Massachusetts has it. The State of Washington has it. I heard my colleague from Washington, Senator MURRAY, talk about emergency care. The State of Washington has emergency care mandates in their health care packages for State-regulated health care plans. I heard the Senator from Washington talk about ''prudent layperson.'' The State of Washington has a prudent layperson mandate. Maybe that is not adequate. Maybe somebody in the State legislature in the State of Washington said: We need to strengthen this; we need improvement.

There is a difference of philosophy. We, on our side, are saying we shouldn't try to rewrite health care plans all across America. We don't believe in national health insurance, that the Government in Washington, DC, is the source of all wisdom, has all knowledge, can do all things exactly right, and we should supersede the governments of every State.

We don't have that philosophy. There is a difference of philosophy. The Kennedy bill says: States, you have emergency room provisions. We do not think they are adequate. We know what is best.

Then the health care plans say: Wait a minute, we have been regulated since our inception by the States, as far as insurance regulation. Now we have the Federal regulation. Whom should we follow? They are different.

Who is right? Do we just take the more stringent proposal, or are we now going to have HCFA regulate not only Medicare and Medicaid, but are we now going to have HCFA regulating private insurance? I do not think we should.

I will tell my colleagues, HCFA has done a crummy job in regulating Medicare. HCFA has not complied with the mandates we gave them in 1997 for giving information to Medicare recipients on Medicare options. They haven't done that yet. They haven't notified most seniors of options that are available to them that this Congress passed and this President signed. They haven't notified people of their options. They have done a crummy job of complying with the regulations that they have now. They haven't even complied with—some of the States—the so-called Kennedy-Kassebaum legislation that passed a few years ago. There are some States, including the State of Massachusetts, which don't even comply with the Kennedy-Kassebaum kid care formulations. HCFA is supposed to take that over. They haven't done it.

My point is, people who have the philosophy, wait a minute, we need to

have this long list of mandates, we are going to say it, and we are going to regulate it and dictate it from Washington, DC, I just happen to disagree with.

It may be a very laudable effort. Some of the horror stories that were mentioned—this person didn't get care, and it is terrible—are tough stories. But we have to ask ourselves, is the right solution a Federal mandate? Is the Federal mandate listing here of what every health care plan in America has to comply with, dictated by Washington, DC, dictated by my friend and colleague from Massachusetts, is that the right solution? I don't think so.

Is there a cost associated with that? Yes, there is. I mention that to my colleagues and to others who are interested in the debate.

We will have this debate. I think there will be an agreement reached that we will take this up on July 11, and we will have open availability for individuals to offer amendments with second-degree amendments, and hopefully a conclusion to this process.

I did want to respond to say that this idea of somebody finding a horror story or finding an example of a problem and coming up with the solution, or the fix being ''Washington, DC, knows best,'' I don't necessarily agree with.

I do think we can make some improvements. I do hope, ultimately, we will have bipartisan support for what I believe is a very good package. I am not saying it is perfect. It may be amended. It may be improved. I hope we will come up with a bipartisan package.

We do have internal/external appeals which are very important and, I think, could make a positive contribution towards solving some of the problems many of the individuals have addressed earlier today.

I yield the floor.

Mr. EDWARDS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. May I inquire how much time remains?

The PRESIDING OFFICER. The minority has 5 minutes 10 seconds. The majority still has 15 minutes 50 seconds.

Mr. EDWARDS. Mr. President, I come to the floor to address the important issue of the Patients' Bill of Rights. I will respond briefly to a couple of issues raised by my colleague, the distinguished Senator from Oklahoma, when the bulk of his argument and response to our Patients' Bill of Rights has to do with the issue of cost. I just want to point out that the most reliable studies done by the GAO indicate that the increased costs across America will be somewhere between $1 and $2 per patient per month, which I think is less than a cup of Starbuck's coffee. My suspicion is that most Americans would be willing to bear that cost to have real and meaningful health care reform.

There is a lot of rhetoric about national health insurance, and they are not for that. This bill has absolutely nothing to do with national health insurance. What it has to do with is creating rights for patients that provide them with protections against HMOs and health insurance companies that are taking advantage of them on a daily basis.

There is another huge difference between these two bills. I prefer not to talk about them as the Democratic or Republican bill because, for me at least, this is not a partisan issue; it is a substantive issue. If we have a bill that is a real, meaningful Patients' Bill of Rights, whether it is Democratic or Republican, or a compromise between the two, I would support it. It makes no difference to me who authors the bill. I came here to talk about an issue that is critical to the people of North Carolina, to the people of America.

The people of America are not interested in partisan bickering on the floor of the Senate. They are not interested in that; they don't care about it. What they do care about, and what I care about, is addressing the issue of health care and the issue of the Patients' Bill of Rights in a real substantive and meaningful way.

I want to talk briefly, if I can, about a real case I was involved in personally—at least my law firm was involved in—before I came to the Senate this past January. The case involved a young man named Ethan Bedrick. Ethan was born with cerebral palsy. As a result of his cerebral palsy, he needed a multitude of medical treatments, including therapists—physical and speech—to help him with mouth movement and his limbs. The physical therapy was prescribed specifically for the purpose of being able to pull his limbs out and back and out and back, so he didn't develop what is called muscle contractures, so that he didn't get in a condition where he could not move his arms and legs any longer.

Ethan is from Charlotte, NC. Ethan's doctors who were seeing him—a multitude of doctors, including physical therapists, a general practice physician, a pediatric neurologist who specialized in making determinations about what children in his condition needed—all of those physicians, every single one of them, everybody treating him came to the conclusion that Ethan needed physical therapy.

When the family went to their health insurance company to try to get reimbursed for the physical therapy, the health insurance company denied paying for the physical therapy. Basically, they decided it based upon an extraordinarily limited and arbitrary reading of the term ''medical necessity.'' They basically found the most limited definition and they looked around and found a doctor who was willing to support that position. So they denied the claims.

I want the American people to understand that every doctor who was treating Ethan said he needed this care. It was absolutely standard care for a young child with cerebral palsy. But there was some doctor working for an insurance company somewhere in America who was willing to say: No, I don't think he needs it. Therefore, they denied coverage, regardless of what all his treating physicians said.

We filed a lawsuit on behalf of Ethan against the insurance company. We had to jump through extraordinary hoops because it is so difficult to bring any kind of action against a health insurance company or an HMO. The case was decided, ultimately, by the U.S. Court of Appeals for the Fourth Circuit, which covers a number of States in the southeastern United States. That court, which is well known for its conservative nature, issued an opinion on Ethan's case. I will quote very briefly from that opinion. The court addressed in very stark terms what they saw as the problem. I am reading now from the opinion of the Fourth Circuit:

> . . . The precipitous decision to give up on Ethan was made by Dr. Pollack, who could provide scant support for it. The insurance company boldly states that she [Dr. Pollack] has a ''wealth of experience in pediatrics and knowledge of cerebral palsy in children.'' We see nothing [in the Record] to support this. . . . In fact, she was asked whether, in her twenty years of practice, she ever prescribed either speech therapy, occupational therapy, or physical therapy for her cerebral palsy patients. Her answer: ''No, because in the area where I practiced, the routine was to send children with cerebral palsy to the Kennedy Center and the Albert Einstein College of Medicine. We took care only of routine physical care.
>
> So much for Dr. Pollack's ''wealth of experience.''

This was a physician who had absolutely no experience with prescribing physical therapy for children with cerebral palsy. Yet this physician was the sole basis for the insurance company denying this very needed care for this young boy with cerebral palsy.

It gets worse. Dr. Pollack was then asked whether physical therapy could prevent contractures, which is what is caused when children with cerebral palsy don't get this. Their arms and legs become contracted and they can't be pulled out.

This was her answer: No.

She was asked: Why not?

Answer: Because it is my belief that it is not an effective way of treating contractures.

This is the insurance company doctor.

She was asked: Where did this belief come from?

She says: I cannot tell you exactly how I developed it because the truth is I haven't thought about it for a long time.

The nadir of this testimony was reached soon thereafter because the baselessness for this insurance company doctor's decision became very apparent. The Fourth Circuit quotes from the questions and answers to Dr. Pollack:

> Question: . . . If Dr. Lesser and Dr. Swetenburg were of the opinion that physical therapy at the rate and occupational

therapy at that rate were medically necessary for Ethan Bedrick, would you have any reason to oppose their opinion?

Answer: I am not sure I understand the question. Using what definition of medical necessity?

Question: Well, using the evaluation of medical necessity as what is in the best interests of the child, the patient.

Answer: I think we are talking about two different things.

Question: All right. Expand, explain to me what two different things we are talking about?

Answer: I'm speaking about what is to be covered by our contract.

Question: Is what is covered by your contract something that's different than the best interests of the child as far as medical treatment is concerned?

Answer: I find that's a little like ''have you stopped beating your wife?''

Question: That's why I ask it. If Doctor Swetenburg and Dr. Lesser recommended physical therapy and occupational therapy at the rates prescribed, do you have any medical basis for why this is an inappropriate treatment that has been prescribed [for this boy]?

Remember, this is the insurance company doctor on the basis for which the insurance company had denied all coverage for this care.

Answer: I have no idea. I have not examined the patient. I have not determined whether it is appropriate or inappropriate. But that isn't a decision I was asked to make.

So what happened is, we have an insurance company doctor with no experience, never examined the child, who has decided this care is not medically necessary or medically appropriate, based on nothing and the insurance company denies coverage in the face of every single health care provider saying this child with cerebral palsy needs to be treated.

This is a perfect example of what is wrong with the system. It is why we need real external review. It is why we need an independent body that can look at a decision made by an insurance company and decide—it would be obvious in this case—that the decision was wrong and that a child is suffering as a result.

When I say an independent review, I mean a really independent review, not an independent review board made up of people chosen by the insurance company. That is an enormous difference between one of the bills being offered by our opponents and the bill being offered by us. We would set up a real and meaningful independent review board so that when something like this happens to Ethan Bedrick, a child with cerebral palsy, there would be a way to go to an independent board immediately and get a review, the result of which the decision would be reversed and in a matter of weeks, at the most, this child would get the therapy he so desperately needs.

The long and the short of it is, even after we won this case in the court of appeals, it was over a year before Ethan Bedrick began to receive the care he deserved.

This case illustrates perfectly why this is such an acute problem and why we need to address it. We need desperately to address it in a nonpartisan way. We need to do what is in the best interests of the American people; that is, to pass a real and meaningful Patients' Bill of Rights.

Thank you, Mr. President.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CRAIG. Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senate is in morning business. The Republican side has 8 minutes remaining.

Mr. CRAIG. I ask unanimous consent we stay in morning business under the current restriction and continue until 4 o'clock.

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

Mr. CRAIG. Mr. President, for the last several days this Senate has been engaged in a fascinating exercise. I say that because last Thursday evening before I left the Senate I was approached by an individual in the media, a press person on Capitol Hill, who said: I understand the Democrats are about to slow the process down.

I said: What do you mean?

They think the Republican Senate is on a roll, you have accomplished a good many things this week, and they are about to slow you down.

I said: What is the strategy here?

That person said: We think they are going to offer the Patients' Bill of Rights to the agriculture appropriations bill.

Of course, we now know that is exactly what happened. Their tactic is to slow the process down. I am not sure why. Obviously, they are going to get ample opportunity to make their statements and to have their votes on the issue of a Patients' Bill of Rights.

Whether Democrat or a Republican, we can mutually agree that there is a very real problem in the health care community of our country specific to Americans and health care coverage. I am not sure we get there by punching American farmers in the face, or by acting as if they are of little to no importance and placing other national issues ahead of them.

That is what has happened. I am amazed some of my colleagues on the other side of the aisle from dominant agricultural States and who have oftentimes led the agricultural debate on the floor would use these tactics to move their national agenda well beyond agriculture.

What is important is that we deal with the ag appropriations bill, that we deal with it in a timely fashion to address those concerns of the American agricultural community within the policies of our government but also recognize we have a problem in the agriculture community today. We have turned to the Secretary of Agriculture and to the President to work with us to identify and shape that issue; we will come back with the necessary vehicle to address it beyond the current appropriations bill.

We are waiting for their response.

Agriculture issues have never been partisan. They shouldn't be partisan. I am amazed my colleagues on the other side of the aisle have used this dilatory tactic that all but ''partisanizes'' an agriculture appropriations bill, almost saying it doesn't count; our political agenda is more important than the policies of the government handled in an appropriate and timely fashion.

Our leaders are negotiating at this moment to determine the shape of the debate over a Patients' Bill of Rights. I hope they are able to accomplish that. The clock ticks. American agriculture watches and says, there goes that Congress again, playing politics with a very important issue for our country.

I will be blunt and say, there goes the Democrat side of this body playing politics with a very important appropriations bill that I hope we can get to.

I see Senator FEINGOLD on the floor. Our staffs have been working together on a very critical area of this bill, as I have been working with the Presiding Officer, to make sure that we shape the agriculture appropriations bill and deal with dairy policy in a responsible fashion.

I come to the floor to associate patients' rights and health care with an agriculture policy. Is that possible to do? Well, it is. My colleagues on the other side of the aisle have attempted to do that. I hope my colleagues will listen as I shape this issue. There is a very important connection.

It will not be debated on the agriculture appropriations bill, but we all know that American agriculture—farmers and those who work for farmers—is within the sector of about 43 percent of all workers in America who are not working for an industry that insures them. As a result, they must provide for themselves. They must self-insure and provide for their individual workers within their farms or ranches.

The Patients' Bill of Rights that my colleagues on the other side of the aisle want to bring to the floor—and I trust their sincerity in wanting it to become law—will very much change the dynamics of the self-insured in this country. They do so in a very unique way. The average family premium in the individual self-insured market—I am talking about American farm families—is about $6,585 today. That is what it costs for them to insure themselves. Under the Democrat Kennedy bill, they are going to pay at least another $316.

Figure this one out: As my colleagues on the other side of the aisle talk about the worst depression in farm country in its history, with depression-era prices for commodities, in

the same breath they stop the agriculture appropriations bill and say: Hey, farm family, on our Patients' Bill of Rights, because we are about to increase your medical costs by an average of $316 a year, that is money you don't have, but we will force you to do it anyway. Your premiums will go up by the nature of the bill we want to fashion.

Some have stated this bill will cause over 2 million Americans to lose their health care insurance. This chart demonstrates a problem that all Members are sensitive to but a problem that we don't want to cause to be worse.

A phrase that has been used on this floor in a variety of debates in the last couple of months is ''unintended consequences.'' If we pass the Kennedy health care Patients' Bill of Rights, there is a known consequence. You can't call it ''unintended.''

By conservative estimates it would add one million uninsured Americans to the health rolls. That is the conservative estimate. I said 2 million a moment ago. That is the liberal estimate. It is somewhere in that arena. The other side knows that America's farmers and farm families will have to pay $300 to $400 more per year in health care premiums because they are self-insured.

That is the nexus with the farm bill and the agriculture appropriations bill in its strange and relatively obscure way. But it is real. I hope our leaders can be successful in shaping the debate around the Patients' Bill of Rights that says we will have that debate, here is the time line, and here are the amendments that can be offered.

It is going to be up or down. We will all have our chance to make our points, but let's not play the very dangerous game of tacking it onto any bill that comes along that stops us from moving the appropriation bills in a timely fashion. We will debate in a thorough nature why their legislation creates a potential pool of between 1 to 2 million Americans who will become uninsured because of an increase in premiums.

On the other side of the equation is the Patients' Bill of Rights crafted by the Republican majority in the Senate. We go right to farm families. We say to farm families, we are going to give you a positive option in your self-insurance, and that is, of course, to create a medical savings account.

In States made up of individual farms—Wisconsin, Indiana, Ohio, Illinois, and Iowa—already the meager efforts in creating medical savings accounts we have offered in past law have rapidly increased the coverage for health care at the farm level.

So if we want to create a true nexus between an agriculture bill and a Patient's Bill of Rights, it is the Republican version that says let's expand medical savings accounts, let's give small businesspeople, farmers, ranchers, the option of being able to self-insure in a way that will cost them less money and have insurance to deal with, of course, the catastrophic concerns in health care that we would want to talk about.

The reason I have always been a supporter of medical savings accounts is that it really fits the profile of my State. Farmers, ranchers, loggers, miners—small businesspeople make up a dominant proportion of the population of my State. Increasingly, many of them would become uninsured if the Democratic version, the Kennedy bill, were to pass this Congress and become law. The unintended, or maybe the intended, consequence would be to push these people out of private health care insurance and therefore have them come to their Government begging for some kind of health care insurance.

Why should we set up an environment in which we force people to come to the Government for their health care instead of creating an environment, a positive environment, that says we will reward you for insuring yourself by creating for you the tools of self-insurance and therefore create also a tax environment we want, where today health care premiums for the self-employed are fully deductible, as they are for big businesses which offer health care plans to their employees.

There is a strange, unique, and somewhat curious nexus between Democrats blocking an agriculture appropriations bill coming to the floor and the politics of the Kennedy bill on health care. It is that they would cause even greater problems in the farm community by raising the premiums, by forcing certain costs to go into health care coverage today. Our Patients' Bill of Rights would go in a totally opposite direction, creating an environment in which people could become more self-insured at less money, at a time in American agriculture when it is estimated the average income of the American farmer, having dropped 15 percent last year, could drop as much as 25 to 30 percent this year, with commodity prices at near Depression-era levels.

We need to pass the agriculture appropriations bill. We will then work with the Department of Agriculture and the Clinton administration to examine the needs, as harvest goes forward, to assure we do address the American farmers' plight, as we did effectively last year. But it should be done in the context of agriculture appropriations and a potential supplemental, if necessary, to deal with that. It does not fit, nor should it be associated with, a Patients' Bill of Rights.

I hope the end result today is to clear the track, provide a designated period of time for us to debate the Kennedy bill and a true Patients' Bill of Rights, as has been offered by the Republican majority here in the Senate, and then to allow us to move later today, this evening, and on tomorrow, to finish the agriculture appropriations bill and get on with the debate on that critical issue.

American agriculture is watching. I hope they write my colleagues on the other side of the aisle and say: Cut the politics. Get on with the business of good farm policy. Do not use us as your lever.

I hope that message is getting through to my colleagues on the other side. Let us deal with agriculture in the appropriate fashion.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## EXTENSION OF MORNING BUSINESS

Mr. CRAIG. Mr. President, our leaders are still in negotiation as to terms and conditions under which the Senate will deal with the Patients' Bill of Rights. With that understanding, I ask unanimous consent that morning business be extended until 4:30 p.m. under the conditions of the previous extension.

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

Mr. CRAIG. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## EXTENSION OF MORNING BUSINESS

Mr. WELLSTONE. Mr. President, I ask unanimous consent that morning business be extended until 5 o'clock and that the time be equally divided.

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

## PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Howard Kushlan, an intern in my office, be allowed to be on the floor for the duration of the day.

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

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

## PATIENTS' BILL OF RIGHTS

Mr. ROCKEFELLER. Mr. President, I join what I suspect are one or two Democratic colleagues of mine who have come out to the floor to speak

about the Patients' Bill of Rights and the need to move forth with that. I think I am correct, but in listening to National Public Radio this morning, I heard that the American Medical Association was meeting and that one of the matters under discussion was the right of physicians to unionize. Since you cannot replay NPR, or ask for a repeat, I had to just hear what I heard; I think I heard it correctly. That is an amazing thing. I know physicians have been unionizing in Arizona and places where one would expect it. But to have the American Medical Association actually considering that, and the President, Dr. Dickie, a woman, discussing the frustration of physicians with their ability to give health care to their patients in a way that they believe and, in fact, were trained to do is extraordinary.

I could name any group in the world that would be looking for a place to find a union and I would put physicians among the very last. But, evidently, it is not that way. That in itself is an extraordinary call for this Congress to move forward with health care. The call comes from the American people also. They are calling for action on our part because of their sense of deep dissatisfaction.

Last year, we were told there wasn't enough time to take up a Patients' Bill of Rights. I don't think that could be the case this year, since time seems to be mostly what we have, and therefore one might conclude there might be a lack of willingness to take up a Patients' Bill of Rights this year. So we have to keep our priorities straight. I intend to, and I think a lot of my colleagues on both sides of the aisle feel that way.

Every single day that passes without enactment of patient protections is another day that millions of Americans, and thousands of the people I represent from West Virginia, are subject to the denial of needed treatments because of the instinct of insurance companies to go to their bottom line and stay there. Every single day that we, as a Congress, fail to act on the Patients' Bill of Rights is another day that Americans are left vulnerable to health care decisions that are made perhaps not by their doctors, as they wish, but by business executives, or by boards, or people at the end of 1–800 numbers. We used to talk about this years ago, and we agreed it was a terrible thing and it had to stop. We were all going to do that, except that we have not. We just haven't.

Every day we don't act, Americans are refused, No. 1, the specialty treatments they need and deserve; No. 2, the ability to use any emergency room.

Imagine that. The Senator from Illinois is here. This Senator remembers being in Chicago a number of years ago, for whatever purpose, and I was told that six emergency rooms in the city of Chicago were closed, and there were relatively few left. That is one of the largest cities in all of America. Emergency rooms are the most expensive form of health care, and they are always the things closed down when business decisions are dominating hospitals.

On the other hand, the only way, having 43 million, 44 million, 45 million uninsured Americans, they can get health insurance is by going to emergency rooms. They have to have that right. It has to be accessible to them, not just somewhere out in the next State, or on the other side of the Mississippi River but accessible so they can get to it.

Third, they have to have the right to appeal the decision of their health care plans. It is a basic right. I will talk more about it.

Fourth, they should have the ability to ensure that medical decisions are made by their doctors, not by a board of executives.

We all know that managed care has changed the way health care is done in this country. We started saying that in the Finance Committee 10 or 12 years ago. The question was, Does managed care save money for 1 year or 2 years? The general consensus was that managed care would save money for about 2 years, then it would come up against a hard wall and people would have to start cutting. That was the general consensus then. It is clearly showing itself to be even more the case now. That is for both delivery and the payment of health care in our country.

Obviously, a lot of problems have been created along the way. Americans are very dissatisfied with the quality of their health care. They make their feelings about that very clear. They don't like their lack of choice. They don't like the indiscriminate nature of insurance company decisionmaking.

Meanwhile, physicians often have, from their point of view —and from my point of view—much too little input into health care decisions, and hence the NPR story this morning. They believe so strongly that they are doing something, which is an anathema, it would seem to me, to any physician. But they are evidently doing this, or they are voting on that as a matter of ''doctor rights,'' or whatever, at the American Medical Association meeting.

I think doctors think they face too much interference from the insurance companies. Patients and doctors alike see health care decisions driven by the financial concerns of something called health plans. What do we have to do? We have to guarantee access to specialty care. I hear it all the time. We all hear it all the time in our homes and wherever we go.

Under managed care plans—most of them, not all of them—the patient's primary care physician may refer a patient to a specialist if they determine that specialty care is necessary. However, things may change, if the specialist is not on the list of the plan.

Then you come to this amazing situation of trying to ask a consumer of health care to understand that they are allowed to go to a specialist, but they cannot because that specialist is not on their plan. Even the much criticized Clinton health care plan allowed that. You could always go outside your HIPAA. You could always go to your specialist, no matter where your specialist was. You could always go to your specialist. Under the present system of health care, you can't do that.

Then somebody from the ''administrative office,'' or some other division, takes over this whole question of whether you can or whether you can't. Suddenly, the patient asks to see a specialist and finds out that the executives in charge are not doctors. They are not medical people. They refuse the right to go see a specialist. They refuse payment for the specialist who in fact was recommended by the patient's original primary care physician. That is wrong.

We must put an end to insurance company ''gag rules.'' That is another point.

Patients need to trust the providers—that they are acting in the best interests of the patients. There cannot be a situation where HMOs preclude doctors from prescribing necessary treatments or making referrals to a specialist in the name of preserving the company's bottom line.

There is a sacred trust between a patient and a doctor. I don't have to elaborate on that. It is Norman Rockwell stuff. In fact, there are many, many. He did many pictures of it. It is the classic American situation—the trust between, the bond between, the patient and the doctor.

For the doctor to be second-guessed by an insurance company bureaucrat just doesn't make sense.

I have listened to literally hundreds of patients and doctors complain that managed care plans are making decisions about care, about what types of procedures are allowed and are not allowed, and this decision just creates a division between the patient and the doctor. The patient is confused. The doctor is angry. It is not right.

Another point: Real access to emergency room care 24 hours a day has to be. It has to be 7 days a week. Wherever they are, it has to be. They cannot be concerned about their insurance company second-guessing their health concerns.

Americans must be able to go to the nearest emergency room without the fear that they will not be able to afford it, and they must be able to receive all necessary care in that facility to take care of their situation.

In the United States of America we have been through this before. We are the only country in the world that doesn't have universal health insurance. If we don't have that, at least let's allow a Patients' Bill of Rights so that people can have—including those who are not insured—certain rights.

Another point: We must let people challenge the decisions made by HMOs

and seek retribution when HMO decisions lead to harm.

Is that radical? No. That is a standard part of American life, except it is more important in a lot of American life because of the actual health and physical safety of a patient. When Americans go to a doctor, they should get the care they need. If they don't get it, they should have the means and the right to address disputes. They should not have to worry about insurance companies cutting that off.

A central element of the Democratic Patients' Bill of Rights is that point—the ability to hold health care plans accountable for the medical decisions that lead to harm.

The Republican plan fails to hold HMOs accountable. Under the Republican plan, the only remedy available when a patient is harmed by an HMO decision is recovery of the actual cost of a denied procedure, even if the patient is already dead or disabled for life.

Make no mistake. If we don't respond quickly and forcefully enough, more and more Americans are going to lose confidence in our system and in us. Already 90 percent of Americans are unhappy with their plan. Shocking, shocking. We can do something about it. I think we have a moral obligation to take up the Patients' Bill of Rights. We certainly have the time because we are not doing a whole lot of other things around here that I can put my hands on. I think it is time that Congress take up and pass these patient protections this year.

I yield the floor.

## EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, in case others come to speak—I don't want to take that time—I ask unanimous consent to extend the time until 5:10, with the time equally divided.

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

## PATIENTS' BILL OF RIGHTS

Mr. WELLSTONE. Mr. President, I thank my colleague from West Virginia.

Let me try to talk about this in a more blunt way, not in a bitter way, but let me be direct about it.

I think it is just outrageous. Mr. President, you are a friend. I hate to have such angry words. But we should be debating. Personally, I wish we were talking about universal health care coverage. The insurance industry took it off the table. They dominate too much of this political process.

I think Senator FEINGOLD and I, before this debate is over, will come out and just talk about the contributions from all the different parties that are affected by this health care legislation. We should be talking about universal health care coverage. But we certainly also should be talking about patient protection.

We have a system where the bottom line is becoming the only line. It is becoming the incorporated and industrialized system.

The Republicans say they have a plan—the Republican ''patient protection plan''—which I think really is an insurance company protection plan. It covers about 48 million people. The people who aren't covered, because of the risk—they can't be covered, because they are in self-insured plans because of what the States do.

Our plan covers 163 million people.

No wonder my colleagues on the other side of the aisle don't want to debate this.

Second point: Who defines ''medical necessity''?

Our plan makes it clear that the providers decide what the care should be for the consumer, for our children, for ourselves, for our loved ones. The Republican plan is not so clear on this question.

No wonder my colleagues don't want to have any debate.

Point of service option: I remember having an amendment in committee when we wrote this bill which at least would let people, if they are willing to pay a little more, be able to purchase care outside of the network, outside of the plan. If they need to go to see a specialist they hear about who would make such a difference and would give them the care they need, or for their loved one, we provide for that. The Republican plan—the insurance-company protection plan—doesn't.

No wonder they don't want to debate this.

Who does the review?

When you want to make an appeal and you say you have been denied the access to the physician you need to see, or your family can't get the care they need, do you have an external review process? Is there an ombudsman program back in our States? Make it grass roots. Do not talk about centralized public policy. Make it happen back in our States. An ombudsman program with external review, somewhere consumers can say: I have been denied the care I need.

The Republican insurance company protection plan doesn't provide for that. Our legislation does. We have a difference, America, between the two parties, that makes a difference in your lives.

With all due respect, I understand why my colleagues on the other side of the aisle don't want to debate. The Senate is supposed to be the world's greatest deliberative body. Our colleagues on the other side of the aisle don't get the right to tell us that we won't be able to bring amendments to the floor, we won't be able to have a full-scale discussion, and we won't be able to have a thorough debate.

I can't wait for this debate. I introduced the patient protection bill 5 years ago, half a decade ago. This will be a great debate. I think the country will love this debate. The people in Minnesota and the people in our different States will say they are talking about a set of issues that are important to their lives.

The pendulum has swung too far in the direction of the big insurance companies that own and control most of the managed care plans in our country. Consumers want to know where they fit in. Ordinary citizens want to know where they fit in. The caregivers, the doctors and the nurses, want to know where they fit in. When they went to nursing school and when they went to medical school, they thought they would be able to make the decisions and provide people with care. Now they find they can't even practice the kind of medicine that they imagined they would practice when they were in medical school.

Demoralized caregivers are not good caregivers. We have demoralized doctors and nurses; we have consumers who are denied access to care they need; we have corporatized, bureacratized bottom-line medicine, dominated by the insurance industry in this country.

We have a piece of legislation to at least provide patients with some protection and caregivers with some protection, and our Republican colleagues don't want to debate this. I am not surprised. I am not surprised.

On the other hand, you can't have it all ways. We wrote this bill in the Health, Education, Labor and Pension Committee. We had a pretty good markup where we sat down, wrote the bill, and had pretty good debate. I was disappointed that a lot of important amendments protecting consumers were defeated on a straight party vote.

Now it is time to bring this legislation to the floor. As a Senator from Minnesota, I say to Senator DASCHLE that I absolutely support what he is doing. I absolutely support what we are doing as Democrats. In fact, I am particularly proud right now to be a Democrat because I always feel a lot better when we are talking about issues that make a real difference to people's lives.

As far as I can tell, most of the people in our country are still focused on how to earn a decent living, how to give their children the care they need and deserve, how to do good by our kids, to do good by our State and country, how to not fall through the cracks on decent health care coverage, how to make sure we have affordable, dignified, germane, good health care for our citizens.

This doesn't even get us all the way there. It seems to me the Senate, by bringing this bill to the floor, by having the opportunity to offer amendments and having the debate, can do something very positive. We can do something to make an enormous difference in the lives of people we represent.

The Democrats aren't going to let up. We are going to keep bringing our

amendments to the floor. We are going to keep talking about health care policy. We are going to keep talking about consumer protection and patient protection. We are going to keep talking about how to make sure the people we represent get a fair shake in this health care system. We are going to keep saying that it is not our responsibility to be Senators representing the insurance companies; we are supposed to be representing the vast majority of people who live in our States. That is what we are going to do, as long as it takes.

I am ready for this debate. I am ready. Let's start it now.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, just a footnote. Altogether, we had 16 Democrats come to the floor to speak about the importance of patient protection and we have had two Republicans.

In one way I am not surprised because I don't think my colleagues have a defensible case. They don't want to bring this motion to the floor. They don't want to have a debate. They don't want to vote on the amendments. But that is what it is all about.

We are not here to dodge; we are not here not to make difficult decisions. We are not here to not be willing to debate legislation that is important to people's lives.

I say to the majority leader and my colleagues on the other side, it is true; we will have amendments. I have some great amendments in my-not-so-humble opinion. Others may have a different view.

The point is, that is what it is about. Bring the amendments to the floor. As Democrats, we will discuss what we believe, we will talk about the legislation and the amendments we have that we think will lead to the best protection for people we represent in our States. And Republicans will come out and they can talk about why they think these amendments are a profound mistake and why their amendments will do better. They can talk about their legislation and we can talk about our legislation. Maybe we will have plenty of compromise and maybe we will come up with a great bipartisan bill. Who is to say?

Right now, all we have on the other side is silence, an unwillingness to debate this issue. If I didn't think I was taking advantage of the situation, part of me is tempted to keep talking and asking Members to come on out and debate. I won't. I think I made my point about 20 different times in 20 different ways.

Since the Senator from Alabama is presiding, I do want to say this for people who are watching: The Senator from Alabama can't debate because he is the Presiding Officer. He would. I know him well enough.

I say to Senator SESSIONS, we will get a chance, and all the rest of the Senate will have a chance, to come out and debate patient protection legislation. Let's have a good, substantive, serious debate. I know the Senator from Alabama loves a debate and he is good at it. So are many other Senators. It will not be debate for the sake of debate. It will not be fun and games. It will be a very serious issue.

Honest to gosh, I came here as a Senator from Minnesota to do good for people in my State. I can't do good for people in my State when I have a majority party that wants to block patient protection legislation. I didn't come here to represent the insurance industry. I didn't come here to represent the pharmaceutical industry. I came here to represent people in Minnesota.

I want us to debate this legislation. I certainly hope Republican colleagues will come out here and we will get going on this. Otherwise, for as long as it takes, I think we are committed to using every bit of leverage we have to force a debate on this question.

Mr. President, if there are other colleagues on the floor, and it looks as if maybe there are, I will yield the floor. I see my colleague from Tennessee. I say to my colleague from Tennessee, I am delighted he is out here. I hope this is the beginning of a discussion. Then we will have this legislation on the floor soon. Let's have the debate. Let's pass good legislation that will help people in our States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

## EXTENSION OF MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that morning business be extended to 5:30, as under the previous agreement.

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

Mr. FRIST. Mr. President, I rise in part to respond to much of the discussion that has gone on this afternoon. But really, I think more important, to put in perspective where we are today with this issue of the Patients' Bill of Rights and what we can do as a legislative body to address some very real problems, very real challenges that face the health care system, that face individuals, that face patients, and face potential patients as they travel through a health care structure that in some ways is very confusing, in some ways is conflicting but underneath provides the very best care of anyplace in the world.

Many of the challenges we face today are a product of an evolving health care system where we have Medicare, which treats about 39 million seniors and individuals with disabilities. We have real challenges in Medicare because it is a government-run program that is going bankrupt. It is a program that has a wonderful, over 30-year history of treating seniors, people over the age of 65, and individuals with disabilities. These are people who probably could not get care anywhere near the degree of quality they can get today. Yet we have huge problems and we have tried to address them through a Medicare Commission. Unfortunately, even though we had a majority of votes supporting a proposal there called Premium Support, the President of the United States felt he could not support that proposal and thus, right before the final vote, pulled back and said I will provide a solution to Medicare in the next several weeks.

To date we have not heard from the President of the United States. Yet we have a program with 39 million people in it going bankrupt. It is going bankrupt in—now the year is 2014. That is about 39 million people. About 30 million people are in Medicaid. That is another government-run program, the joint Federal-State program, funded principally, almost half and half, by Federal and State but run by the States. That is directed at the indigent population, principally. There are just over 30 million people in it. It is a program that I think also has been very effective.

As a physician in Tennessee, I had the opportunity, the blessed opportunity of taking care of hundreds and hundreds and hundreds of Medicaid patients. But also, as you talk about States in the Medicaid program, there is a lot of discussion of how we can improve it, how we can improve quality. That discussion needs to continue. It is going on in every courthouse in every State, every legislative body, every Governor's office, every community townhall right now.

Then we have the third area, the nongovernmental area, where this whole Patients' Bill of Rights issue is one we must address.

I should say, because we have heard so much to the contrary, we have a bill, the Republican bill. It is called the Patients' Bill of Rights Plus. That was introduced in the last Congress. That was talked about along with the Kennedy-Daschle bill from last year. Both of those bills were brought into Congress. It was the Republican bill which was what we call ''marked up.'' That means it was taken to the Committee on Health, Education, Labor and Pensions, the Health Committee, the appropriate committee. In that committee, it was debated; it was talked about. We probably had, I don't know—we started with about 40 amendments in that committee about 3 or 4 months ago on the Patients' Bill of Rights Plus. They were debated. We had some good debate. Some things we did not debate and they need to be taken forward and further discussed.

Mr. WELLSTONE. Will the Senator yield for a question?

Mr. FRIST. No, I will not. For the last 2 hours I really had not had an opportunity to talk. If I can just finish my remarks?

Mr. WELLSTONE. I thought the Senator would yield for a question.

Mr. FRIST. The issue is have we been able to debate or talk about or discuss this. Let's remember through the appropriate senatorial committee process we have debated this very bill. We have debated such things as consumer protection standards. We have debated specialty care, access to specialists, continuity of care, emergency care, choice of plans, access to medication, access to specialists, grievance and appeals. These were introduced and we talked about discrimination by insurance companies using genetic information, medical savings accounts. These are all issues that have been debated.

I, for one, as a physician, as a United States Senator, as a chairman of the Subcommittee on Public Health, and as a member of the Health, Education, Labor, and Pensions Committee, have been involved in those debates and in those discussions. So when we have people coming to the floor again and again with so much rhetoric and so much fire saying those bad Republicans out there really just do not care, do not want to talk about it, do not want a debate, do not want to study the issues—let me just say that is absolutely false. It is absolutely false. The American people need to know that. I think the sort of rhetoric we have heard this afternoon and over the last several days is clearly political points they want made.

I would like us to come back and continue the debate, the important debate on the issue of this nongovernmental sector, to make sure we consider that individual patient. Again, I have had the opportunity to treat thousands, probably tens of thousands, of these patients. Those issues need to be addressed, but I think they need to be addressed in a more mature, more sophisticated, more thoughtful way. And we have done just that. The Republican leadership bill is a bill that has been debated in committee. It has been discussed. It is called the Patients' Bill of Rights Plus Act. It basically has six components to address this whole issue of health care and Patients' Bill of Rights and a few other things.

One is strong consumer protection standards. No, it does not include everybody. Why does it not just include everybody? Because about half, a little over half of those people are already protected under State law. The States are doing a good job. I guess people can bash the States and say the States don't care, the Governors don't care, State legislatures don't care, but I think they do care. We do not have any great ownership of concern in this body, being the only ones who care. Our Governors do care and they have made great strides.

So when it comes to emergency care, prohibition of gag clauses, continuity of care, access to obstetricians and gynecologists and pediatricians, access to specialists—such as me, as a heart surgeon—access to medications, consumer protections, we say let's apply those to the unprotected, the people who are not protected now by State law. That is about 48 million people.

We address issue No. 2, of comparative information. It is very confusing today. It is confusing because we had this evolution of managed care, which is a new concept. Mr. President, 15 or 20 years ago there was no such thing as managed care. Yet right now, 80 percent of all care delivered is through managed care through networks and through coordinated care. But nobody has the answer yet. We are not smart enough to know exactly what is the best way to manage that care.

Some people think all managed care is a staff model health maintenance organization, and there is a lot of anger by the American people against health maintenance organizations. But let me at least introduce the concept that coordinated care, or organized delivery of care so there is an appropriate input of resources, has a very good outcome today. That is because of the great dynamism of our health care system. Because this is America, because we encourage innovative thought and creativity, we are still searching for the model, and we are probably not going to come up with a one-size-fits-all cookie-cutter model. We will probably come up with a range of ways in which that coordinated care can be delivered.

As we go through that process, it is very confusing to the consumer, to the patient, to the individual, what is the best plan. Is it a particular HMO? Is it a point-of-service plan? Is it a provider-sponsored organization?

In the Patients' Bill of Rights Plus Act, we address that. Basically, we say comparative information about health insurance coverage, not just for 48 million people but for all 124 million Americans covered by self-insured plans and fully insured group plans, must be made available. That comparative information is important, because that is the only way an individual can really know whether plan A or plan B or HMO A or managed care C or fee for service is best for them.

Internal and external appeal rights: This is the third component of the Patients' Bill of Rights Plus Act. Again, it is a very important aspect, because it says let's fix the system, instead of what some of the other proposals have introduced, which is let's put lawyers and trial lawyers in there and let's threaten to sue and that is going to change the system.

What we say is, let's fix the system. An example is, if as a member of a health care plan I have a question on coverage and I think a particular procedure should be covered, yet there is some question about it, I can go to a person in that plan and say: Is this covered or not? They will say yes or no. If I disagree, I can contest that, and there is an internal appeals process where that questioning can be taken care of in a timely fashion.

Our bill says, if that is the case in this internal appeals process and you still disagree, you do not have to stop there; there are options, and that is the so-called external appeals process.

The external appeals process is set up in our Patients' Bill of Rights Plus Act to be independent, to be outside the plan—that is why it is called external appeals—to be a physician or a medical specialist reviewing that coverage decision in the exact same field where the coverage decision is in question.

Internal appeals, external appeals. Let's say you have gone through the internal appeals process and the external appeals process, and a decision is made by that independent medical reviewer that the individual patient is right and the health care plan is wrong. That decision in our plan is binding, and therefore you have to receive coverage under that plan.

I walked through that because it is an important part of the Patients' Bill of Rights Plus Act and because that is the component which fixes the system. It fixes the system instead of having this threat of lawsuits trying to put a system back into place but with no guarantee.

A fourth component of the Patients' Bill of Rights Plus Act that has been talked about, that passed out of the Committee on Health, Education, Labor, and Pensions and has been sent to the floor, is a ban on the use of predictive genetic information. This particular aspect of the bill does apply to 140 million Americans who are covered by self-insured and fully insured group health plans, as well as the individual plans. I say 140 million people. I talked about the 39 million people in Medicare and over 30 million people in Medicaid, and for the nongovernmental aspect, the ban on the use of predictive genetic information applies to all 140 million people.

Why is that important? That is in the Republican bill. It is not in the Kennedy bill. I believe it is an important aspect, because what it recognizes is that technology is changing, new tests are being introduced almost daily with a genetic basis, in large part because of the Human Genome Project which has introduced about 2 billion bits of information that we simply did not know 4 or 5 years ago and because of the investments the Federal Government had made in medical science.

The real problem is, with all of this new testing coming on board, there is the potential for an insurance company to discriminate against a patient, either to raise premiums or to basically say, ''We are not going to cover you.'' Therefore, in this Patients' Bill of Rights Plus Act, we put a ban on the use of predictive genetic information, which is a very important part of this bill.

A fifth area that is in our bill, that has passed through the Committee on Health, Education, Labor, and Pensions under Senator JEFFORDS' leadership, is a real quality focus. The impression is, we know what good quality of care is and we know what bad quality of care is. All of us, after we see a doctor, like to think we have good quality of care. For the most part, the quality of care in our country is very high. In truth, how we measure quality of care in this country as a science is in its infancy. We are just learning about it. When I was in medical school, there was no such field as outcomes research, what is the outcome after a particular procedure.

Mr. President, the Patients' Bill of Rights Plus Act, as we have heard, has been debated in the Health, Education, Labor, and Pensions Committee and passed successfully by a majority of members and sent to the Senate. It is a bill that has really six different components.

It addresses, I believe, the fundamental challenge that we have; that is, to improve the quality of health care, real quality of health care for individuals; to improve access to health care, something that I believe is very important. The Kennedy bill does the opposite. Instead of improving access, diminishing the number of uninsured, his bill does just the opposite. It drives people to the ranks of the uninsured, increasing the number of uninsured people today by as many as a million. Nobody has refuted that.

The third very important part of the Patients' Bill of Rights Plus Act that passed through the Health, Education, Labor, and Pensions Committee successfully is that of consumer protections. Again, I keep hearing that the Patients' Bill of Rights Plus Act does not do this for specialists, does not do this for emergency care, does not offer true point of service, and does not offer true continuity of care. I have to take a few minutes and run through it.

Emergency care: Under our bill, plans will be required to use the so-called ''prudent layperson'' standard for providing in-network and out-of-network emergency screening exams and stabilization. This prudent layperson standard simply means, if you are in a restaurant and somebody begins choking, that makes sense as an emergency service. If you think you are having a heart attack and it may be indigestion, or it may be a heart attack and you go to the emergency room and you find it is indigestion, the initial screening exams and stabilization would be taken care of. That is a very important component of our bill.

No. 2, we have heard about pediatricians, obstetricians, gynecologists. Under our bill, health plans would be required to allow direct access to obstetricians, to gynecologists, and to pediatricians for routine care without gatekeepers, without referrals.

Why is that the case? The reasons are obvious. The pediatricians, obstetricians, and gynecologists are in the business of doing what we call in the medical field ''primary care.'' You don't need a gatekeeper. You shouldn't have a gatekeeper. No managed care company, I believe, should require a gatekeeper in terms of access for obstetricians, gynecologists, and pediatricians for routine care.

Thirdly, this issue of continuity of care: I have heard it again and again. In our bill, the Patients' Bill of Rights Plus Act, plans who terminate physicians or do not renew physicians from their networks would allow continued use of that physician, of that provider, at the exact same payment or cost-sharing arrangement as before in the plan for up to 90 days. If the enrollee is receiving any type of institutional care or is terminally ill, or if they happened to be pregnant and there is termination or nonrenewal of your physician with that plan, you would be covered through the pregnancy through that postpartum care. That gives security to the patients. That is why it is important to have this very important consumer protection standard.

Access to specialists: I have heard all day long and over the last several days that the Republican bill doesn't give you access to specialists. Let me tell you what it does. Health plans would be required, under our bill, to ensure that patients have access to covered specialty care to a heart surgeon, to a pulmonologist, to an arthritis specialist within the network or, if necessary, through contractual arrangements outside of the network with specialists. It is in the bill.

People say it is not in the bill. It is in the bill. What more can one say. That is why it is important to get rid of the rhetoric and go to the heart of the matter—how we improve quality of health care and access to health care, and put strong consumer protections in so that the patients can work with the health care plan to not sue somebody, not empower trial lawyers, not to have angry, rhetorical sort of comments but to improve health care, the quality of health care.

This access to specialists, again, the other side seems to ignore what is in the bill. I know they probably haven't had a chance yet to read the bill, even though it has gone through the Health, Education, Labor, and Pensions Committee. It has been debated. Scores of amendments were introduced there. Well over a dozen, I know, were debated and voted upon.

In this access to specialists component, if the plan, under our bill, requires authorization by a primary care provider, it must provide for an adequate number of referrals to that specialist—I think that is an important component—not just one referral where you have to go back to a gatekeeper, back and forth, but if you are going to have treatment by a specialist, that an adequate number of referrals are made.

Choice of plans: How many times have we heard: Our plan provides real choice and that Republican plan doesn't provide choice?

Let me tell you what our plan does. Plans that offer network-only plans would be—I use the word ''required'' again—required to offer enrollees the option to purchase real point-of-service coverage. And there can be an exemption for the small employer out there. Other health plans could potentially be exempt if they offered two or more options.

People may say, why would you exempt somebody from offering a point-of-service plan if they have two other health care plans? The reality is, if you offer health care plan A and plan B, and they are different providers, with different physicians and different nurses in plan A than there are in plan B, then you do have a choice among plans. Therefore, you don't have to require a very specific out-of-network, point-of-service option.

This whole consumer protection field is an important component, and this was actually improved in what we call markup in the Health, Education, Labor, and Pensions Committee—access to medications, to make sure if you are in a health care plan that offers certain coverage, you have access to the appropriate medicines.

What is in our plan is as follows:

Health plans that do provide prescription drugs through a formulary would be required to ensure the participation of people who understand clinical care—physicians and pharmacists—in developing and reviewing that formulary.

That is important. As a physician, you don't want bureaucrats putting formularies together, but people who understand clinical care. Therefore, that bill was improved to say that physicians and pharmacists must be involved.

In addition, in our bill, plans would also be required to provide for exceptions from the formulary limitation when a nonformulary alternative is medically necessary and appropriate. I think that is an important part of the bill because, as you can imagine, in a formulary you can't predict and put on every single medicine for every single disease. Therefore, there must be enough flexibility to give alternatives if what is in that formulary is not—I use these words because it is in the bill—medically necessary and appropriate.

These are just some of the consumer protections that are part of the bill. I think it is important to stress those. Others that are in the bill include issues surrounding behavioral health, issues surrounding gag clauses. Again, it is inexcusable that a managed care company would come forward to a physician and say: Physician, for you to be a member of our HMO or our managed care, you cannot and should not discuss the full range of alternatives of treatment and care with the patient. That has to be prohibited.

In our bill, in terms of gag rules, plans would be prohibited from including any type of gag rules in doctor contracts, physician contracts, provider contracts, or restricting providers from communicating with patients about treatment options. No more gag rules.

The Patients' Bill of Rights Plus Act is a piece of legislation that we have all worked very hard on over the last year, year and a half. It has gone through the process that has been set up in terms of debate and in terms of improving the bill in the Health, Education, Labor, and Pensions Committee. It is a bill that I look forward to having on the floor so we can debate it and improve it over time, and make sure that we have a real balance between the rights of a patient versus the rights of managed care.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator's time has expired.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleague from Tennessee, if my colleague believes this legislation the Republicans introduced in committee—and I am on the same committee—is such a great piece of legislation protecting patients' rights, then what in the world is the delay in bringing it before this body?

Again, what I am saying is self-evident. If my colleagues on the Republican side think this is such good legislation, why the delay? Why the delay and the delay?

The only reason we are fighting it out on an ag appropriations bill is that we want to make it crystal clear we are here to represent the people in our States. This piece of legislation which my colleague from Tennessee has talked about—I was in the markup on that bill, which is when we write a bill in committee—has holes like Swiss cheese. No wonder they do not want to bring this bill to the floor.

They have about a third of the people covered. I will start out with the question of who is covered and who is not covered. Their bill covers 48 million people. The Democratic bill covers 163 million people.

My colleague says it is the States. Why should a child or a family in one State, i.e. like Mississippi, not have any protection because he or she lives in Mississippi but have protection in Minnesota or Wisconsin? Does that make any sense? Why should a small businessperson in Mississippi or a farmer in Mississippi not have any coverage whatsoever but have some kind of protection in Wisconsin or Minnesota?

I would love to have that debate. I would love to have my Republican colleagues talk about why they only want to cover about a third of the people in the country.

I would love for them to defend the proposition that many families will receive no protection whatsoever, vis-a-vis these large insurance companies that practice this bottom-line medicine which basically say, when people want access to specialists they need, specialists for their children, specialists for women, they are not going to have access and there is not going to be any protection for them, because they do not live in the right State. Let's debate that.

There are 200 consumer, patient, and provider organizations that support the Democratic Patients' Bill of Rights legislation; not any that I can identify, except for the insurance industry, that support the Republican plan.

Surely these consumer organizations and the providers, the caregivers, know something about this topic. Surely they have a position that is important. But I do not see any support for this Republican plan.

The Democratic plan protects all patients with private insurance; the Republican plan, no.

The Democratic plan holds these health insurance plans accountable; the Republican plan, no.

In the Democratic plan, we make sure that the physicians, the doctors, the nurses, define ''medical necessity.'' We do not have the insurance industry's managed care plans dominate—unlike the Republican plan.

In the Democratic plan, we do have a real point-of-service option where people are given a choice. It drives people crazy when their employer shifts plans and all of a sudden—they had been taking their child to a family doctor—they can no longer take that child to that doctor. Does the Republican plan assure they will be able to do so? No.

When are we going to make sure that consumers really do have some due process? I heard my colleague from Tennessee talk about an internal appeals process. That is within the managed care plans, most of which are dominated, owned, by these large insurance companies.

We are talking about a strong external appeals process. I say to my colleague from Wisconsin, we are talking about somewhere that a consumer can go and make an appeal. We are talking about an ombudsman program where you have an office, you have a telephone number, you have advocates to call. Do my Republican colleagues want to do this? No.

Specialists who can coordinate care. Your child needs to see a pediatrician who specializes in oncology because your child is struggling with cancer. Do we make sure you have access to that specialist? Yes. Does the Republican plan make sure that you—a family in Minnesota or Michigan—have access to that specialist you so desperately need for your child? No.

My colleagues come out on the floor—again, with the Senator from Tennessee that makes four Republicans who have been out here today—16 Democrats. They can come out, and they can give a speech and say: Well, we have a bill, and it's a very good bill. But you know what. If it is such a good bill, bring it out to the floor. If you have such a good proposal, bring it out to the floor. Let's debate this. We have had enough delay. That is all we have had—delay, delay, delay.

Emergency room access is really important. I heard my colleague talk about that. But I say to the American people, Minnesotans, when you get a chance to carefully examine the ''Republican Insurance Company Protection Act''—that is what I call it—you will find out there is a little bit of protection for emergency room access but it is not really strong. Our plan does not equivocate at all. We make sure you have that access. We make sure it is covered. You get to keep your doctor throughout treatment. The Republican plan gives you a little bit of protection. We think you should have complete protection.

I tell you, this has gone on long enough. My challenge to my Republican colleagues is, if you think your plan is so good—and I certainly believe you operate in good faith; you have to believe it is a good plan or why would you write it—then bring it out here. We have to have the debate. We have amendments. We are committed to making sure there is good patient protection legislation passed by this Senate. We are ready for the debate.

We would love to debate a plan that covers only one-third of the Americans in our country. We would love to debate a plan that does not assure a family with a child who is gravely ill that that child will have access to the best care available, to the best care that is there. We would love to debate that plan. We would love to debate a plan that does not provide consumers with a real choice to be able to go out and get the very best care they need for their loved ones. We would love to debate a plan that does not give consumers the right to really challenge some of these bean counters, some of these managed care plans owned by these large insurance industries. We would love to debate the ''Republican Insurance Company Protection Plan'' versus our patient protection plan.

But, again, I am on the floor, and now another speech has been given; but I have nobody to debate. I asked if anyone wanted to yield for questions. They do not want to yield for questions. Let's debate this. It will not be a bitter debate. It will not be a debate with hatred. But you know what. It is going to be serious. It is a pretty important question for families in our country. It is pretty important to people.

In case anybody has not noticed—I imagine every Senator has; all you have to do is spend 1 minute in your State—people are really getting fed up with this. They do not much like the way in which the insurance industry dominates health care. They do not much like the fact that they believe they have just been left out of the loop. You know what else. The caregivers—the doctors and nurses—feel the same way.

It is time that we pass legislation with teeth. The Republican plan, the

''Insurance Company Protection Plan,'' pretends that it is a patient protection act. It is full of loopholes. It is Swiss cheese legislation. It is hard to defend it.

I can understand why my colleagues do not want to defend it. I can understand why they do not want to debate. I can understand why they have blocked our efforts, so far, to bring patient protection legislation to the floor. But I am telling you something: People in the country are demanding that we pass this legislation.

We are on a mission. The Democrats are on a mission. We are going to bring these amendments to the floor. We are going to insist there be a good, strong, honest debate; and we are going to do well by the people we represent.

I would be pleased to debate anybody, but in the absence of anyone to debate, I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to speak for just a few minutes.

What is the status of business in the Senate?

The PRESIDING OFFICER. The Senator from New Mexico should be informed we are in morning business and there are 4 minutes remaining under the control of the Democratic side.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Robert Mendoza, a fellow in my office, be granted floor privileges during my remarks.

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

Mr. BINGAMAN. I would like to use those 4 minutes to say a few things about the Patients' Bill of Rights and the importance of the issue to a great many people in my State and around the country.

I think it is clear, from surveys I have seen, the American people want reform of this system of managed care and health maintenance organizations. There are a great many instances that have been called to our attention in our home States. I have heard of them in New Mexico, where people think the quality of care and the adequacy of care they are being provided with is not what it should be.

Without passage of some type of meaningful managed care reform, critical health care services will continue to be denied to many of the people we represent. One of the issues I believe is very important is what is referred to as provider nondiscrimination. We need a managed care health system that does not permit health plans to leave out nonphysician providers. I am talking about groups of health care providers such as nurse practitioners, psychologists, nurse midwives, leaving those people out of the network so that patients of these health maintenance organizations, customers of these health maintenance organizations are denied the ability to obtain their health care from those types of individuals.

In New Mexico, this is a critical concern. We have a shortage of physicians in our State. It is, in many parts of our State, very difficult to get health care, if you are required by your HMO to obtain that health care through a physician.

What we would like to do as part of the bill, which we hope to get to vote on in the next week or so, is to ensure that health maintenance organizations, where these people are qualified and certified, permit nonphysician health care providers to participate in these networks.

This is a critical concern in my State. I am sure it is a critical concern in many States.

Another issue that clearly needs to be addressed here is access to specialists. That is an issue I know came up when we had the debate in the Health and Education Committee. An amendment was offered to correct that. I believe Senator HARKIN offered that amendment; it was not successful. I believe it is a very important issue that needs to be revisited on the Senate floor.

There are many people who need the care of a specialist. Whether it is a pediatrician, whether it is an oncologist, whatever the specialty is, those people should not have to go through a family practitioner prior to going to that specialist. We would try to correct that in the legislation as well.

There are many other concerns we have with the bill that came out of the Health and Education Committee. I hope very much we get a full debate in the Senate on the deficiencies of that bill. I hope we get a chance to amend that bill.

The American people have been anxious to see reform in this area now for two Congresses that I am aware of. I think for us to continue to delay and put off and evade this issue is not the responsible course for us to follow. Our constituents, the people we represent in our States, expect better of us.

The people I represent in New Mexico expect me to do something about these very real problems they believe exist. In New Mexico, under the Republican bill that was reported out of the Health and Education Committee, there are almost 700,000 people who will not have substantive protections. In my State, there are 350,000 people who will not be covered at all if we pass the bill that came out of committee.

Mr. President, I see my time is up. I appreciate the opportunity to make comments, and I yield the floor.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

## EXTENSION OF MORNING BUSINESS

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent to extend morning business for 15 minutes under the previous conditions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## CHANGE OF VOTE

Mr. SMITH of New Hampshire. Mr. President, yesterday on vote No. 180, which was the State Department authorization bill, in that legislation was $819 million in U.N. back payments that the United States would pay to the U.N. In addition, there was $107 million the U.N. owed to the United States that was forgiven.

I was unaware that those provisions were in the legislation, and I voted yea. Had I been aware of this, I would have voted nay.

Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SMITH of New Hampshire. I yield the floor.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1271 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

## MILITARY CHANGE OF COMMANDS

Mr. ALLARD. Mr. President, in the June edition of Leatherneck magazine, the Commandant of the Marine Corps, Gen. Charles Krulak, quotes his father as saying: ''The American people believe that Marines are downright good for the country.''

Mr. President, I agree with the Commandant's father. And I am pleased General Krulak also holds that well founded opinion. The U.S. Marine Corps is collectively good for this country, and the services of individual marines such as General Krulak are a big part of that positive contribution made by the corps.

Unfortunately, the title of the article in which General Krulak quoted his father was ''A farewell to the Corps.'' General Krulak will be retiring after 4 years from his position as Commandant at the end of this month.

I would like to thank him for his service and efforts on behalf of his corps and his nation.

Although I have been on the Armed Services Committee a short 6 months, I

have had several good experiences with the Commandant.

I think the most notable was in May of this year, when a large group of my constituents were taking a tour of the Pentagon, and the Commandant invited them into his office. He said then that he usually tries to do something similar—bring tourists into his personal office—everyday. I do not think Krulak was fully aware of what he was getting himself into, but all 50 or so crowded their way into his office, and listened while he spoke about the corps, the moving of his office down from the 'barbed wire surrounded hill of the Naval Annex' to the corridors of the Pentagon, and the corps' efforts and ability to turn young men and women into marines.

Let me tell you, they were impressed. They were impressed with his position, they were impressed with his efforts, they were impressed with his commitment, and they were impressed with the man.

I have also had correspondence with General Krulak relating to our work on S. 4, and for the process of preparing the defense authorization. He consistently strikes me as a man who is well aware of the challenges his position holds, and works to meet them.

He has been straightforward and dependable. Hearing testimony from him at committee hearings is always a pleasure. He does not rattle off bland platitudes. I felt that I could always rely on his opinion to be the truest possible interpretation of the situation, and one that held the best interests of the country at the foremost.

Mr. President, let me end by repeating: General Krulak has been fundamentally good for this country. I wish him well in whatever new course he sets for himself.

Also, I would like to welcome Gen. James Jones into his role as the 32d Commandant of the Marine Corps. I have met with him only very briefly, but I look forward to working with him. I am sure he will follow in the able footsteps of all the past U.S. Marine Corps Commandants, and serve the Marines and America admirably.

## COOPERATIVE THREAT REDUCTION AGREEMENT EXTENSION

Mr. BINGAMAN. Mr. President. I take the opportunity today to call to the attention of Members of the Senate and to the American people a very important event that took place last week but was not widely publicized. On Wednesday, June 16, representatives from the Department of Defense and Russia's Ambassador to the United States, Mr. Yuri Ushakov, signed an agreement extending the Cooperative Threat Reduction (CTR) program sponsored in 1991 by our distinguished colleagues, Senator Sam Nunn and Senator RICHARD LUGAR. The agreement signed last week extends the Nunn-Lugar threat reduction programs for 7 years until 2006. That extension will build upon the critical work already accomplished that has reduced Russia's military threat to the United States and our allies more effectively than any other measures undertaken since the end of the Cold War. In the context of these uncertain times and Russia's uncertain future, the investments made through Cooperative Threat Reduction programs promise to yield dividends that are essential to long-term peace and stability throughout the world.

Indeed, the accomplishments of CTR are a more cost effective means to enhancing national security than any I know. Between 1992 and 1999, the Nunn-Lugar programs have eliminated the potential for nuclear threats from former members of the Soviet Union including Kazakhstan, Ukraine, Belarus, and Uzbekistan. For $2.7 billion that the United States has spent on CTR since 1992, a bit more than the cost of a single B–2 bomber, there are now 1,538 fewer nuclear warheads available for use against the U.S. or our allies. The Russians have eliminated 50 missile silos and 254 intercontinental ballistic missiles. In addition, we are in the process of dismantling some 30 strategic ballistic missile submarines that formerly threatened the United States from deep ocean sites. So far, U.S. and Russian teams have dismantled 148 missile launch tubes on those submarines and 30 sea-launched ballistic missiles. CTR programs have eliminated more than 40 Russian strategic bombers that used to be within hours of American military and civilian targets. Collectively, those actions under CTR have ensured that Russia has met and continues to meet its treaty obligations under the Strategic Arms Reduction Treaty, START. More important, they have significantly cut back on the potential threat posed by those weapons to the United States, our allies, and our worldwide security interests.

The Cooperative Threat Reduction program extends beyond the elimination of nuclear weapons and their means of delivery. Funds for this program are allocated to ensure the safe transportation, storage, security, accounting, and monitoring of strategic and tactical nuclear weapons scheduled for destruction and for weapons grade nuclear materials from weapons that have been dismantled. I have visited Russia and personally observed implementation of the Department of Energy's Materials Protection, Control, and Accounting program which enhances day-to-day security at dozens of nuclear sites across Russia. I remain deeply concerned that without that assistance, the possibility of smuggling nuclear materials into the wrong hands is a serious possibility that could threaten the entire world.

Looking toward the future, funds from CTR are helping to convert Russia's reactors that produce plutonium to eliminate that capability. Ultimately, the cutoff of production of fissile materials is the tool by which we can help prevent the proliferation of nuclear materials from becoming an even greater problem than it is today. Conversion of Russia's nuclear production capability is a key part of addressing that problem.

The Cooperative Threat Reduction program also assists the Russians in meeting obligations assumed under the Chemical Weapons Convention we ratified in the Senate two years ago. Under this program, the United States has assisted Russia in planning the construction of a chemical weapons destruction facility needed to destroy the large volume of aging chemical munitions in their inventory. Funds are essential to keep this program moving forward in order to ensure that we can reduce the threat of proliferation of chemical weapons and their use against our security interests. I am aware that some in the Congress believe that Russia has not shouldered its responsibilities under this and other CTR programs, but I prefer to consider such matters from our own selfish security point of view. To the extent that we are able to purchase or finance reductions to Russian military capabilities that directly threaten us, those are funds well spent. When Russians are able and agree to provide funding or support in kind for CTR programs, so much the better.

I would like to point out an additional benefit to the Nunn-Lugar programs that is not often recognized or understood. I am certain that the Members of this body can recall the perceptions shared by many Americans concerning the government and people of the Soviet Union during the Cold War. I need not remind us of the unbridgeable gap that existed between our governments, our political systems, and our cultures. In the wake of the Cold War, however, many of those gaps have been bridged and important bonds have been forged between our two countries and citizens. Thousands of American and Russian technical and support personnel have built a foundation of trust and understanding through their cooperative efforts under the CTR program. I firmly believe that those bonds will pay dividends and serve the long-term interests of peaceful relations between our two countries—particularly if we in the United States continue to hold the course in supporting CTR and other cooperative programs such as the Initiative for Proliferation Prevention, the Nuclear Cities Initiative, and the Russian American Cooperative Satellite program. Key Russian personnel in implementing those programs have come to know Americans with whom they frequently meet and vice versa. I have spoken personally with many Russians and Americans who are directly involved in these programs all of whom share the same conviction that cooperation is the key to a peaceful future.

These are very uncertain times. We are at a crucial juncture in our relations with Russia that could determine

the direction of the global political climate for many years to come. No one is certain what the future of Russia will bring once President Yeltsin leaves office. Everyone is aware that a deep reservoir of distrust and fear exists among Russian citizens, officials, and military personnel concerning the United States and NATO. We have done much in the past couple of years to feed those fears and anxieties, thereby generating hostility that could threaten to reawaken Cold War tensions. On the other hand, we have established critical relationships that could weigh against such a reprise through programs such as CTR. The impending post-Yeltsin debate within Russia regarding its future direction must include the voice of cooperation rather than confrontation as the way to peace and stability. The Cooperative Threat Reduction program has built a constituency in Russia to articulate that voice. I salute its sponsors, Senators Nunn and LUGAR for their visionary contribution, and celebrate its extension into the next millennium. I strongly encourage my colleagues to continue to support CTR and related programs through the ebbs and flows of U.S.-Russian relations. The prospects for long term global peace and stability will be the better for it.

## SENATE INACTION ON THE COMPREHENSIVE NUCLEAR TEST BAN TREATY

Mr. DORGAN. Mr. President, it is the responsibility of the Senate Foreign Relations Committee to consider treaties submitted by the President as soon as possible after their submission. Normally, most treaties are considered within a year of being submitted. The President of the United States transmitted the Comprehensive Nuclear Test Ban Treaty to the Senate on September 23, 1997.

The Senate Foreign Relations Committee has not held a single hearing on this important Treaty in the 639 days since the President sent the CTBT to the Senate for its consideration. In comparison, the START I Treaty was ratified in 11 months, the SALT I Treaty in 3 months, the Conventional Armed Forces in Europe Treaty in 4 months, and the Limited Nuclear Test Ban Treaty in 3 weeks.

As of today, 152 countries have signed the CTBT, including Russia and China, and 37 countries have ratified the Treaty. The world is waiting for the United States to lead on this issue. I hope my colleagues will urge for this Treaty's rapid consideration.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 22, 1999, the Federal debt stood at $5,593,512,029,751.90 (Five trillion, five hundred ninety-three billion, five hundred twelve million, twenty-nine thousand, seven hundred fifty-one dollars and ninety cents).

One year ago, June 22, 1998, the Federal debt stood at $5,496,660,000,000 (Five trillion, four hundred ninety-six billion, six hundred sixty million).

Five years ago, June 22, 1994, the Federal debt stood at $4,597,075,000,000 (Four trillion, five hundred ninety-seven billion, seventy-five million).

Ten years ago, June 22, 1989, the Federal debt stood at $2,781,401,000,000 (Two trillion, seven hundred eighty-one billion, four hundred one million) which reflects a debt increase of more than $2 trillion—$2,812,111,029,751.90 (Two trillion, eight hundred twelve billion, one hundred eleven million, twenty-nine thousand, seven hundred fifty-one dollars and ninety cents) during the past 10 years.

## 1997 ANNUAL REPORT OF THE UNITED STATES NUCLEAR REGULATORY COMMISSION—MESSAGE FROM THE PRESIDENT—PM 39

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works.

*To the Congress of the United States:*

As required by section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877(c)), I transmit herewith the Annual Report of the United States Nuclear Regulatory Commission, which covers activities that occurred in fiscal year 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 23, 1999.*

## MESSAGES FROM THE HOUSE

At 11:51 a.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 659. An act to authorize appropriations for the protection of Paoli and Brandywine Battlefields in Pennsylvania, to direct the National Park Service to conduct a special resource study of Paoli and Brandywine Battlefields, to authorize the Valley Forge Museum of the American Revolution at Valley Forge National Historic Park, and for other purposes.

H.R. 1175. An act to locate and secure the return of Zachary Baumel, a United States citizen, and other Israeli soldiers missing in action.

H.R. 1501. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants to ensure increased accountability for juvenile offenders; to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide quality prevention programs and accountability relating to juvenile delinquency; and for other purposes.

## MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 659. An act to authorize appropriations for the protection of Paoli and Brandywine Battlefields in Pennsylvania, to direct the National Park Service to conduct a special resource study of Paoli and Brandywine Battlefields, to authorize the Valley Forge Museum of the American Revolution at Valley Forge National Historic Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1175. An act to locate and secure the return of Zachary Baumel, a United States citizen, and other Israeli soldiers missing in action; to the Committee on Foreign Relations.

## MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times and placed on the calendar:

H.R. 1501. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants to ensure increased accountability for juvenile offenders; to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide quality prevention programs and accountability relating to juvenile delinquency; and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

In the RECORD of Tuesday June 22, 1999 the following Executive Communications were inadvertently omitted. The permanent RECORD will be corrected to reflect the following listing:

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated on Tuesday, June 22, 1999:

EC–3852. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Delist the Plant 'Echinocerus lloydii' (Lloyd's Hedgehog Cactus)'', received June 18, 1999; to the Committee on Environment and Public Works.

EC–3853. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Revised Format for Materials Being Incorporated by Reference for Missouri'' (FRL #6364–3), received June 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3854. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Technical and Procedural Amendments to TSCA Regulations-Disposal of Polychlorinated Biphenyls (PCBs)'' (FRL #6072–4), received June 18, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3855. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contract Actions for Leased Equipment'' (DFARS Case 99–D012), received June 16, 1999; to the Committee on Armed Services.

EC–3856. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of a rule entitled

''Timing of Police Corps Reimbursements of Educational Expenses'' (RIN1121–AA50) (OJP–1205), received June 18, 1999; to the Committee on the Judiciary.

EC–3857. A communication from the Acting Executive Director, Commodity Futures Trading Commission, transmitting pursuant to law, the report of a rule entitled ''Performance of Certain Functions by National Futures Association With Respect to Those Foreign Firms Acting in the Capacity of a Futures Commission Merchant,'' received June 16, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated on Wednesday, June 23, 1999:

EC–3899. A communication from the Under Secretary of Defense, transmitting pursuant to law, the report of a violation of the Antideficiency Act, case number 97–01; to the Committee on Appropriations.

EC–3900. A communication from the Secretary of Transportation, transmitting a report entitled ''Buckle Up America: The Presidential Initiative for Increasing Seat Belt Use Nationwide''; to the Committee on Appropriations.

EC–3901. A communication from the Administrator, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, a report entitled ''Status of NHTSA Plan for Side Impact Regulation Harmonization and Upgrade''; to the Committee on Appropriations.

EC–3902. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Office of Inspector General audit recommendations for the period ending March 31, 1999; to the Committee on Governmental Affairs.

EC–3903. A communication from the Treasurer, National Gallery of Art, transmitting, pursuant to law, the annual report for fiscal years 1997 and 1998; to the Committee on Governmental Affairs.

EC–3904. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to a vacancy in the Department of Education; to the Committee on Health, Education, Labor, and Pensions.

EC–3905. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to a vacancy in the Department of Education; to the Committee on Health, Education, Labor, and Pensions.

EC–3906. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to a vacancy in the Department of Labor; to the Committee on Health, Education, Labor, and Pensions.

EC–3907. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Refugee Resettlement Program for fiscal year 1997; to the Committee on the Judiciary.

EC–3908. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, a report entitled ''Defense Environmental Quality Program Annual Report'' for fiscal year 1998; to the Committee on Armed Services.

EC–3909. A communication from the Comptroller of the Currency, transmitting, pursuant to law, the annual report for fiscal year 1998 and an opinion letter and corporate decisions relative to state law with respect to national banks; to the Committee on Banking, Housing, and Urban Affairs.

EC–3910. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Business Loan Program'' (FR Doc. 99–12100, published in 64 FR 26273, May 14, 1999), received June 22, 1999; to the Committee on Small Business.

EC–3911. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Size Standards; Engineering Services, Architectural Services, Surveying, and Mapping Services'' (FR Doc. 99–12267, published in 64 FR 26275, May 14, 1999), received June 22, 1999; to the Committee on Small Business.

EC–3912. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Disaster Loan Program; Correction'' (FR Doc. 99–6856, 3/19/99, 64 FR 13667), received June 22, 1999; to the Committee on Small Business.

EC–3913. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Surety Bond Guarantees'' (FR Doc. 99–9268, 4/13/99, 64 FR 18324), received June 22, 1999; to the Committee on Small Business.

EC–3914. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Business Loan Program'' (FR Doc. 99–559, 1/13/99, 64 FR 2115. Also see correction: FR Doc. 99–12574, 5/20/99, 64 FR 27445), received June 22, 1999; to the Committee on Small Business.

EC–3915. A communication from the Federal Register Liaison Officer, Regulations and Legislation Division, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Branch Closings'', received June 21, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3916. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled ''Loan Policies and Operations; Leasing; General Provisions; Accounting and Reporting Requirements'' (RIN3052–AB63), received June 21, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3917. A communication from the Deputy Executive Secretary, Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Adjustment in Payment Amounts for New Technology; Intraocular Lenses Furnished by Ambulatory Surgical Centers'' (HCFA–3831–F), received June 22, 1999; to the Committee on Finance.

EC–3918. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Financial Assistance for Research and Development Projects to Strengthen and Develop the U.S. Fishing Industry—Notice of Solicitation for Applications'' (RIN0648–ZA09), received June 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3919. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Extension of Expiration Date of an Emergency Interim Rule (Established additional observer coverage requirements for the 20 catcher/processor vessels and established in-season authority to manage the non-pollock harvest limitations required under the American Fisheries Act)'' (RIN0648–AM06), received June 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3920. A communication from the Acting Director, Office of Sustainable Fisheries, Domestic Fisheries Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Commercial Quota Harvested for Summer Period for the Scup Fishery'' (RIN0648-AL74 for final specifications), received June 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3921. A communication from the Assistant General Counsel for Regulations, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Assistance to States for the Education of Children with Disabilities Program'' (RIN1820-AB40), received June 21, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–3922. A communication from the Attorney, General and Administrative Law, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Update of the Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for the Use of Government Lands'' (RM86-2-000), received June 22, 1999; to the Committee on Energy and Natural Resources.

EC–3923. A communication from the Attorney, General and Administrative Law, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Annual Update of Filings Fees'' (RM98-15-000), received June 22, 1999; to the Committee on Energy and Natural Resources.

EC–3924. A communication from the Attorney, General and Administrative Law, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Standards for Business Practices of Interstate Natural Gas Pipelines'' (RM96-1-009; Order No. 587-1), received June 22, 1999; to the Committee on Energy and Natural Resources.

EC–3925. A communication from the Attorney, General and Administrative Law, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Project Cost and Annual Limits'' (RM96-19-000), received June 22, 1999; to the Committee on Energy and Natural Resources.

EC–3926. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation amending the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–210. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to abandoned mine reclamation; to the Committee on Appropriations.

HOUSE RESOLUTION NO. 123

Whereas, The biggest water pollution problem facing this Commonwealth today is polluted water draining from abandoned coal mines; and

Whereas, Over half the streams that do not meet water quality standards in this Commonwealth are affected by mine drainage; and

Whereas, This Commonwealth has over 250,000 acres of abandoned mine lands, refuse banks and old mine shafts in 45 of Pennsylvania's 67 counties, more than any other state in the nation; and

Whereas, The Department of Environmental Protection estimates it will cost more than $15 billion to reclaim and restore abandoned mine lands; and

Whereas, The Commonwealth now receives about $20 million a year from the Federal Government to do reclamation projects; and

Whereas, There is now a $1 billion balance in the Federal Abandoned Mine Reclamation Trust Fund that is set aside by law to take care of pollution and safety problems caused by old coal mines; and

Whereas, Pennsylvania is the fourth largest coal producing state in the nation, and coal operators contribute significantly to the fund by paying a special fee for each ton of coal they mine, and

Whereas, The Department of Environmental Protection and 39 county conservation districts through the Western and Eastern Pennsylvania Coalitions for Abandoned Mine Reclamation have worked as partners to improve the effectiveness of mine reclamation programs; and

Whereas, Pennsylvania is not seeking to rely on the Federal appropriation to solve the abandoned mine lands problem in Pennsylvania and is actively considering additional funding on its own; and

Whereas, Pennsylvania has been working with the Interstate Mining Compact Commission, the National Association of Abandoned Mine Land Programs and other states to free more of these funds to clean up abandoned mine lands; and

Whereas, Making more funds available to states for abandoned mine reclamation should preserve the interest revenues now being made available for the United Mine Workers Combined Benefit Fund; and

Whereas, The Federal Office of Surface Mining, the United States Environmental Protection Agency and Congress have not agreed to make more funds available to states for abandoned mine reclamation; therefore be it

*Resolved*, That the House of Representatives of Pennsylvania urge the President of the United States and Congress make the $1 billion of Federal moneys already earmarked for abandoned mine land reclamation available to states to clean up and make safe abandoned mine lands; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress.

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POM–211. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to diabetic treatment; to the Committee on Governmental Affairs.

HOUSE RESOLUTION NO. 175

Whereas, There are 15.7 million diabetics in the United States, 40% of whom do not know they have the disease; and

Whereas, Almost 20% of people over 65 years old have diabetes; and

Whereas, Diabetes is the seventh leading cause of death in the United States and the third leading cause of death by disease in Pennsylvania; and

Whereas, Nationwide there are 187,000 diabetes-related deaths annually, including an estimated 12,000 diabetes-related deaths in Pennsylvania each year, three times the number of deaths from AIDS, Alzheimer's disease and homicide; and

Whereas, Diabetes is a controllable disease in which sharp reductions in rates of complications can be obtained with proper management of blood glucose levels, specifically, a 56% reduction in the incidence of kidney disease, a 60% reduction in blindness and a 61% reduction in nerve disease; and

Whereas, The Pennsylvania Health Care Cost Containment Council, in its report on the act of October 16, 1998 (P.L. 784, No. 98) (Act 98 of 1998), stated that it ''finds evidence to suggest that providing diabetics with supplies, medication, self-management education and medical nutrition therapy can be both medically and cost effective''; and

Whereas, In 1998, Pennsylvania became the 30th state to require private and group health insurance plans to provide comprehensive coverage for diabetic supplies and self-management training; and

Whereas, Act 98 of 1998 provides new benefit coverage to an estimated 4.5 million Pennsylvanians who have health insurance policies that can be regulated by the State; however, no State mandate applies to insurance programs run or regulated by the Federal Government; and

Whereas, The Federal Government has provided for general Medicare coverage of some supplies needed for persons with diabetes; however, insulin and syringes are excluded; and

Whereas, A large number of individuals who have insurance under self-funded health plans regulated by the Employee Retirement Income Security Act of 1974 have no guarantee of any sort of coverage; therefore be it

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania memorialize Congress to enact the same mandated benefits as contained in Act 98 of 1998 in all Federal insurance programs and all federally regulated, self-funded health insurance programs governed by the Employee Retirement Income Security Act of 1974; and be it further

*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

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POM–212. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to the municipal waste; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 192

Whereas, The United States Supreme Court has issued a series of decisions holding that the Commerce Clause of the Constitution of the United States prohibits states from restricting the importation of solid waste from other states; and

Whereas, Over the past ten years, owners and operators of solid waste landfills located in the Commonwealth of Pennsylvania have significantly increased the amount of unwanted municipal waste they accept from other states; and

Whereas, New York City released a long-term waste management plan on December 2, 1998, that allows New York City to close the Fresh Kills Landfill as planned on December 31, 2001, and calls for the exportation of approximately 13,000 tons of solid waste a day now disposed of at the Fresh Kills Landfill to Pennsylvania and other states; and

Whereas, The states of Pennsylvania, West Virginia, Virginia, New Jersey and Maryland notified the Mayor of New York City that the recently released plan to manage waste displaced by the closure of the Fresh Kills Landfill did not adequately address limiting the exportation of waste or other viable waste management alternatives; and

Whereas, The present and projected future levels of unwanted municipal waste that owners and operators of landfills and incinerators located in this Commonwealth import from other states pose environmental, aesthetic and traffic problems and are unfair to citizens of this Commonwealth, particularly citizens living in areas where landfills and incinerators are located; and

Whereas, In 1988 the Commonwealth enacted a law designed to reduce the need for additional landfills and incinerators by requiring and encouraging recycling of certain materials; and

Whereas, Pennsylvania has met its recycling goal of 25% and has established a new goal of 35% by the year 2003; and

Whereas, It is within the power of the Congress of the United States to delegate authority to the states to restrict the amount of unwanted municipal waste they import from other states; and

Whereas, Legislation has been introduced in Congress which will regulate and restrict the amount of unwanted municipal waste imported from other states; and

Whereas, Governor Thomas J. Ridge and the governors of the Great Lakes States of Ohio, Michigan and Indiana wrote to Congress expressing their desire to reach an accord on authorizing states to place reasonable limits on the importation of solid waste; and

Whereas, The failure of Congress to act will harm this Commonwealth by allowing the continued unrestricted flow of solid waste generated in other states to landfills and incinerators located in this Commonwealth; therefore be it

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President and Congress of the United States and the states to support legislation authorizing states to restrict the amount of solid waste being imported from other states and creating a rational solid waste management strategy that is equitable among the states and environmentally sound; and be if further

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President and Congress of the United States to support legislation that gives communities hosting landfills and incinerators the right to decide by agreement whether to accept waste from other states and that creates a rational municipal waste management strategy that is equitable among the states and environmentally sound; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

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POM–213. A resolution adopted by the County Commission, Knox County, Tennessee relative to the Department of Energy and Oak Ridge Facilities; to the Committee on Appropriations.

POM–214. A joint resolution adopted by the legislature of the State of Nevada relative to the Payments in Lieu of Taxes Act; to the Committee on Appropriations.

SENATE JOINT RESOLUTION NO. 1

Whereas, The Federal Government manages and controls approximately 87 percent of the land in the State of Nevada, and in several counties in the State of Nevada the Federal Government manages and controls between 97 and 99 percent of the land; and

Whereas, Because the land managed and controlled by the Federal Government in the State of Nevada is not taxable, counties that have an extensive amount of such land located within their boundaries experience tremendous fiscal burdens; and

Whereas, Congress enacted the Act of October 20, 1976, which, as amended, is commonly known as the Payments In Lieu of Taxes Act, and which requires the Federal Government to make annual payments to local governments to compensate the local governments for the loss of revenue they experience because of the presence of certain land within their boundaries that is managed and controlled by the Federal Government; and

Whereas, Pursuant to the Act, the Secretary of the Interior is required to make a payment for each fiscal year to each of the 17 counties in the State of Nevada because those counties have such land within their boundaries, including land that is administered by the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service and the United States Forest Service; and

Whereas, The Bureau of Land Management was chosen by the Secretary of the Interior to administer the payments required to be made pursuant to the Act; and

Whereas, Congress appropriates money each year that the Bureau of Land Management distributes to the counties in the State of Nevada and other states pursuant to a statutory formula set forth in the Act; and

Whereas, From the inception of the payments in 1977 to the end of the 1997–98 fiscal year, the money appropriated by Congress has been insufficient to provide full payment to the counties in the State of Nevada pursuant to the statutory formula; now, therefore, be it

*Resolved by the Senate and Assembly of the State of Nevada, Jointly,* That the members of the 70th session of the Nevada Legislature hereby urge Congress to appropriate for distribution to the counties in the State of Nevada the amount of money necessary to correct the underpayments to those counties pursuant to the Act for the previous fiscal years; and be it further

*Resolved,* That in lieu of an appropriation by Congress to correct such underpayments, the members of the 70th session of the Nevada Legislature hereby urge Congress to authorize the transfer of land of equivalent value from the Federal Government to the affected counties in the State of Nevada; and be it further

*Resolved,* That the Secretary of the Senate of the Nevada Legislature prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the United States Senate, the Speaker of the House of Representatives, the Secretary of the Interior, the Director of the Bureau of Land Management and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval.

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POM–215. A joint resolution adopted by the legislature of the State of Nevada relative to land management and livestock; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION NO. 12

Whereas, The livestock industry comprises a significant portion of the rural economy of the State of Nevada; and

Whereas, Recent declines in the authorization of the grazing of livestock on public lands in this state and throughout the West have had measurable negative impacts on the economic viability of ranchers and rural communities; and

Whereas, Studies by federal agencies have revealed that public lands have improved or are improving through the use of controlled grazing of livestock on public lands; and

Whereas, Recent management policies and directives established by federal agencies including the Bureau of Land Management of the United States Department of the Interior and the Forest Service of the United states Department of Agriculture have resulted in significant and costly reductions in the number of livestock allowed to graze on public lands in this state; and

Whereas, These reductions are having a negative effect on the value of ranches and the economic viability of ranchers who depend on the use of public land for the successful production of livestock, resulting in an adverse effect on the economic condition of the State of Nevada; and

Whereas, Continuation of these federal policies will have adverse effects that are far reaching and costly, including an increase in wildfires, a diminished tax base, loss of wildlife habitat and a decrease in economic activity; now, therefore, be it

*Resolved by the Senate and Assembly of the State of Nevada, Jointly,* That the members of the Nevada Legislature do hereby encourage the United States Congress to support all efforts for the establishment of a working partnership between federal land management agencies, local governments and other interested parties on issues relating to the use of public lands; and be it further

*Resolved,* That this legislative body supports all efforts to review the methodologies and practices that have been employed by public land management agencies which have resulted in the unnecessary reduction in the use of public lands by ranchers for the grazing of livestock; and be it further

*Resolved,* That the Division of Agriculture of the Department of Business and Industry is hereby encouraged to develop a statewide database to further demonstrate the cumulative losses to this state and its counties because of the reduction in the use of public land for the grazing of livestock; and be it further

*Resolved,* That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives, the Secretary of the Interior, the Secretary of Agriculture, each member of the Nevada Congressional Delegation and the Executive Director of the Nevada Association of Counties; and be it further

*Resolved,* That this resolution becomes effective upon passage and approval.

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POM–216. A joint resolution adopted by the legislature of the State of Montana relative to the American Heritage Rivers initiative; to the Committee on Energy and Natural Resources.

RESOLUTION

Whereas, the President of the United States has, by Executive Order 13061, created the American Heritage Rivers initiative; and

Whereas, the initiative allows a local river community to nominate its river for designation by the President as an American Heritage River; and

Whereas, the initiative provides no meaningful protection of state or private property along designated rivers; and

Whereas, the initiative creates a new layer of federal bureaucracy and engages 12 federal agencies in its implementation; now, therefore, be it

*Resolved by the Senate and the House of Representatives of the State of Montana,* That the Montana Legislature oppose the nomination or designation of any river in Montana as an American Heritage River under the American Heritage Rivers initiative; be it further

*Resolved,* That the Secretary of State send copies of this resolution to the President of the United States, the Vice President of the United States, the President Pro Tempore of the Senate of the U.S. Congress, the Speaker of the House of Representatives of the U.S. Congress, the Chair of the Council on Environmental Quality, and the Montana Congressional Delegation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BOND, from the Committee on Small Business, with an amendment in the nature of a substitute:

S. 918. A bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small business, and for other purposes (Rept. No. 106–84).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPECTER, for the Committee on Veterans Affairs:

John T. Hanson, of Virginia, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs).

By Mr. MCCAIN, for the Committee on Commerce, Science, and Transportation:

Sylvia de Leon, of Texas, to be a Member of the Reform Board (Amtrack) for a term of five years.

Albert S. Jacquez, of California, to be Administrator of the Saint Lawrence Seaway Development Corporation for a term of seven years.

Cheryl Shavers, of California, to be Under Secretary of Commerce for Technology.

Kelly H. Carnes, of the District of Columbia, to be Assistant Secretary of Commerce for Technology Policy.

Mary Sheila Gall, of Virginia, to be a Commissioner of the Consumer Product Safety Commission for a term of seven years from October 27, 1998.

Ann Brown, of Florida, to be a Commissioner of the Consumer Product Safety Commission for a term of seven years from October 27, 1999.

Ann Brown, of Florida, to be Chairman of the Consumer Product Safety Commission.

Johnnie E. Frazier, of Maryland, to be Inspector General, Department of Commerce.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MCCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably nomination list which was printed in the RECORD of May 12, 1999, at the end of the Senate proceedings, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that the nomination lie at the Secretary's desk for the information of Senators.

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

In the Cost Guard nomination of James W. Seeman, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of May 12, 1999.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 1267. A bill to require that health care providers inform their patients of certain referral fees upon the referral of the patients to clinical trials; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. FRIST, Mr. KENNEDY, Mr. CHAFEE, Mr. REED, Mr. MACK, Ms. MIKULSKI, Mrs. MURRAY, Mr. CLELAND, Mr. HELMS, Mr. WARNER, Mr. SCHUMER, Mr. COCHRAN, Mr. DURBIN, Mr. MOYNIHAN, Mrs. BOXER, Mr. ROBERTS, and Mr. REID):

S. 1268. A bill to amend the Public Health Service Act to provide support for the modernization and construction of biomedical and behavioral research facilities and laboratory instrumentation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCONNELL (for himself and Mr. HATCH):

S. 1269. A bill to provide that the Federal Government and States shall be subject to the same procedures and substantive laws that would apply to persons on whose behalf certain civil actions may be brought, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. DOMENICI):

S. 1270. A bill to establish a partnership for education progress; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY:

S. 1271. A bill to improve the drug certification procedures under section 490 of the Foreign Assistance Act of 1961, and for other purposes; to the Committee on Foreign Relations.

By Mr. NICKLES (for himself, Mr. LIEBERMAN, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BROWNBACK, Mr. COVERDELL, Mr. ENZI, Mr. HAGEL, Mr. INHOFE, Mr. CRAIG, and Mr. SESSIONS):

S. 1272. A bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOND:

S. Res. 126. A resolution expressing the sense of the Senate that appreciation be shown for the extraordinary work of Mildred Winter as Missouri teacher and leader in creating the Parents as Teachers program on the occasion that Mildred Winter steps down as Executive Director of such program; considered and agreed to.

By Mr. LOTT:

S. Res. 127. A resolution to direct the Secretary of the Senate to request the return of certain pages; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHUMER:

S. 1267. A bill to require that health care providers inform their patients of certain referral fees upon the referral of the patients to clinical trials; to the Committee on Health, Education, Labor, and Pensions.

CLINICAL TRIALS DISCLOSURE ACT OF 1999

Mr. SCHUMER. Mr. President, I rise today to introduce the Clinical Trials Disclosure Act of 1999. As the Senate debates important health care issues such as Medicare, prescription drug access, and managed care reform, I want to call our attention to another important health care matter: doctors and other health care providers accepting payments from drug companies and their contractors to refer patients to clinical trials. Each of us understands that by providing a forum for medical research, clinical trials play a vital role in our health care system. Unfortunately, some providers are violating the patient-doctor relationship by not informing patients of the fees they receive for referrals to the clinical trials.

Recent media reports have highlighted this growing trend that threatens the important relationship between doctor and patient. In one case in California, a doctor received over $1,600 to refer a patient to a prostate cancer drug trial despite the fact that the patient's prostate was healthy. Other drug companies offer bonuses to physicians who refer numbers over and above a certain quota. Providers benefit in other ways, too. A cooperative doctor may get his or her name attached to an academic study authored by a ghost writer based on the drug company's data. No matter how the doctor benefits, however, he or she is not compelled to inform the patient of his or her relationship with the drug company. This is why today I introduce the Clinical Trials Disclosure Act of 1999.

This bill simply requires that if a health care provider receives payments or other compensation for referring a patient to a clinical trial, the provider must inform the patient both orally and in writing. The measure is not intended to discourage patient participation in important medical research. Instead, it will strengthen the relationship between doctor and patient and help ensure that clinical trials attract patients who will benefit from their important work.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1267

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Clinical Trials Disclosure Act of 1999''.

**SEC. 2. REQUIRED DISCLOSURE OF REFERRAL FEES.**

(a) THROUGH CONTRACTS WITH INSURERS.—

(1) AMENDMENT TO ERISA.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

**''SEC. 714. REQUIRED DISCLOSURE OF REFERRAL FEES.**

''The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of providers) shall require that, if the provider refers a patient to a clinical trial, the provider shall disclose (orally and in writing) to the patient (at the time of such referral) any payments or other compensation that the provider receives (or expects to receive) from any entity in connection with such referral.''.

(B) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Required disclosure of referral fees.''.

(2) AMENDMENTS TO PHSA.—

(A) GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following new section:

**''SEC. 2707. REQUIRED DISCLOSURE OF REFERRAL FEES.**

''The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of providers) shall require that, if the provider refers a patient to a clinical trial, the provider shall disclose (orally and in writing) to the patient (at the time of such referral) any payments or other compensation that the provider receives (or expects to receive) from any entity in connection with such referral.''.

(B) INDIVIDUAL MARKET.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following new section:

**''SEC. 2753. REQUIRED DISCLOSURE OF REFERRAL FEES.**

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) OTHER PROVIDERS.—A health care provider who provides services to beneficiaries under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) shall, with respect to any patient that such provider refers to a clinical trial, disclose (orally and in writing) to the patient (at the time of such referral) any payments or other compensation that the provider receives (or expects to receive) from any entity in connection with such referral.

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By Mr. HARKIN (for himself, Mr. FRIST, Mr. KENNEDY, Mr. CHAFEE, Mr. REED, Mr. MACK, Ms. MIKULSKI, Mrs. MURRAY, Mr. CLELAND, Mr. HELMS, Mr. WARNER, Mr. SCHUMER, Mr. COCHRAN, Mr. DURBIN, Mr. MOYNIHAN, Mrs. BOXER, Mr. ROBERTS, and Mr. REID):

S. 1268. A bill to amend the Public Health Service Act to provide support for the modernization and construction of biomedical and behavioral research facilities and laboratory instrumentation; to the Committee on Health, Education, Labor, and Pensions.

21ST CENTURY RESEARCH LABORATORIES ACT OF 1999

Mr. HARKIN. Mr. President, today I am pleased to introduce the Twenty-First Century Research Laboratories Act of 1999. I am joined in this effort by Senators FRIST, KENNEDY, CHAFEE, REED of Rhode Island, MACK, MIKULSKI, MURRAY, CLELAND, HELMS, WARNER, SARBANES, SCHUMER, COCHRAN, DURBIN, MOYNIHAN, BOXER, ROBERTS, and REID of Nevada. I want to thank my colleagues for cosponsoring this legislation.

First though, let me say how pleased I was that we were able to provide the biggest increase ever for medical research last year. The Conference Agreement of the Fiscal 1999 Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee, provided a $2 billion, or 15 percent, increase for the National Institutes of Health. And this year, I and Senator SPECTER will continue our work to make sure that Congress stays on course to double funding for the NIH over the next five years, a target that was agreed to by the Senate, 98 to 0, in 1997.

However, as Congress embarks on this important investment in improved health, we must strengthen the totality of the biomedical research enterprise. While it is critical to focus on high quality, cutting edge basic and clinical research, we must also consider the quality of the laboratories and buildings where that research is being conducted.

In fact, Mr. President, the infrastructure of research institutions, including the need for new physical facilities, is central to our nation's leadership in medical research. Despite the significant scientific advances produced by Federally-funded research, most of that research is currently being done in medical facilities built in the 1950's and 1960's, a time when the Federal Government obligated from $30 million to $100 million a year for facility and equipment modernization. Since then, however, annual appropriations for modernization of our biomedical research infrastructure have dramatically declined, ranging from zero to $20 million annually over the past decade. As a result, many of our research facilities and laboratories are outdated and inadequate to meet the challenge of the next millennium.

In order to realize major medical breakthroughs in Alzheimer's, diabetes, Parkinson's, cancer and other major illnesses, our Nation's top researchers must have top quality, state-of-the-art laboratories and equipment. Unfortunately, the status of our research infrastructure is woefully inadequate.

A recent study by the National Science Foundation finds that academic institutions have deferred, due to lack of funds, nearly $11.4 billion in repair, renovation, and construction projects. Almost one quarter of all research space requires either major renovation or replacement and 70% of medical schools report having inadequate space in which to perform biomedical research.

A separate study by the National Science Foundation documents the laboratory equipment needs of researchers and found that 67 percent of research institutions reported an increased need for laboratory instruments. At the same time, the report found that spending for such instruments at colleges and universities actually declined in the early 1990's.

Several other prominent organizations have documented the need for increased funding for research infrastructure. A March 1998 report by the Association of American Medical Colleges stated that ''The government should reestablish and fund a National Institutes of Health construction authority. . . .'' A June 1998 report by the Federation of American Societies of Experimental Biology stated that ''Laboratories must be built and equipped for the science of the 21st century . . . Infrastructure investments should include renovation of existing space as well as new construction, where appropriate.''

As we work to double funding for medical research over the next five years, the already serious shortfall in the modernization of our Nation's aging research facilities and labs will continue to worsen unless we take specific action. Future increases in NIH must be matched with increased funding for repair, renovation and construction of research facilities, as well as the purchase of modern laboratory equipment.

Mr. President, the bill we are introducing today expands Federal funding for facilities construction and state-of-the-art laboratory equipment through the NIH by increasing the authorization for this account within the National Center for Research Resources to $250 million in FY 2000 and $500 million in FY 2001. In addition, the bill authorizes a ''Shared Instrumentation Grant Program'' at NIH, to be administered by the Center. The program will provide grants for the purchase of shared-use, state-of-the-art laboratory equipment costing over $100,000. All grants awarded under these two programs will be peer-reviewed, as is the practice with all NIH grants and projects.

We are entering a time of great promise in the field of biomedical research. We are on the verge of major breakthroughs which could end the ravages of cancer, heart disease, Parkinson's and the scores of illnesses and conditions which take the lives and health of millions of Americans. But to realize these breakthroughs, we must devote the necessary resources to our Nation's research enterprise.

The Association of American Universities, the Association of American Medical Colleges and the Federation of American Societies of Experimental Biology have all expressed their support for this legislation.

I hope the rest of my colleagues will soon sign on as cosponsors to this important effort to improve the research capacity of this country.

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By Mr. MCCONNELL (for himself and Mr. HATCH):

S. 1269. A bill to provide that the Federal Government and States shall be subject to the same procedures and substantive laws that would apply to persons on whose behalf certain civil actions may be brought, and for other purposes; to the Committee on the Judiciary.

LITIGATION FAIRNESS ACT

Mr. MCCONNELL. Mr. President, I rise today to introduce the Litigation Fairness Act of 1999. This common sense legislation says that whenever the government sues private-sector companies to recover costs, the government plaintiff gets no more rights than the ordinary plaintiff. If the law is good enough for the average citizen, then it's good enough for the government.

This legislation to codify rules of fair play for government-sponsored lawsuits is necessary for three reasons:

First, the Litigation Fairness Act is necessary to prevent an avalanche of lawsuits against law-abiding companies. Let me say at the outset: this legislation is not about tobacco. Tobacco was just the beginning—the Model Act for hungry and enterprising trial lawyers.

After tobacco, there was speculation that the government would sue the men and women who manufacture and sell guns in America. The speculation was right. And now that we've got government-sponsored lawsuits against gun companies, the speculation turns to other legal industries, such as automobile manufacturers, paint manufacturers, and—yes, even the fast food industry.

Before some of you begin to shake your head about this widespread speculation, let me share some recent theories I've heard that verify that the theater of the absurd continues to move ever closer to legal reality. As reported recently by the Associated Press, a Yale professor is espousing a theory that, ''There is no difference between Ronald McDonald and Joe Camel.'' Both market products that are—and I quote this Professor from a recent seminar—''luring our children into killer habits'' ultimately increasing healthcare costs for the public—so the theory goes. And I promise that I'm not making this up. This Ivy League professor was in Washington just yesterday discussing this emerging theory.

Second, this legislation ensures basic fairness for individual citizens. Under established principles of tort law, private plaintiffs are often barred from recovering damages based on a failure to prove direct causation. For example, if a person is injured in an automobile accident, but cannot prove that his or her injuries were caused by a defect of the

automobile then that person cannot recover from the manufacturer. This legislation simply says that if the injured party couldn't recover from the auto manufacturer, then the government should not be able to sue the manufacturer to recover the health care expenses incurred by the government on behalf of the injured person.

In short: Government plaintiffs should not have rights superior to those rights of private plaintiffs.

Third, the Litigation Fairness Act is necessary to prevent taxation through litigation. The power to tax is a legislative function and those who raise taxes should be directly accountable to the voters. Fortunately, it is getting more and more difficult to raise taxes in the Congress and the State legislatures—so money-hungry trial lawyers and big-government public officials are bypassing legislatures to engage in taxation and regulation through litigation. The Litigation Fairness Act will discourage lawyer-driven tax increases being dressed up and passed off as government lawsuits.

In closing, I want to point out some things that the Litigation Fairness Act does not do: it does not prohibit government lawsuits; it does not close the courthouse door to injured parties; it does not place caps on recoveries or limits on lawyer fees. Further, the Litigation Fairness Act cannot be construed to create or authorize any cause of action for any governmental entity.

In fact, the Litigation Fairness Act does not even prohibit the unholy marriage between plaintiffs' lawyers and government officials—although it admittedly makes such a marriage of money and convenience a bit less desirable. My legislation will simply ensure that the government plays by the same rules as its citizens.

This bill has broad support. I ask unanimous consent that the RECORD include statements in support of the bill from the United States Chamber of Commerce, the American Tort Reform Association, and Citizens for a Sound Economy.

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

[From the U.S. Chamber of Commerce News, June 23, 1999]

U.S. CHAMBER ENDORSES MCCONNELL BILL TO STOP GOVERNMENTS FROM UNDERMINING BUSINESS LEGAL DEFENSES

WASHINGTON, D.C.—The U.S. Chamber of Commerce today endorsed legislation that would stop the growing trend of governments stripping legitimate industries of their legal defenses and rights and then suing them to raise revenue outside the constraints of the political process.

The ''Litigation Fairness Act,'' sponsored by Senator Mitch McConnell (R–KY), would prevent governments at any level from changing laws to retroactively strip businesses of their traditional legal rights and defenses in order to sue them.

''The U.S. Chamber is greatly concerned this dangerous trend of governments changing the laws to facilitate their revenue-grabbing lawsuits,'' said Chamber Executive Vice President Bruce Josten. ''This practice began in the state lawsuits against the tobacco industry to recover Medicaid funds and, just as the Chamber predicted, has now spread to other industries. President Clinton's plan to use the Justice Department to sue the tobacco industry is a prime example of this problem.

''Unfortunately, these lawsuits are becoming all too common,'' Josten added. ''If this trend continues, economic and social decisions affecting all Americans will be made not by the democratically elected legislatures, but instead by trial lawyers.

''McConnell's legislation would help curtail this abusive situation,'' Josten said, noting that the legislation does not affect any individual's rights or ability to sue a company that has caused them harm.

The bill simply says that a government entity filing suite to directly recover funds expended by that government on behalf of a third-party (such as a Medicare or Medicaid patient) would only be entitled to the same rights as an individual suing that defendant. In addition, such a government plaintiff would be subject to the same substantive and procedural rules and defenses as any other individual plaintiff. The legislation recognizes that an indirectly injured party should not have any greater rights than a directly injured person.

''This legislation will stop the erosion of the two hundred years of tort law, while fairly protecting the rights of American industries from the litigious trial lawyers collaborating with federal, state and local governments,'' Josten concluded.

Josten's comments followed a day-long conference, ''The New Business of Government Sponsored Litigation: State Attorneys General and Big City Lawsuits,'' sponsored by the Institute for Legal Reform, the Chamber's legal policy arm, The Federalist Society and The Manhattan Institute. The conference featured Oklahoma Gov. Frank Keating, Alabama Gov. Don Siegelman, attorneys general from New York, Alabama, Delaware and Texas, and noted plaintiff's lawyers such as Richard Scruggs and John Coale. The event can still be viewed on the Chamber's website, at *www.uschamber.org.*

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[From the Citizens for a Sound Economy News, June 23, 1999]

SENATOR MCCONNELL'S LITIGATION FAIRNESS ACT WOULD HELP END 'TAXATION THROUGH LITIGATION'

WASHINGTON.—J.V. Schwan, Deputy Director and Counsel for Civil Justice Reform at Citizens for a Sound Economy (CSE), made the following statement in support of Senator Mitch McConnell's bill, *The Litigation Fairness Act.*

''Taxation through litigation is the latest scheme in Washington. When the Administration can't accomplish their goals through legislation, they sue. This is not what our Founding Fathers intended. 'The Litigation Fairness Act' would help stop their 'taxation through litigation scheme.'

''Specifically, the bill would assure that when governments file lawsuits for economic losses allegedly incurred as a result of harm to citizens, the government's legal rights will not be greater than those injured citizens. The bill would preserve and in some instances restore that equitable rule of law.

''McConnell's bill does not bar suits by governments against private defendants, place a cap on the recoveries that may be obtained, or limit attorney fees. It simply codifies a traditional tort law rule that has existed for over 200 years.''

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[From the American Tort Reform Association]

GOVERNMENT LITIGATION AGAINST INDUSTRIES

Robert Reich recently wrote in USA Today that ''The era of big government may be over, but the era of regulation through litigation has just begun.'' He advocated that courts should be the regulators of society, deciding whether certain products or services should be available and at what price.

Mr. Reich is referring to the new phenomenon of governments entering into partnerships with private contingency fee attorneys to bring lawsuits against entire industries. Manufacturers of tobacco products and firearms have already been targets of litigation at the State and local levels. At the federal level, President Clinton announced in his 1999 State of the Union address that he has directed the Department of Justice to prepare a litigation plan to sue tobacco companies to recover federal funds allegedly paid out under Medicare.

Future targets of federal and/or state or local cost recovery, or ''recoupment,'' litigations could include producers of beer and wine and other adult beverages, and manufacturers of pharmaceuticals, chemicals, and automobiles. Even Internet providers, the gaming industry, the entertainment industry, and fast food restaurants could be targeted.

THE CHANGES TO BLACK-LETTER TORT LAW

Under traditional tort law rules, third party payors (e.g., employers, insurers, and governments) have long enjoyed subrogation rights to recover costs for healthcare and other expenses that they are obligated to pay on behalf of individuals.

For example, if a worker is injured in the workplace as a result of a defective machine tool, tort law permits the worker's employer to recover the cost of worker compensation and other medical expenses paid on behalf of the employee. Through the process of subrogation, the employer can join in the employee's tort claim against the manufacturer of the machine tool or put a lien on the employee's recovery, but the employer cannot bring a direct action on its own.

Governmental cost recovery actions seek to radically change the traditional subrogation rule. In the State tobacco cases, the attorneys general argued that the States could bring an ''independent'' cause of action against the tobacco companies. Furthermore, the attorneys general argued, because the States' claims were ''independent'' of the claims of individual smokers, the States were not subject to the defenses that could be raised against individual plaintiffs, especially with respect to assumption of risk.

Despite the current unpopularity of the tobacco companies, most courts have followed basic principles of law and dismissed cost recovery claims against the tobacco companies. One federal district court, however, bent the rules and partially sustained a healthcare reimbursement suit in Texas based on a unique expansion of the ''quasi-sovereign'' doctrine. Before the Texas federal court's decision, the quasi-sovereign doctrine had been limited to suits for injunctive relief; it did not extend to suits seeking monetary damages. Even the ''pro-plaintiff'' Minnesota Supreme Court recognized this fact in a tobacco case. The Texas decision produced an avalanche of claims that were ultimately settled out of court.

THE ROLE OF OUTSIDE COUNSEL

Another characteristic of the new ''era of regulation through litigation'' is the partnering of governmental entities and private contingency fee attorneys. This new partnership raises a number of serious ethical and ''good government'' issues:

Contingent fee retainers were designed to give less-affluent persons (who could generally ill-afford hourly rates and up-front retainers) access to the courthouse. Governmental entities have their own in-house legal staff; taxpayers should not have to pay

excessive fees for legal work that could be done by the government itself.

In the State tobacco litigation, it seemed that many of the cases were awarded to private attorneys who had been former law partners or campaign supporters of the elected official. Furthermore, there appears to have been a lack of competitive bidding in the attorney selection process. As a result, experts estimate that some plaintiffs' attorneys were paid in excess of $100,000 per hour.[1]

Should the prosecutorial power of government be brought against lawful, though controversial, industries? ''As the Supreme Court cautioned more than 60 years ago in Berger v. United States, an attorney for the state, 'is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all'.''[2]

ALL INDUSTRIES COULD BE TARGETS OF LITIGATION

To date, recoupment lawsuits have been filed against politically disfavored industries because plaintiff attorneys know that if courts bend the rules for controversial products, those precedents will apply equally to other industries.

In fact, some contingency fee lawyers have already publicly stated that tobacco and firearms are just the first of many industries likely to be sued in the new era of regulation by litigation. As stated, future targets of litigation could include producers of beer and wine and other adult beverages, manufacturers of pharmaceuticals, chemicals, and automobiles, Internet providers, the gaming industry, the entertainment industry, and fast food restaurants.

SEPARATION OF POWERS VIOLATED

Legislating public policy in the courtroom violates the ''separation of powers doctrine''—the fundamental rule upon which this country's entire system of government is based. The job of legislatures is to legislate; the job of courts is to interpret the law. This bedrock principle of government should not be eroded for the sake of political expediency and political theater.

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STATEMENT BY VICTOR E. SCHWARTZ, COUNSEL, AMERICAN TORT REFORM ASSOCIATION, JUNE 23, 1999

THE PRINCIPLE OF EQUAL JUSTICE UNDER LAW IS PRESERVED BY THE LITIGATION FAIRNESS ACT

The Litigation Fairness Act helps assure equal justice under law; that is why the American Tort Reform Association supports it. Liability law should be neutral. Its principles should apply in the same way to all defendants. A basic principle of system of justice is equal justice under law.

Unfortunately, legal principles developed in a few tobacco cases did not apply neutral principles. They gave power to state governments under a fiction called the ''quasi-sovereign doctrine,'' greater power in the law than was possessed by an injured individual. New cases filed by cities against gun manufacturers also may create new principles of law that give those cities greater rights than injured persons. There is little doubt that an engine behind these new principles is the unpopularity of those defendants.

These principles may be limited to so-called ''outlaw defendants''—people who make guns, tobacco, liquor, or other products that significant segments of our society do not like. On the other hand, the principles may apply equally to others. If that is true, those principles can apply against people who make fast foods, automobiles that can go over 100 mph, motorcycles, hunting knives, and even the entertainment industry.

The Litigation Fairness Act preserves the principle that an injured person's right to sue is paramount over government rights, where the government has suffered some indirect economic loss because of that person's harm. It restores equal justice under law and neutrality within our tort system.

For those reasons, the Americans Tort Reform Association supports the Litigation Fairness Act.

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By Mr. FRIST:

S. 1270. A bill to establish a partnership for education progress; to the Committee on Health, Education, Labor, and Pensions.

THE EDUCATION EXPRESS ACT

Mr. FRIST. Mr. President, I ask unanimous consent that a summary of the Education Express Act be printed in the RECORD.

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

THE EDUCATION EXPRESS ACT (ED-EXPRESS)

OBJECTIVE

Funds would reaffirm our national commitment to state and local control of education. The purpose of this Act is to infuse significant new dollars into the hands of parents, communities, and state and local governments to improve the education achievement of students. This legislation unties the burdensome and expensive federal strings on education dollars by sending more money straight back to the states and classrooms.

States may elect to receive elementary and secondary education funding by ''Direct Check.'' Most importantly, it requires that 98 percent of the funding be used directly at the local level. Incentives such as replacing existing burdensome federal categorical programs are provided to encourage states to choose the Direct Check. However, states may choose to remain in the categorical system.

The legislation creates three local/state programs to enhance educational excellence: Challenge Fund, Teacher Quality Fund, and Academic Opportunity Fund. These programs will result in a substantial increase in federal education assistance—$36.5 billion over five years.

HOW IT WORKS

Those states that opt for the ''Direct Check'' flexibility will receive their educational funding upon the adoption of a state plan written by the governor or the governor's designee that outlines the goals and objectives for the funds—how the state will improve student achievement and teacher quality, and the criteria used to determine and measure achievement.

Decisons on how funds will be used to meet state goals and objectives will be made at the local level.

PROGRAMS

Challenge Fund ($17 billion over five years) to improve education achievement. Direct Check states will receive an additional 10% of their allotment.

Teacher Quality Fund ($14 billion over five years) to improve education achievement. Direct Check states will receive an additional 10%.

Academic Opportunity Fund ($6 billion over 5 years) to reward student achievement, implement statewide reforms, and reward schools and school districts meeting state goals and objectives. Only Direct Check states will be eligible to receive these funds. States may receive an additional 10% of their allotment if they (1) devote 25% or more of their Challenge Fund allotment for Special Education; (2) demonstrate improved education performance among certain disadvantaged populations; or (3) adopt or show improved performance on state-level National Assessment of Education Progress tests (NAEP).

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By Mr. GRASSLEY:

S. 1271. A bill improve the drug certification procedures under section 490 of the Foreign Assistance Act of 1961, and for other purposes; to the Committee on Foreign Relations.

MOST FAVORED ROGUE STATES ACT OF 1999

Mr. GRASSLEY. Mr. President, today I am introducing legislation to help clarify for the administration certain aspects of drug policy that seem to have caused confusion. The confusion seems to lie in how to think about our friends and enemies when it comes to drug policy. There seems to be a willingness to overlook the actions and activities of certain rogue states when it comes to their involvement in drug production and trafficking.

The purpose of our international drug policy is to establish a framework for achieving results that sustain the national interest. As part of that, the goal is to identify countries that are major producers or transit zones for drugs. It is also to determine whether those countries are committed to cooperate with the United States, with other countries, or are taking steps on their own to stop illegal drug production and transit. This goal is clearly in the national interest.

Most illegal drugs used in this country are produced overseas and smuggled to this country. In accomplishing this, international drug thugs violate our laws, international laws, and, in most cases, the laws in the source and transit countries. Those drugs kill and maim more Americans every year than have all international terrorists in the last 10 years. In addition, they have made many of our schools, workplaces, our streets and our homes unsafe and dangerous.

There are few threats more direct, more immediate, and more telling in our everyday lives than drug use and the activities of those who push them on our young people. We pay the costs in our hospitals, in our jails, and in our families. It is a devastation that we share with other countries. And the problem overseas is growing worse. Not only is drug production up but so is use. The source and transit countries are now facing growing drug use problems. Thus, in addition to attacks on the underpinnings of decent government from criminal gangs, many countries now face epidemic drug use among young people.

What other countries do or do not do to confront this threat is of interest to

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[1] Professor Lester Brickman, ''Want To Be a Billionaire? Sue a Tobacco Company,'' The Wall Street Journal, December 30, 1998.

[2] Robert A. Levy. ''The Great Tobacco Robbery. Hired Guns Corral Contingent Fee Bonanza'' Legal Times, Week of February 1, 1999, 27.

us. The nature of the drug trade, production as well as transit, is an interconnected enterprise with international reach. Many drug trafficking gangs have contacts with each other. They share markets, expertise, and facilities. In some cases, they can count on the complicity of foreign governments or of significant individuals in those governments. This means that a serious policy to get at the trade and its connections must be international, coherent, and integrated. It cannot be piecemeal, episodic, and disjointed. But that is what we have today.

Congress has over the years repeatedly pushed for an integrated, coherent approach, often over the reluctance of administrations. Dealing with the drug issue is often messy and uncomfortable. It disturbs the pleasantries of diplomatic exchanges. Progress is hard to achieve and difficult to document. And sometimes taking drug policy serious upsets other plans.

This seems to be the case in this administration's dealings with several major drug producing or transit countries. It seems the administration would rather not know what these countries are up to on drugs, lest knowing make it difficult to pursue other goals. In several of these cases, the countries involved are not friends of the United States. One, Iran, is a sworn enemy. It has used terrorism and other tactics to attack U.S. interests and to kill Americans. it is also a drug producing and transit country.

For many years, the lack of cooperation or reliable information of Iranian counter drug efforts placed them squarely on the list of countries decertified by the United States. Last year, however, the administration removed Iran from the list. it did so on feeble pretexts, with limited information, and in a less than forthright manner. The administration used lawyerly interpretation of statute to drop Iran from the so-called Majors' List. Doing this meant the administration could then duck the question of whether to certify Iran as cooperating on drugs or not.

To accomplish this little sleight of hand, the administration had to ignore the interconnectedness of drug trafficking, congressional intent, and the national interest. So far as I can determine, it did this in the vague hope that a unilateral gesture towards Iran on drugs would see a reciprocal gesture leading to detente. It is hard to account for the change otherwise. And even so it is hard to comprehend. Never mind Iran's continuing hostility, its past and current support of terrorism aimed at the U.S. and American citizens. Never mind the facts. Never mind drug production and transit. Never mind the national interest. This is another case of the triumph of hope over experience that seems to be the lodestar of this Administration's foreign policy.

What makes the case even more disturbing is the apparent subterfuge the administration resorted to in order to evade explaining this major shift in policy. I say major because Iran had been on every drug list since its inception and Iran has been decertified for that whole history. I say subterfuge because of the pettifoggery the administration resorted to.

Given the facts of Iran's past, what is reasonable to assume would be a responsible way of dealing with the issue? It is the clear intent of the law on these matters that the administration would consult with Congress before making a major change in policy. But what did it, in fact, do? Not only did the administration not consult, it nitpicked. The law requires the administration to submit the Majors List by November 1. Instead of complying with this known statutory requirement, the administration delayed by over a week the submission of the list, conveniently waiting until after Congress had adjourned. Mere coincidence? Well, the administration did precisely the same stalling routine the year before when Syria was similarly spirited off the list. Without any prior notice to Congress. Once is accidental, twice is beginning to look like a pattern.

Weeks after this move, the administration finally provided an explanation. It deserves a full retelling to appreciate. First, some basic facts. Iran has a long history of drug production, most opium. It is a major transit country for opium and heroin from Afghanistan and Pakistan. Major Iranian criminal gangs have been involved in the drug trade for years.

Since the Iranian revolution, it has been difficult for any outsiders to determine what, if anything, the Islamic Government is doing to stop this trade. It is also important to understand that Iran was on the Majors List as a producing country. The law requires that any country that grows more than 1,000 hectares of opium poppy be put on the list. Iran met this qualification. The standard for classifying a transit country is not so precise and it is this imprecision that the administration exploited.

Here, in brief, is the administration's explanation for dropping Iran from the list: Iran no longer grows more than 1,000 hectares, and the transited heroin does not come to the United States, so it does not qualify for the list.

This latter rationalization is based on the administration's own favored way of reading the law. In this reading, a major transit country does not qualify for the list if current intelligence information does not show a direct flow to the United States. Since the underground nature and fungibility of the international drug trade is hard to quantify precisely, this leaves a lot of room for interpreting the facts to reach a politically correct conclusion. This, of course, leaves aside the question of whether such an exception was ever part of congressional intent or is consistent with the law or the national interest. The reasoning is shaky on both policy and information. It also ignores the nature of international drug trade and criminal organizations and what must be done to get at them. And it relies on how little we know about what goes on inside Iran.

In reality, the administration's approach is a resort to technicalities and convenient interpretations to dodge the real issues. But as we have been instructed, it all depends upon what the meaning of ''is'' is. But let's remind ourselves that what is being done here is to base a weighty policy decision involving serious issues of national security and well being on lawyerly gamesmanship. And this on the unanchored hope that the gesture, and that's all it is, might get a friendly reaction in Iran. What did Iran actually do in response? What you would expect. It thumbed its nose in our direction. But let me illustrate a little further the way facts have been employed.

Recall that Iran used to be on the Majors List for producing over 1,000 hectares of opium. Drop below this number, in the administration's reasoning, and you automatically fall off the list. In this very careful parsing of meaning, I would suppose that if a country produced 999 hectares, no matter what other facts applied, it wouldn't qualify. But is this the case in Iran? The administration's explanation is that they could not find opium production in Iran in 1998, ergo, they do not qualify on this criteria. But this so-called objective assessment needs a little closer look.

In most cases, we base our estimates of illicit crop production on overhead imagery and photo interpretation. While we are pretty good at it, this is not a precise science, whether we're talking vegetables or missiles. And it is, by the way, even more difficult when it comes to counting vegetables. Good analysis is dependent of weather, adequate overhead coverage, information from corroborating sources, and a track record of surveying that builds up a reliable picture over time. What was the case in Iran? Before the so-called objective, imagery-based assessment in 1998, the last overhead coverage of Iran had been in the early 1990s.

The 1998 decision was therefore based on a one-time shot after years of no informaiton. Corroborating information is also scant. But the situation is even more dubious.

Based on the past estimates, Iran cultivated nearly 4,000 hectares of opium in various growing regions across the country. The 1998 survey concentrated in only one of those traditional growing areas. Although in the early 1990s it was the major one, it still only accounted for some 80 percent of total cultivation. The 1998 survey could find no significant growing areas in these areas. But if we are to believe Iranian authorities, they have specifically attacked this cultivation with vigorous eradication efforts. The imagery would seem to support this claim. But we also know that growers

adjust to enforcement. It is not unreasonable, therefore, to assume that drug producers might shift the locus of cultivation to less accessible areas and resort to measures to disguise production. The 1998 survey did not examine other areas.

We cannot, of course, prove a negative, but that should not lead us to jump to conclusions, especially when those conclusions are what we want. Let me illustrate the point. If 20 percent of Iranian opium production—a number based on earlier assessments—was in areas other than those checked, that figure alone gives us close to 800 hectares. Since those other areas—which cover an immense amount of countryside—were not checked, we cannot know if there was any production for sure. But, it would only require a little effort on the part of growers to shift a small amount of production to get us to our 1,000 hectare threshold. Also remember that opium is an annual plant. In some areas it has more than one growing season. Thus, a region that only had 500 hectares of opium at any one time but had two growing seasons, would have an actual total of 1,000 productive hectares per year. I do not know that this was the case in Iran, but neither does the administration. It doesn't know because it didn't look. It didn't look because it was not convenient.

I would suggest, even if you agree with the assumptions the administration is making about the intent of the law, that there are enough uncertainties in estimating Iranian opium production to counsel caution in reinterpreting the data. And even more caution in using this to revise policy. All the more so, given the nature of Iran's past actions and attitudes towards the United States. But even if you buy all the rationalizations leading to a decision to drop Iran from the Majors List, we are left with this: Is it responsible or creditable to make such a major shift in policy without even the pretense of consultation with Congress? Without an effort to explain the decision and shift to the public?

If there are grounds for reconsidering Iran's counter narcotics efforts, why was it necessary to resort to gimmicks? Is there something wrong with presenting the facts publicly and reaching a reasonable consensus consistent with the national interest? Not to mention that in this decision on Iran and the earlier one on Syria that we did not consult with Israel, our most consistent ally in the region? Was it necessary? Was it wise?

Is this the way we conduct serious counter drug policy as part of our international efforts? But this is not the only disturbing case.

I earlier alluded to a similar situation with regard to Syria. I will not review the details of that case. Suffice it to say, they are in keeping with what was done about Iran. The case I would like to look at more closely is that of North Korea. Here we have another rogue state and enemy of the United States that seems to get favored treatment when it comes to drugs.

There is credible and mounting evidence that North Korea is a major producing country of opium and processor of heroin. Stories of these activities have circulated for years, including details provided by defectors. Information that is further supported by the arrests of North Korean diplomats in numerous countries for drug smuggling using the diplomatic pouch. Defectors have indicated that illegal opium production and heroin sales have been used to fund North Korea's overseas activities and its nuclear program.

These reports also indicate that opium cultivation in North Korea far exceed the 1,000 hectare level, ranging from 3,000 to 7,000 hectares depending on the climate and growing conditions. In a country plagued by famine, precious arable land has been turned to illicit opium production by the government to fund terrorism and the development of nuclear weapons. Until this year, however, the administration did not report on these activities. It was not until Congress required such a report that we have even a hint of all of this in official reporting. When I asked the administration two years ago to supply data on opium cultivation in North Korea, it responded by saying they did not have any detailed information. Why? Because the administration was not looking for it. Under pressure, it is now beginning to look. While I welcome this, I am concerned that this search for information will be handled in the same manner as was used in the case of Iran. Information will be collected, but it will be carefully scripted and narrowly interpreted.

I find it puzzling that we should be willing to cut such corners. What is it about nations that are declared enemies of this country and many of our allies that we look the other way when it comes to drugs? What do we gain from empty gestures? And why do we make these gestures on an issue as basic to the national interest and well being of U.S. citizens as drug policy? I am at a loss to explain it. So, rather than trying to guess at motives, I am offering legislation to clarify the situation and to require more overt explanations. I therefore send to the desk the Most Favored Rogue States Act of 1999 and ask my colleagues to join me in supporting it. It addresses a serious issue that needs our immediate attention.

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By Mr. NICKLES (for himself, Mr. LIEBERMAN, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BROWNBACK, Mr. COVERDELL, Mr. ENZI, Mr. HAGEL, Mr. INHOFE, Mr. CRAIG, AND Mr. SESSIONS):

S. 1272. A bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PAIN RELIEF PROMOTION ACT OF 1999

Mr. NICKLES. Mr. President, end-of-life issues are some of the most complicated our society wrestles with today, as medical technology dramatically advances and life expectancies continue to increase. Many of us have relatives, or know someone, who has grappled with grave and terminal illnesses. Doctors, caregivers, and family members work together in such situations, not just in an effort to save a loved one's life, but to give them the comfort and palliative care they deserve. However, love and concern can often come up against a confusing and complicated set of Federal and state laws which govern and influence care and treatment decisions in such situations.

Today I, along with Senators LIEBERMAN, LOTT, ABRAHAM, ALLARD, BROWNBACK, COVERDELL, ENZI, HAGEL, HELMS, INHOFE, and CRAIG, introduce the Pain Relief Promotion Act of 1999. This comprehensive legislation will restore the uniform national standard of the Controlled Substances Act (CSA) to all 50 states. The Pain Relief Promotion Act will:

Affirm and support aggressive pain management as a ''legitimate medical purpose'' for the use of federally-controlled substances—even in cases where such use may unintentionally hasten death as a side-effect (''principle of double effect'').

Encourage practitioners to dispense and distribute federally-controlled substances as medically appropriate to relieve pain and other distressing symptoms, by clarifying that such conduct is consistent with the Controlled Substances Act.

Provide that a state law authorizing or permitting assisted suicide or euthanasia does not change the federal government's responsibility to prevent misuse of federally-controlled, potentially dangerous, drugs. The Federal government's responsibility to prevent such misuse in states which have not legalized assisted suicide is already conceded by the Attorney General and would not change.

Provide education and training to law enforcement officials and health professionals on medically accepted means for alleviating pain and other distressing symptoms for patients with advanced chronic disease or terminal illness, including the legitimate use of federally-controlled substances.

Establish a ''Program for Palliative Care Research and Quality'' within the Agency for Health Care Policy and Research (AHCPR) to develop and advance scientific understanding of palliative care, and collect, disseminate and make available information on pain management, especially for the terminally ill health professionals and the general public.

Authorize $5 million for a grant program within the Health Resources and Services Administration (HRSA) to

make grants and contracts for the development and implementation of programs to provide education and training in palliative care. It states that physicians entrusted by the federal government with the authority to prescribe and dispense federally-controlled substances may not abuse that authority by using them for assisted suicide; however, it strongly affirms that it is a ''legitimate medical purpose'' to use these federally-controlled substances to treat patient's pain and end-of-life symptoms, even in light of the unfortunate and unintended side effect of possibly hastening a patient's death.

Recognize that this policy promoting pain control does not authorize the use of federally-controlled substances for intentional assistance in suicide or euthanasia.

Restore the uniform national standard that federally-controlled substances can not be used for the purpose of assisted suicide by applying the current law in 49 states to all 50 states. This bill does not create any new regulatory authority for the DEA.

This is a straight-forward, very positive bill that would merely apply what is current law in 49 states to all 50 states, without increasing the federal regulatory authority of the Drug Enforcement Administration (DEA). The bill has been endorsed by organizations including the National Hospice Organization, American Society of Anesthesiologists, American Academy of Pain Management, and former Surgeon General Dr. C. Everett Koop. And, today I was informed that the House of Delegates of the American Medical Association voted to support the bill.

A variety of provisions in this legislation is in direct response to the June 5, 1998, letter by the Attorney General, allowing Oregon to use federally-controlled substances for assisted suicide, a decision that was in direct opposition to an earlier policy determination by her own Drug Enforcement Administration.

It is significant to remember that in 1984 Congress passed amendments to strengthen the Controlled Substances Act, due to specific concerns regarding the use of prescription drugs in lethal overdoses. Congress's view was that while the states are the first line of defense against misuse of prescription drugs, the federal government must enforce its own objective standard as to what constitutes such misuse—and it must have the authority to enforce that standard when a state cannot or will not do so.

Again, Congress clearly spoke on the issue of assisted suicide when it passed the Assisted Suicide Federal Funding Restriction Act of 1997 by a nearly unanimous vote. Signing the bill President Clinton said it ''will allow the Federal Government to speak with a clear voice in opposing these practices,'' and warned that ''to endorse assisted suicide would set us on a disturbing and perhaps dangerous path.''

It is time for Congress to speak again.

Federal law is clearly intended to prevent use of these drugs for lethal overdoses, and contains no exception for deliberate overdoses approved by a physician. The DEA currently pursues cases where a physician's negligent use of controlled substances has led to the death of a patient, it was inappropriate for the Attorney General to allow for the intentional use of controlled substances to cause the death of a patient. The Pain Relief Promotion Act will clarify federal law, to affirm use of controlled substances to control pain and reject their deliberate use to kill patients.

This legislation is overdue. Already physicians have used these federally controlled substances to cause the death of their patients. There is no role for the Federal government in providing assisted suicide.

I urge my colleagues to support and enact this urgently needed bipartisan legislation.

Mr. President, I ask unanimous consent that the text of the bill and letters, of support be printed in the RECORD.

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

S. 1272

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Pain Relief Promotion Act of 1999''.

## TITLE I—USE OF CONTROLLED SUBSTANCES CONSISTENT WITH THE CONTROLLED SUBSTANCES ACT

**SEC. 101. REINFORCING EXISTING STANDARD FOR LEGITIMATE USE OF CONTROLLED SUBSTANCES.**

Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following:

''(i)(1) For purposes of this Act and any regulations to implement this Act, alleviating pain or discomfort in the usual course of professional practice is a legitimate medical purpose for the dispensing, distributing, or administering of a controlled substance that is consistent with public health and safety, even if the use of such a substance may increase the risk of death. Nothing in this section authorizes intentionally dispensing, distributing, or administering a controlled substance for the purpose of causing death or assisting another person in causing death.

''(2) Notwithstanding any other provision of this Act, in determining whether a registration is consistent with the public interest under this Act, the Attorney General shall give no force and effect to State law authorizing or permitting assisted suicide or euthanasia.

''(3) Paragraph (2) applies only to conduct occurring after the date of enactment of this subsection.''.

**SEC. 102. EDUCATION AND TRAINING PROGRAMS.**

Section 502(a) of the Controlled Substances Act (21 U.S.C. 872(a)) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by adding at the end the following:

''(7) educational and training programs for local, State, and Federal personnel, incorporating recommendations by the Secretary of Health and Human Services, on the necessary and legitimate use of controlled substances in pain management and palliative care, and means by which investigation and enforcement actions by law enforcement personnel may accommodate such use.''.

## TITLE II—PROMOTING PALLIATIVE CARE

**SEC. 201. ACTIVITIES OF AGENCY FOR HEALTH CARE POLICY AND RESEARCH.**

Part A of title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end the following:

**''SEC. 906. PROGRAM FOR PALLIATIVE CARE RESEARCH AND QUALITY.**

''(a) IN GENERAL.—The Administrator shall carry out a program to accomplish the following:

''(1) Develop and advance scientific understanding of palliative care.

''(2) Collect and disseminate protocols and evidence-based practices regarding palliative care, with priority given to pain management for terminally ill patients, and make such information available to public and private health care programs and providers, health professions schools, and hospices, and to the general public.

''(b) DEFINITION.—For purposes of this section, the term 'palliative care' means the active total care of patients whose prognosis is limited due to progressive, far-advanced disease. The purpose of such care is to alleviate pain and other distressing symptoms and to enhance the quality of life, not to hasten or postpone death.''.

**SEC. 202. ACTIVITIES OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.**

(a) IN GENERAL.—Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.), as amended by section 103 of Public Law 105–392 (112 Stat. 3541), is amended—

(1) by redesignating sections 754 through 757 as sections 755 through 758, respectively; and

(2) by inserting after section 753 the following section:

**''SEC. 754. PROGRAM FOR EDUCATION AND TRAINING IN PALLIATIVE CARE.**

''(a) IN GENERAL.—The Secretary, in consultation with the Administrator for Health Care Policy and Research, may make awards of grants, cooperative agreements, and contracts to health professions schools, hospices, and other public and private entities for the development and implementation of programs to provide education and training to health care professionals in palliative care.

''(b) PRIORITIES.—In making awards under subsection (a), the Secretary shall give priority to awards for the implementation of programs under such subsection.

''(c) CERTAIN TOPICS.—An award may be made under subsection (a) only if the applicant for the award agrees that the program carried out with the award will include information and education on—

''(1) means for alleviating pain and discomfort of patients, especially terminally ill patients, including the medically appropriate use of controlled substances;

''(2) applicable laws on controlled substances, including laws permitting health care professionals to dispense or administer controlled substances as needed to relieve pain even in cases where such efforts may unintentionally increase the risk of death; and

''(3) recent findings, developments, and improvements in the provision of palliative care.

''(d) PROGRAM SITES.—Education and training under subsection (a) may be provided at or through health professions schools, residency training programs and other graduate programs in the health professions, entities

that provide continuing medical education, hospices, and such other programs or sites as the Secretary determines to be appropriate.

''(e) EVALUATION OF PROGRAMS.—The Secretary shall (directly or through grants or contracts) provide for the evaluation of programs implemented under subsection (a) in order to determine the effect of such programs on knowledge and practice regarding palliative care.

''(f) PEER REVIEW GROUPS.—In carrying out section 799(f) with respect to this section, the Secretary shall ensure that the membership of each peer review group involved includes one or more individuals with expertise and experience in palliative care.

''(g) DEFINITION.—For purposes of this section, the term 'palliative care' means the active total care of patients whose prognosis is limited due to progressive, far-advanced disease. The purpose of such care is to alleviate pain and other distressing symptoms and to enhance the quality of life, not to hasten or postpone death.''.

(b) AUTHORIZATION OF APPROPRIATIONS; ALLOCATION.—

(1) IN GENERAL.—Section 758 of the Public Health Service Act (as redesignated by subsection (a)(1) of this section) is amended in subsection (b)(1)(C) by striking ''sections 753, 754, and 755'' and inserting ''section 753, 754, 755, and 756''.

(2) AMOUNT.—With respect to section 758 of the Public Health Service Act (as redesignated by subsection (a)(1) of this section), the dollar amount specified in subsection (b)(1)(C) of such section is deemed to be increased by $5,000,000.

**SEC. 203. EFFECTIVE DATE.**

The amendments made by this title take effect October 1, 1999, or on the date of the enactment of this Act, whichever occurs later.

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NATIONAL HOSPICE ORGANIZATION,
*Arlington, VA, June 11, 1999.*

Hon. DON NICKLES,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR NICKLES: The National Hospice Organization has recently endorsed your bill, ''The Pain Relief Promotion Act of 1999.''

Your legislation would provide a mechanism for health care professionals to collect, review and disseminate vital practice protocols and effective pain management techniques within the health care community and the public. In addition, increased educational efforts focused within the health professions community about the nature and practice of palliative care are important components of your initiative.

Our 2,000 member hospices provide what Americans say they want if they were confronted with a terminal illness—to die in their home, free of pain, and with emotional support for themselves and their loved ones. For over 20 years, hospices have been in the forefront of managing the complex medical and emotional needs of the terminally ill. It is unfortunate that we continue to see individuals living and dying in unnecessary pain when the clinical and medical resources exist but widespread education is lacking.

Your legislation is a step toward a better awareness of effective pain management techniques and should ultimately change behavior to better serve the needs of terminally ill patients and their families.

Sincerely,

KAREN A. DAVIE,
*President.*

AMERICAN ACADEMY
OF PAIN MANAGEMENT,
*Sonora, CA, June 15, 1999.*

Senator DONALD NICKLES,
*Washington, DC.*

DEAR SENATOR NICKLES: The American Academy of Pain Management, America's largest multidisciplinary pain organization, applauds your efforts to end the pain and suffering for Americans. The Board of Directors of the American Academy of Pain Management supports The Pain Relief Promotion Act of 1999. We share your belief that opioid analgesics should be available for those unfortunately suffering from the pain associated with terminal illnesses. The alternatives to assisted suicide and euthanasia are compassionate and appropriate methods for prescribers to relieve pain without fear of regulatory discipline.

The Pain Relief Promotion Act of 1999 provides for law enforcement education, the development and dissemination of practice guidelines, increased funding for palliative care research, and safeguards for unlawful prescribers of controlled substances. This bill appropriately reflects the changing philosophy about pain control as a significant priority in the care of those facing terminal illnesses.

The American Academy of Pain Management thanks you for your effort to improve the quality of life for Americans.

Sincerely,

RICHARD S. WEINER, Ph.D.,
*Executive Director.*

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AMERICAN SOCIETY
OF ANESTHESIOLOGISTS,
*Washington, DC, June 16, 1999.*

Hon. DON NICKLES,
*Assistant Majority Leader, U.S. Senate, Washington, DC.*

DEAR SENATOR NICKLES: In my capacity as President of the American Society of Anesthesiologists, a national medical association comprised of 34,000 physicians and other scientists engaged or especially interested in the practice of anesthesiology, I am pleased to offer our endorsement of the Pain Relief Promotion Act of 1999, which I understand you will introduce this week.

Many ASA members engage in a pain management practice, and such a practice regularly includes the treatment of intractable pain, experienced by terminally or severely ill patients, through the prescription of controlled substances. As you are aware, a major concern among these practitioners has involved the possible that aggressive treatment of intractable pain involving increased risk of death—however medically necessary to provide the patient with the best possible quality of life—could be the subject of criminal prosecution as involving alleged intent to cause death.

ASA's House of Delegates has formally expressed the Society's opposition to physician assisted suicide as incompatible with the role of the physician. At the same time, the Society believes anesthesiologists ''should always strive to relieve suffering, address the psychological and spiritual needs of patients at the end of life, add value to a patient's remaining life and allow patients to die with dignity''.

We find your bill to be fully consistent with these principles, in that (1) it denies support in federal law for intentional use of a controlled substance for the purpose of causing death or assisting another person in causing death, but (2) it includes in federal law recognition that alleviating pain in the usual course of professional practice is a legitimate medical purpose for dispensing a controlled substance that is consistent with public health and safety, even if the use of such a substance may increase the risk of death.

ASA believes that the bill articulates an appropriate standard for distinguishing between assisted suicide and medically-appropriate aggressive treatment of severe pain. Although we have some continuing concern whether law enforcement officers will regularly recognize and honor this critical distinction, we believe much can be accomplished through the education and training programs contemplated by section 102 of the bill. We look forward to the opportunity, during congressional consideration of the bill, to work with you and your staff to strengthen this provision to assure that the these programs include input from medical practitioners regularly engaged in a pain management practice.

If we can be of further assistance, please ask your staff to contact Michael Scott in our Washington office, at the address and telephone number listed above.

Sincerely,

JOHN B. NEELD, Jr., M.D.,
*President.*

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## ADDITIONAL COSPONSORS

S. 26

At the request of Mr. MCCAIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 26, a bill entitled the ''Bipartisan Campaign Reform Act of 1999.''

S. 42

At the request of Mr. HELMS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 42, a bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 242

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 242, a bill to amend the Federal Meat Inspection Act to require the labeling of imported meat and meat food products.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 510

At the request of Mr. CAMPBELL, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 510, a bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

S. 530

At the request of Mr. GORTON, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 530, a bill to amend the Act commonly

known as the ''Export Apple and Pear Act'' to limit the applicability of that act to apples.

S. 579

At the request of Mr. BROWNBACK, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 579, a bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of the South Caucasus and Central Asia.

S. 632

At the request of Mr. DEWINE, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 632, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 664

At the request of Mr. CHAFEE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 820

At the request of Mr. CHAFEE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 820, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 873

At the request of Mr. DURBIN, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 873, a bill to close the United States Army School of the Americas.

S. 880

At the request of Mr. INHOFE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 880, a bill to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program

S. 882

At the request of Mr. MURKOWSKI, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 882, a bill to strengthen provisions in the Energy Policy Act of 1992 and the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to potential Climate Change.

S. 1172

At the request of Mr. TORRICELLI, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1172, a bill to provide a patent term restoration review procedure for certain drug products.

S. 1244

At the request of Mr. THOMPSON, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1244, a bill to establish a 3-year pilot project for the General Accounting Office to report to Congress on economically significant rules of Federal agencies, and for other purposes.

S. 1253

At the request of Mr. INOUYE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1253, A bill to authorize the Secretary of Commerce, through the National Oceanic and Atmospheric Administration, to provide financial assistance for coral reef conservation projects, and for other purposes.

S. 1266

At the request of Mr. GORTON, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Florida (Mr. MACK), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1266, a bill to allow a State to combine certain funds to improve the academic achievement of all its students.

SENATE RESOLUTION 59

At the request of Mr. LAUTENBERG, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of Senate Resolution 59, resolution designating both July 2, 1999, and July 2, 2000, as ''National Literacy Day.''

## SENATE RESOLUTION 126—EXPRESSING THE SENSE OF THE SENATE THAT APPRECIATION BE SHOWN FOR THE EXTRAORDINARY WORK OF MILDRED WINTER AS MISSOURI TEACHER AND LEADER IN CREATING THE PARENTS AS TEACHERS PROGRAM ON THE OCCASION THAT MILDRED WINTER STEPS DOWN AS EXECUTIVE DIRECTOR OF SUCH PROGRAM

Mr. BOND submitted the following resolution; which was considered and agreed to:

S. RES. 126

Whereas Mildred Winter has, with determination, expertise, and unflagging energy, dedicated her professional life to early childhood and parent education;

Whereas Mildred Winter began her remarkable career as an educator and leader as a teacher in the Berkeley and Ferguson-Florissant School Districts in Missouri;

Whereas Mildred Winter served as Missouri's first Early Childhood Education Director from 1972 until 1984, during which time the early childhood education services to Missouri families and children improved and increased dramatically;

Whereas Mildred Winter was a leader in initiating the Parents as Teachers program in Missouri in 1981 to address the critical problem of children entering school in need of special help;

Whereas the Parents as Teachers program gives all parents, regardless of social or economic circumstances, the support and guidance necessary to be their children's best teachers in the critical early years;

Whereas Mildred Winter worked to secure passage in the Missouri General Assembly of the Early Childhood Education Act of 1984, landmark legislation which led to the creation of Parents as Teachers programs in Missouri;

Whereas Mildred Winter is recognized as a visionary leader by her peers throughout the country for her unwavering commitment to early childhood education;

Whereas Mildred Winter and the Parents as Teachers program have received numerous prestigious awards at the State and national levels;

Whereas today there are over 2,200 Parents as Teachers programs in 49 States, the District of Columbia, and 6 other countries;

Whereas while continually striving to move the Parents as Teachers program forward, in 1995 Mildred Winter recognized the importance of sharing with parents what is known about early brain development and the role parents play in promoting that development in their children, and used this foresight to develop the vanguard Born to Learn Curriculum; and

Whereas after nearly 2 decades of leadership of the Parents as Teachers program, Mildred Winter has chosen to step down as Executive Director of the organization: Now, therefore, be it

*Resolved,*

**SECTION 1. RECOGNITION OF MILDRED WINTER.**

That it is the sense of the Senate that—

(1) admiration and respect be shown for the visionary and innovative work of Mildred Winter in the field of childhood education; and

(2) appreciation be shown for the work that Mildred Winter has done through the Parents as Teachers program which has enriched the lives of hundreds of thousands of children and provided such children with a far better chance of success and happiness in school and in life.

## SENATE RESOLUTION 127—TO DIRECT THE SECRETARY OF THE SENATE TO REQUEST THE RETURN OF CERTAIN PAPER

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 127

*Resolved,* That the Secretary of the Senate is directed to request the House of Representatives to return the official papers on S. 331.

## AMENDMENTS SUBMITTED

## AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

### GRAHAM (AND HOLLINGS) AMENDMENT NO. 732

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by them to the bill (S. 1233) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes; as follows:

On page 76 between lines 6 and 7, insert the following:

**SEC. 7 . INDICATION OF COUNTRY OF ORIGIN OF IMPORTED PERISHABLE AGRICULTURAL COMMODITIES.**

(a) DEFINITIONS.—In this section:

(1) FOOD SERVICE ESTABLISHMENT.—The term 'food service establishment' means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility, operated as an enterprise engaged in the business of selling foods to the public.

(2) PERISHABLE AGRICULTURAL COMMODITY; RETAILER.—The terms 'perishable agricultural commodity' and 'retailer' have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b))

(b) NOTICE OF COUNTRY OF ORIGIN REQUIRED.—Except as provided in subsection (c), a retailer of a perishable agricultural commodity imported into the United States shall inform consumers, at the final point of sale of the perishable agricultural commodity to consumers, of the country of origin of the perishable agricultural commodity.

(c) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS.—Subsection (b) shall not apply to a perishable agricultural commodity imported into the United States to the extent that the perishable agricultural commodity is—

(1) prepared or served in a food service establishment; and

(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

(B) served to consumers at the food service establishment.

(d) METHOD OF NOTIFICATION

(1) IN GENERAL.—The information required by subsection (b) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the imported perishable agricultural commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

(2) LABELED COMMODITIES.—If the imported perishable agricultural commodity is already individually labeled regarding country of origin by the packer, importer, or another person, the retailer shall not be required to provide any additional information to comply with this section.

(e) VIOLATIONS.—If a retailer fails to indicate the country of origin of an imported perishable agricultural commodity as required by subsection (b), the Secretary of Agriculture may assess a civil penalty on the retailer in an amount not to exceed—

(1) $1,000 for the first day on which the violation occurs; and

(2) $250 for each day on which the same violation continues.

(f) DEPOSIT OF FUNDS.—Amounts collected under subsection (e) shall be deposited in the Treasury of the United States as miscellaneous receipts.

(g) APPLICATION OF SECTION.—This section shall apply with respect to a perishable 37 agricultural commodity imported into the United States after the end of the 6-month period beginning on the date of the enactment of this Act.

## RELATING TO PLEDGE OF ALLEGIANCE IN THE SENATE CHAMBER

### SMITH (AND McCONNELL) AMENDMENTS NO. 733

Mr. SMITH of New Hampshire (for himself and Mr. MCCONNELL) proposed an amendment to the resolution (S. Res. 113) to amend the Standing Rules of the Senate to require that the Pledge of Allegiance to the Flag of the United States be recited at the commencement of the daily session of the Senate; as follows:

On page 2, line 4, strike all after ''Presiding Officer'' and insert '', or a Senator designated by the Presiding Officer, leads the Senate from the dais in reciting the Pledge of Allegiance to the Flag of the United States.

## CONCERNING RACIAL MINORITIES IN IRAN

### SCHUMER AMENDMENT NO. 734

Mr. SCHUMER proposed an amendment to the concurrent resolution (S. Con. Res. 39) expressing the sense of the Congress regarding the treatment of religious minorities in the Islamic Republic of Iran, and particularly the recent arrests of members of that country's Jewish community; as follows:

On page 3, line 3, strike ''Clinton Administration'' and insert ''United States''.

On page 3, strike line 4 to line 5 before ''continue''.

On page 3, beginning with line 7, strike the word ''recommendation'' and insert ''the recommendation of resolution 1999/13.''

On page 3, line 9, insert after ''(2)'' ''continue to''.

## FUELS REGULATORY RELIEF ACT

### CHAFEE AMENDMENT NO. 735

Mr. GRASSLEY (for Mr. CHAFEE) proposed an amendment to the bill (S. 880) to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program; as follows:

Strike section 4 and insert the following:

**SEC. 4. PUBLIC ACCESS TO OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.**

(a) IN GENERAL.—Section 112(r)(7) of the Clean Air Act (42 U.S.C. 7412(r)(7)) is amended by adding at the end the following:

''(H) PUBLIC ACCESS TO OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) COVERED PERSON.—The term 'covered person' means—

''(aa) an officer or employee of the United States;

''(bb) an officer or employee of an agent or contractor of the Federal Government;

''(cc) an officer or employee of a State or local government;

''(dd) an officer or employee of an agent or contractor of a State or local government;

''(ee) an individual affiliated with an entity that has been given, by a State or local government, responsibility for preventing, planning for, or responding to accidental releases and criminal releases;

''(ff) an officer or employee or an agent or contractor of an entity described in item (ee); and

''(gg) a qualified researcher under clause (vii).

''(II) CRIMINAL RELEASE.—The term 'criminal release' means an emission of a regulated substance into the ambient air from a stationary source that is caused, in whole or in part, by a criminal act.

''(III) OFFICIAL USE.—The term 'official use' means an action of a Federal, State, or local government agency or an entity referred to in subclause (I)(ee) intended to carry out a function relevant to preventing, planning for, or responding to accidental releases or criminal releases.

''(IV) OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.—The term 'off-site consequence analysis information' means those portions of a risk management plan, excluding the executive summary of the plan, consisting of an evaluation of 1 or more worst-case scenario or alternative scenario accidental releases, and any electronic data base created by the Administrator from those portions.

''(V) RISK MANAGEMENT PLAN.—The term 'risk management plan' means a risk management plan submitted to the Administrator by an owner or operator of a stationary source under subparagraph (B).

''(ii) REGULATIONS.—Not later than 1 year after the date of enactment of this subparagraph, the President shall—

''(I) assess—

''(aa) the increased risk of terrorist and other criminal activity associated with the posting of off-site consequence analysis information on the Internet; and

''(bb) the incentives created by public disclosure of off-site consequence analysis information for reduction in the risk of accidental releases and criminal releases; and

''(II) based on the assessment under subclause (I), promulgate regulations governing the distribution of off-site consequence analysis information in a manner that, in the opinion of the President, minimizes the likelihood of accidental releases and criminal releases and the likelihood of harm to public health and welfare, and—

''(aa) allows access by any member of the public to paper copies of off-site consequence analysis information for a limited number of stationary sources located anywhere in the United States;

''(bb) allows other public access to off-site consequence analysis information as appropriate;

''(cc) allows access for official use by a covered person described in any of items (cc) through (ff) of clause (i)(I) (referred to in this subclause as a 'State or local covered person') to off-site consequence analysis information relating to stationary sources located in the person's State;

''(dd) allows a State or local covered person to provide, for official use, off-site consequence analysis information relating to stationary sources located in the person's State to a State or local covered person in a contiguous State; and

''(ee) allows a State or local covered person to obtain for official use, by request to the Administrator, off-site consequence analysis information that is not available to the person under item (cc).

''(iii) AVAILABILITY UNDER FREEDOM OF INFORMATION ACT.—

''(I) FIRST YEAR.—Off-site consequence analysis information, and any ranking of stationary sources derived from the information, shall not be made available under section 552 of title 5, United States Code, during the 1-year period beginning on the date of enactment of this subparagraph.

''(II) AFTER FIRST YEAR.—If the regulations under clause (ii) are promulgated on or before the end of the period described in subclause (I), off-site consequence analysis information covered by the regulations, and any ranking of stationary sources derived from the information, shall not be made available under section 552 of title 5, United States Code, after the end of that period.

''(III) APPLICABILITY.—Subclauses (I) and (II) apply to off-site consequence analysis information submitted to the Administrator before, on, or after the date of enactment of this subparagraph.

''(iv) AVAILABILITY OF INFORMATION DURING TRANSITION PERIOD.—The Administrator shall make off-site consequence analysis information available to covered persons for official use in a manner that meets the requirements of items (cc) through (ee) of clause (ii)(II), and to the public in a form that does not make available any information concerning the identity or location of stationary sources, during the period—

''(I) beginning on the date of enactment of this subparagraph; and

''(II) ending on the earlier of the date of promulgation of the regulations under clause (ii) or the date that is 1 year after the date of enactment of this subparagraph.

''(v) PROHIBITION ON UNAUTHORIZED DISCLOSURE OF INFORMATION BY COVERED PERSONS.—

''(I) IN GENERAL.—Beginning on the date of enactment of this subparagraph, a covered person shall not disclose to the public off-site consequence analysis information in any form, or any statewide or national ranking of identified stationary sources derived from such information, except as authorized by this subparagraph (including the regulations promulgated under clause (ii)). After the end of the 1-year period beginning on the date of enactment of this subparagraph, if regulations have not been promulgated under clause (ii), the preceding sentence shall not apply.

''(II) CRIMINAL PENALTIES.—

''(aa) KNOWING VIOLATIONS.—A covered person that knowingly violates a restriction or prohibition established by this subparagraph (including the regulations promulgated under clause (ii)) shall be fined not more than $5,000 for each unauthorized disclosure of off-site consequence analysis information. The disclosure of off-site consequence analysis information for each specific stationary source shall be considered a separate offense. Section 3571 of title 18, United States Code, shall not apply to an offense under this item. The total of all penalties that may be imposed on a single person or organization under this item shall not exceed $100,000 for violations committed during any 1 calendar year.

''(bb) WILLFUL VIOLATIONS.—A covered person that willfully violates a restriction or prohibition established by this subparagraph (including the regulations promulgated under clause (ii)) shall be fined under section 3571 of title 18, United States Code, for each unauthorized disclosure of off-site consequence analysis information, but shall not be subject to imprisonment. The total of all penalties that may be imposed on a single person or organization under this item shall not exceed $1,000,000 for violations committed during any 1 calendar year.

''(III) APPLICABILITY.—If the owner or operator of a stationary source makes off-site consequence analysis information relating to that stationary source available to the public without restriction—

''(aa) subclauses (I) and (II) shall not apply with respect to the information; and

''(bb) the owner or operator shall notify the Administrator of the public availability of the information.

''(IV) LIST.—The Administrator shall maintain and make publicly available a list of all stationary sources that have provided notification under subclause (III)(bb).

''(vi) GUIDANCE.—

''(I) ISSUANCE.—Not later than 60 days after the date of enactment of this subparagraph, the Administrator, after consultation with the Attorney General and the States, shall issue guidance that describes official uses of off-site consequence analysis information in a manner consistent with the restrictions in items (cc) through (ee) of clause (ii)(II).

''(II) RELATIONSHIP TO REGULATIONS.—The guidance describing official uses shall be modified, as appropriate, consistent with the regulations promulgated under clause (ii).

''(III) DISTRIBUTION.—The Administrator shall transmit a copy of the guidance describing official uses to—

''(aa) each covered person to which off-site consequence analysis information is made available under clause (iv); and

''(bb) each covered person to which off-site consequence analysis information is made available for an official use under the regulations promulgated under clause (ii).

''(vii) QUALIFIED RESEARCHERS.—

''(I) IN GENERAL.—Not later than 180 days after the date of enactment of this subparagraph, the Administrator, in consultation with the Attorney General, shall develop and implement a system for providing off-site consequence analysis information, including facility identification, to any qualified researcher, including a qualified researcher from industry or any public interest group.

''(II) LIMITATION ON DISSEMINATION.—The system shall not allow the researcher to disseminate, or make available on the Internet, the off-site consequence analysis information, or any portion of the off-site consequence analysis information, received under this clause.

''(viii) READ-ONLY INFORMATION TECHNOLOGY SYSTEM.—In consultation with the Attorney General and the heads of other appropriate Federal agencies, the Administrator shall establish an information technology system that provides for the availability to the public of off-site consequence analysis information by means of a central data base under the control of the Federal Government that contains information that users may read, but that provides no means by which an electronic or mechanical copy of the information may be made.

''(ix) VOLUNTARY INDUSTRY ACCIDENT PREVENTION STANDARDS.—The Environmental Protection Agency, the Department of Justice, and other appropriate agencies may provide technical assistance to owners and operators of stationary sources and participate in the development of voluntary industry standards that will help achieve the objectives set forth in paragraph (1).

''(x) EFFECT ON STATE OR LOCAL LAW.—

''(I) IN GENERAL.—Subject to subclause (II), this subparagraph (including the regulations promulgated under this subparagraph) shall supersede any provision of State or local law that is inconsistent with this subparagraph (including the regulations).

''(II) AVAILABILITY OF INFORMATION UNDER STATE LAW.—Nothing in this subparagraph precludes a State from making available data on the off-site consequences of chemical releases collected in accordance with State law.

''(xi) REPORT ON ACHIEVEMENT OF OBJECTIVES.—

''(I) IN GENERAL.—Not later than 3 years after the date of enactment of this subparagraph, the Comptroller General shall submit to Congress a report that describes the extent to which the regulations promulgated under this paragraph have resulted in actions, including the design and maintenance of safe facilities, that are effective in detecting, preventing, and minimizing the consequences of releases of regulated substances that may be caused by criminal activity.

''(II) INTERIM REPORT.—Not later than 270 days after the date of enactment of this subparagraph, the Comptroller General shall submit to Congress an interim report that includes, at a minimum—

''(aa) the preliminary findings under subclause (I);

''(bb) the methods used to develop those findings; and

''(cc) an explanation of the activities expected to occur that could cause the findings of the report under subclause (I) to be different from the preliminary findings.

''(xii) SCOPE.—This subparagraph—

''(I) applies only to covered persons; and

''(II) does not restrict the dissemination of off-site consequence analysis information by any covered person in any manner or form except in the form of a risk management plan or an electronic data base created by the Administrator from off-site consequence analysis information.

''(xiii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator and the Attorney General such sums as are necessary to carry out this subparagraph (including the regulations promulgated under clause (ii)), to remain available until expended.''.

(b) REPORTS.—

(1) DEFINITION OF ACCIDENTAL RELEASE.—In this subsection, the term ''accidental release'' has the meaning given the term in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2)).

(2) REPORT ON STATUS OF CERTAIN AMENDMENTS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the status of the development of amendments to the National Fire Protection Association Code for Liquefied Petroleum Gas that will result in the provision of information to local emergency response personnel concerning the off-site effects of accidental releases of substances exempted from listing under section 112(r)(4)(B) of the Clean Air Act (as added by section 3).

(3) REPORT ON COMPLIANCE WITH CERTAIN INFORMATION SUBMISSION REQUIREMENTS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that—

(A) describes the level of compliance with Federal and State requirements relating to the submission to local emergency response personnel of information intended to help the local emergency response personnel respond to chemical accidents or related environmental or public health threats; and

(B) contains an analysis of the adequacy of the information required to be submitted and the efficacy of the methods for delivering the information to local emergency response personnel.

(c) TERMINATION OF AUTHORITY.—The authority provided by this section and the amendment made by this section terminates 6 years after the date of enactment of this Act.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 23, 1999, at 9:30 a.m. in open session, to receive testimony on recommendations to reorganize Department of Energy national security programs in response to espionage threats.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 23, 1999, to conduct a hearing on ''Export Administration Act Reauthorization: Government Views.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, June 23, 1999, at 9:30 a.m. on pending committee business.

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

COMMITTEE ON FINANCE

Mr. NICKLES. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, June 23, 1999, beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 23, 1999, at 4 p.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be permitted to meet on Wednesday, June 23, 1999, at 10 a.m. for a hearing on the Interagency Inspectors General Report on the Export-Control Process for Dual-Use and Munitions List Commodities.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''ESEA: Title VI'' during the session of the Senate on Wedkesday, June 23, 1999, at 9:30 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. NICKLES. Mr. President I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, June 23, 1999, at 9:30 a.m. to conduct a hearing on the Report of the National Gambling Impact Study Commission. The hearing will be held in room 485, Russell Senate Building.

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

COMMITTEE ON THE JUDICIARY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet for a hearing re Religious Liberty, during the session of the Senate on Wednesday, June 23, 1999, at 11 a.m., in SD–226.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. NICKLES. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on pending legislation.

The hearing will be held on Wednesday, June 23, 1999, at 2 p.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND DRINKING WATER

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Drinking Water be granted permission to conduct a hearing on the recovery of salmon Wednesday, June 23, 1:30 p.m., hearing room (SD–406).

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

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, June 23, for purposes of conducting a Forests and Public Land Management Subcommittee hearing which is scheduled to begin at 2:15 p.m. The purpose of this hearing is to receive testimony on S. 503, the Spanish Peaks Wilderness Act of 1999; S. 953, the Terry Peaks Land Conveyance Act of 1999; S. 977, the Miwaleta Park Expansion Act; S. 1088, the Arizona National Forest Improvement Act of 1999; and H.R. 15 and S. 848, the Otay Mountain Wilderness Act of 1999.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs be authorized to meet during the session of the Senate on Wednesday, June 23, 1999, at 11 a.m. to hold a hearing.

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

## ADDITIONAL STATEMENTS

### CONGRATULATIONS OFFERED TO PAYNE STEWART

● Mr. ASHCROFT. Mr. President, I welcome the opportunity to congratulate Payne Stewart for his recent victory at this year's U.S. Open. Payne captured the championship with a dramatic 15-foot putt on the 72nd hole, the final hole of the tournament. Originally from Springfield, Missouri, Payne has continually brought an air of class and dignity to the game of golf that is a true inspiration to all Americans, myself included. In fact, his recent performance has inspired me to hit the greens again.

For his triumph in the tournament, Stewart drew strength from the memory of his late father, William Stewart, a two-time Missouri State Amateur Champion. On June 20, the final day of the U.S. Open and also Father's Day, NBC ran a special on the relationship between Payne and William Stewart. Taking the time to watch the special, Payne was moved to tears. This time of reflection may have provided the inspiration needed to make the difference in the tournament. I, too, had a father who was a major influence on my life. I, too, find strength and guidance in the moments I take to remember.

Payne Stewart is a credit to the game of golf and an example for all Missourians of what dedication and perseverance bring forth. With his second U.S. Open championship, he has shown the entire world that with enough determination and faith—coupled with a crucial putting tip from his wife—dreams really do come true. Again, I offer an enthusiastic congratulations.●

### CONGRATULATIONS TO THE BUFFALO SABRES, NATIONAL HOCKEY LEAGUE EASTERN CONFERENCE CHAMPS

● Mr. MOYNIHAN. Mr. President, I rise today to add my voice to the growing chorus of people congratulating the Buffalo Sabres for their outstanding performance in the Stanley Cup Finals. Led by team captain Michael Peca, and their indefatigable goalie, Dominik Hasek, the entire team accomplished what was thought by many to be the impossible. Their heartfelt play brought a level of excitement to the Stanley Cup finals not seen in years. I am proud to stand with the City of Buffalo and Western New York to honor our team.

Considered underdogs in all of their playoff series, the Sabres played with pure heart and soul to sweep the Ottawa Senators in the first round, defeated the Boston Bruins and then the Toronto Maple Leafs to win the Eastern Conference and the Prince of Wales Trophy for the first time in 24 years. The triple overtime loss in Game 6 of the Stanley Cup finals showed the hockey community what a team with determination and true grit is. The controversial goal that ended the dreams of the Sabres will not dampen the spirits of the most devoted fans in the world—Buffalo Sabres fans.

As the Stanley Cup Finals end, I extend my deep appreciation to the Knox Family for bringing the Sabres to Buffalo 29 years ago, John J. Rigas, owner and Chairman of the Board, Darcy Regier, General Manager, Lindy Ruff, Head Coach, and the entire Buffalo Sabres team, their coaching staff, their families and their fans for their great

efforts and support. I know next season will bring even more to celebrate.

In this spirit, I ask that an article from The Buffalo News, be printed in the RECORD.

[From the Buffalo News, June 23, 1999]

RALLY FOR SABRES PROVES BUFFALO HAS SOMETHING SPECIAL

It was noon Tuesday and they streamed into Niagara Square from all directions. White-haired men and middle-aged ladies and mothers pushing strollers made the pilgrimage down Niagara Street, Franklin Street, Delaware Avenue.

They came, in all colors and sizes. Shirt-and-tie businessmen, smooth-skinned teens wearing black-and-red jerseys with Hasek or Peca stitched across the back, little kids holding their mother's hand. They came in cares, on bikes, on Rollerblades. They all came downtown, washed in the summer sun, because this is Buffalo and sometimes you win even when you lose.

They crowded in front of City Hall, more than 20,000 of them. Men in business suits climbed atop the marble railings of the McKinley Monument. Dozens stood on the roofs of the Federal Court Building and the Buffalo Athletic Center and the Turner Parking Ramp.

They do not have rallies for teams that lose in most cities.

Most cities are not Buffalo.

A lot of people around the country would read that and say ''Thank God.''

I ran into one of them on a plane to Dallas a couple of weeks ago. She said she was going home and asked where I was from. When I told her, she said, ''Why would anybody want to live there?''

Lady, this is why.

Yes, there are things wrong with this place and I don't just mean high taxes. A streak of negativity runs through some folks. Our so-called leaders habitually put self-interest ahead of our interest. We get told we're the pits so often we sometimes forget this is a truly nice place to live.

But there's a sense of community here, a shared bond, you don't find in most other places, at least not most other places I've been. It's a hard thing to prove, but then a day like Tuesday comes and there it is, 20,000 people for all the world to see.

They didn't come to this rally for a hockey team that lost in the Stanley Cup finals because Buffalo loves a loser or likes to cry in its Genesee Cream Ale.

They came because this team carried the city's name on its jerseys the way we want it to be carried.

They came not to lament what might have been, but to celebrate what was.

The hockey team was a lot like the town, overlooked and underappreciated. Yet they left team after supposedly better team dazed and bleeding by the side of the road. They finally got beat—with the help of officials too gutless to enforce the rules—by a tough, character-laden Dallas team many expected would swat them aside like a bothersome fly. Instead, the Sabres took them to their limit, made them sweat and ache and pay for every pass and shot and goal they got—and even one they didn't.

At the end, after absorbing a mind-boggling 82 hits in the final game, the Dallas trainer compare their locker room to a M.A.S.H. unit. Some Dallas players took intravenous fluids between the overtime periods of the 5½-hour game; a half-dozen ended the series with torn ligaments or other damage.

You lay a team out like that and end up losing—losing on a tainted goal—and it doesn't mean you're losers. It means time ran out, fate didn't smile, the story is To Be Continued next season. If these guys had any doubt about that, 20,000 people Tuesday told them otherwise.

They didn't abandon a team that tried mightily and never backed down and came up an illegally placed skate short. Just like you don't stop loving your kid or your brother or best friend. That's not the way it works around here.

Diana and Nicole Jarosz, 21 and 18, came down 90 minutes early so they could be close to the stage. They have lived in Buffalo all their lives and they could not imagine not coming to this.

''We're here to say we still love you and we're still proud of you,'' said Diana. ''As hard as (Saturday night) was for us, I can't imagine how hard it must have been sitting on the (players') bench.''

We don't want to pick on Dallas, but it's a town of shameless front-runners. Some folks were interviewed in downtown Dallas a couple of weeks ago, before this series started. One of them said, ''If this team starts losing, people will drop them like a hot poker.''

Well, this Buffalo team lost early Sunday morning, and most folks just held them closer.

The Stars won the Cup, and all of 150 people showed up to meet their plane at the airport. Buffalo lost it, and 20,000 came out to say, ''Thanks for the ride.''

The players seemed genuinely touched by it all, at times nudging each other and grinning when the crowd went nuts, or waving to the kids in Sabres jerseys sitting on their dads' shoulders.

''We really didn't expect that kind of excitement,'' said team captain Michael Peca afterwards. ''This is not a city that forgets (about) you, absolutely not.''

Dallas has a pewter Cup. We have something they'll never have. Something not about towering glass skyscrapers and money and jobs. It's a spirit, a feeling, a connection you don't get in big cities.

It's something so many of those who move away from here, usually in search of greener job pastures, never find again. They go somewhere else, start a new life, but a piece of them stays.

You can leave Buffalo, but you can never leave it behind.

Tuesday, we showed the world why.●

## TRIBUTE TO REVEREND HUBERT DONALD COCKERHAM

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the Rev. H. Donald Cockerham for 30 years of dedicated service to the members of Zion Missionary Baptist Church in Louisville. His devoted congregation recently honored him by writing and performing a play about his life, and I am proud to join in their celebration of this milestone anniversary for both Rev. Cockerham and the church body.

Rev. Cockerham, born in McComb, Mississippi, first came to Louisville in 1969, to preach at a foreign missions rally. At that time, he was the minister at Calvary Baptist Church in Chicago, but after filling-in as speaker at Zion one Sunday, Zion began to pursue Cockerham as a candidate for pastor. Although he was serving another church, he said he felt called to accept the invitation to lead Zion's congregation.

By all accounts, Zion flourished under Rev. Cockerham's leadership. During his 30 years as pastor, the church building changed significantly, with the construction of a new wing. Also, the addition of a new organ and piano have surely been a blessing to the church choir when they perform their well-known presentation of the ''Messiah'' each Christmas. During Rev. Cockerham's time as pastor, Zion has also significantly increased opportunities for youth through additional ministry programs.

Rev. Cockerham was not only deeply involved in his church, but was also an integral part of the community. Over the years, he has been involved in the WHAS Crusade for Children, a project which raises funds to help with the care and treatment of handicapped children in Kentucky and southern Indiana. Reverend Cockerham has won numerous awards and distinctions during the past 30 years, and was recognized most recently by the Louisville YMCA as a 1999 Adult Black Achiever.

I am certain that the legacy of commitment to faith that Rev. Cockerham has left will continue on, and will encourage and inspire those who follow. Reverend, best wishes for many more years of service, and know that your efforts to better Zion Missionary Baptist Church and the Louisville community will be felt for years to come. On behalf of myself and my colleagues in the United States Senate, thank you for giving so much of yourself for so many others.

Mr. President, I also ask that an article which ran in Louisville's Courier-Journal on June 12, 1999, be printed in the RECORD following my remarks.

The article follows:

[From The Courier-Journal, June 12, 1999]

FAITH IN ACTION—CHURCH HONORS PASTOR'S 30 YEARS WITH PLAY

At Zion Missionary Baptist Church, members are busy showing their pastor how much they appreciate his hard work and dedication.

The Rev. H. Donald Cockerham will celebrate 30 years as pastor of the church tomorrow, and the congregation wants this to be a celebration Cockerham will never forget.

''It is rare for a pastor to have remained at a church for 30 years, so I wanted to know how I could make this anniversary more special,'' said Beverly Jones, anniversary chairwoman.

When Troy Bell, co-chairman of the anniversary committee, suggested that they write a play as a tribute to Cockerham, she couldn't resist.

Bell, who has a background in musical theater, wrote, directed and starred in the play, which is based on the Broadway musical ''Purlie Victorious.''

''I changed the title to 'Hubert Victorious' because it is our pastor's first name, and I rewrote this play to correlate with the pastor's life,'' Bell said. ''This adaptation was a combination of fiction and non-fiction.''

For a month, Bell and others worked to make the play a success.

''I contacted actors and actresses . . . and we went to the DAV to find clothes and wigs reminiscent of the 1960s,'' Bell said.

They performed the play Monday night at Derby Dinner Playhouse.

Cockerham cried and then he laughed and then he cried again, Bell said.

''It was a hilarious play,'' Cockerham said. ''Although I had known about the play for

weeks, I did not know that it would be about me. I was surprised.''

Sheivel Johnson, publicity and program director for the church, said faith explains why Cockerham is still pastor after 30 years.

Cockerham said the congregation's love and compassion for the community makes his job more pleasurable.

''A love affair between the people and myself began, almost,'' when he came to Zion, he said.

The 68-year-old pastor, a native of McComb, Miss., was pastor of Calvary Baptist Church in Chicago when he was asked to join Zion in 1969.

''I came to Louisville to preach at a foreign-mission rally. At the time, Zion did not have a pastor,'' he said. ''Their candidate could not speak at their service because he became ill. When the pulpit committee discovered that I was in town, they asked me to speak and I accepted.''

Impressed by his sermon, the church body asked him to become their pastor, but he declined initially.

''I did not want to change churches because I was their (Calvary's) first full-time pastor. I had dedicated myself to building that congregation.''

But shortly afterward, Cockerham changed his mind, believing that coming to Zion was his fate. ''It occurred to me that Zion did not have to ask me to be their pastor simply because they needed one. I believed that the Lord was moving me in a different direction.''

In 1969, Cockerham received a unanimous vote by Zion's governing body.

Under Cockerham's leadership, the church has greatly expanded youth activities and made improvements to the building including a new annex and a new organ and piano.

Over the years, he has received many awards, including being named an Adult Black Achiever this year by the YMCA.

For Bell, Cockerham's many accomplishments and recognition come as no surprise.

''If there was ever a pastor that was loved unconditionally by his church family, it is him,'' he said. ''He is the father to the fatherless.''

Zion Missionary Baptist has been celebrating Cockerham's anniversary with services all week. The grand finale will begin at 11 a.m. tomorrow, with dinner served after morning worship.●

## SANTA CLARA COUNTY HOUSING TRUST FUND

● Mrs. BOXER. Mr. President, I rise today to recognize the accomplishments of a remarkable public/private partnership in California's Silicon Valley that is moving aggressively to address a problem which plagues many communities: the shortage of available and affordable housing.

In Silicon Valley, the fast-growing home to some of the Nation's most dynamic and innovative high technology firms, housing costs have risen as dramatically as the supply of available housing has diminished. Since 1992, Santa Clara County has created some 250,000 new jobs; however, only 50,000 new homes and apartments have been constructed. This combination of rapid growth and scarce housing has created a volatile situation in which renters and potential home buyers alike must compete mercilessly for the few units that are to be found. To address this challenge, a coalition of concerned businesses, nonprofit groups and local governments formed the Santa Clara County Housing Trust Fund.

The Santa Clara County Housing Trust Fund is a broad-based working group consisting of the Community Foundation of Silicon Valley, the Silicon Valley Manufacturing Group, the Santa Clara County Collaborative on Housing and Homelessness, the Santa Clara County Board of Supervisors, the Housing Action Coalition and the Housing Leadership Council. Through donations from nonprofit organizations, commitments from local governments and financial backing from the business community, the trust fund hopes to raise $20 million. With this money, the trust fund plans to house more than 1,000 homeless individuals and families, assist in building up to 3,000 new apartments and help nearly 800 first-time home buyers.

I pay special tribute to five companies that recently pledged a remarkable $1 million to the trust fund, hopefully paving the way for other Silicon Valley businesses to follow suit. On June 10, Adobe Systems, Applied Materials, Cisco Systems, Kaufman & Broad, and the Solectron Corporation each stepped up to the plate with contributions sure to improve the quality of life in their communities. This is responsible corporate citizenship at its best. I hope that these five companies represent only the first wave of firms that will rise to the challenge of tackling the housing problems in Silicon Valley.●

## TRIBUTE TO CELEBRATE NEW HAMPSHIRE CULTURE

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Celebrate New Hampshire Culture, a nonprofit organization formed by the New Hampshire Commission on the Smithsonian Folklife Festival that works in partnership with the New Hampshire State Council on the Arts and the Department of Cultural Resources.

I commend the many dedicated volunteers and participants from my State for their hard work in planning, organizing, and demonstrating our New Hampshire culture through the exhibits for this year's Smithsonian Folklife Festival.

Since being elected to Congress 15 years ago, I have had the pleasure of sharing with my fellow Members of Congress why I believe New Hampshire is such a special place in which to live. I am extremely proud that they, and countless others, will now have the opportunity to experience firsthand all the wonderful things New Hampshire has to offer.

In 1994, Mervin Stevens of Walpole began working towards New Hampshire's participation after attending the festival over the years. Curators Lynn Martin and Betty Beland have made Mervin's dream a reality. These two women, along with many volunteers, have worked tirelessly for months to make sure that the more than 1 million visitors to the Folklife Festival on the Mall this week will have a meaningful and memorable experience.

New Hampshire's diversity, vibrancy, and entrepreneurship will be portrayed through several themes: Music of New Hampshire; Town and Community; Ingenuity and Enterprise; Seasons of Work and Recreation; and Farm, Forests, Mountains, and Sea. The themes and displays will be enhanced through several hands-on examples of living traditions. These exhibits include a 35-foot-long by 15-foot-high covered bridge, a timber-framed barn, a wrought-iron archway, and granite walls.

There will also be two music stages set up. One will be a replica of a town hall and the other of a New England front porch with rocking chairs and benches. These fascinating displays of New Hampshire culture will be celebrated in three ways: First, at this summer's Smithsonian festival. Next, a reenactment will take place next summer during Festival New Hampshire at the Hopkinton State Fairgrounds in Contoocook. Finally, an educational program for schools and communities will be based on the extensive research of culture needed to launch the festival.

Mr. President, I wish to offer my most sincere congratulations to Celebrate New Hampshire Culture and the countless volunteers. Their hard work and dedication will now help show the world what makes New Hampshire the greatest State in America. It is an honor to represent Celebrate New Hampshire Culture and all the people of New Hampshire in the Senate.●

## HONORING DOUG AURAND

● Mr. DURBIN. Mr. President, I rise today to pay tribute to my longtime friend, Douglas R. Aurand of Rockford, IL. Doug has served as Winnebago County Treasurer for 28 years and Rockford Township Trustee for 2 years. He retired earlier this month as treasurer.

Doug has been an Illinois resident his entire life, born in Dixon and raised in Pecatonica. He married the former Julie Moore and they have two children, David and Christine. Retirement will give Doug more time to spend with his grandchildren, Billy and Tommy Schwengels.

After graduating from Pecatonica High School, Doug served in the U.S. Air Force for four years. He was first elected to public office as Winnebago County Treasurer in 1970, at the age of 29. He held his office for six consecutive terms, becoming the longest serving elected official in the same office in northern Illinois.

Doug has worked tirelessly for more than 28 years as a public servant and for the taxpayers of Winnebago County. During this time, he has reduced his staff by 60 percent.

Responsible for funds exceeding $387 million year, he has earned over $44 million in interest for taxpayers in Winnebago County through his wise investments. He is responsible for the administration and collection of 110,000 tax bills which bring in approximately $285 million for the 72 taxing districts in his county.

In short, Doug Aurand has given remarkable service as Winnebago County Treasurer, and I commend him for his achievements. His leadership and fiscal management skills have made a difference in Winnebago County and he will most certainly be missed.

I congratulate Doug Aurand and, once again, commend him for the last impact he will leave on Rockford, Winnebago County, and the State of Illinois. My best wishes to Doug and Julie Aurand as Doug begins his well deserved retirement.●

## EXPRESSION OF SYMPATHY FOR RON SANTO FOLLOWING A HEART ATTACK

● Mr. FITZGERALD. Mr. President, I rise today to express my hope for the speedy recovery of someone who gave so many Illinoisans, including me, joy throughout his great career. Ron Santo, former third baseman for the Chicago Cubs and the Chicago White Sox, suffered a heart attack Monday in Denver, and I wanted to take a moment to recognize him and express my hopes for a speedy recovery.

Ron Santo played fourteen seasons for the Chicago Cubs from 1960 to 1973 and one for the Chicago White Sox in 1974, during which time he appeared in nine All-Star Games and won five Gold Glove Awards at the ''hot corner.'' He was also a member of the 1969 Chicago Cubs team which lost its chance at the playoffs because of the famous, or to Illinoisans, infamous, run of the ''Miracle'' Mets. When I was a boy, I was lucky enough to have Santo autograph a Cubs' game program for me, which I still have.

His career statistics measure up well against those of anyone to ever play the game. He finished his illustrious career with 2254 hits, 342 of which were home runs, 1331 Runs Batted In, and a .277 career batting average. In 1964, Santo even led the league in triples with 13. He ranks in the top 10 among players for the Chicago Cubs in games played, at bats, runs scored, hits, doubles, runs batted in, and extra-base hits.

Now that his playing days are over, Santo continues to make a contribution to the Cubs and to Chicago as a broadcaster, and one of the best and most energetic in the game at that. Mr. President, I would like to call on the Senate to join me in wishing Mr. Santo, his wife Vicki, and his four children the very best and expressing the sincere hope that he gets well soon.●

## TRIBUTE TO SISTER MARY REILLY

● Mr. REED. Mr. President, I rise today to honor Sister Mary Reilly, an important figure in social progress and education in Rhode Island for the past fifty years.

Since joining the Sisters of Mercy in 1948, Sister Mary Reilly's mission has always focused on helping individuals of modest means meet their basic needs and improve themselves through education. Whether in the heart of Providence, or in the classrooms of Honduras and Belize, or in her forthcoming work in New York City, these are the constants of Sister Mary Reilly's career ministry.

To be sure there have been many changes for Sister Mary Reilly. Indeed, she recently told the Providence Journal that her life has been filled with beginnings.

Born in Providence, she began her career with the Sisters of Mercy as a teacher there, first at St. Mary School and then at St. Mary Academy at Bay View. Later, she was able to fulfill one of her goals by becoming a missionary and teaching in Central America.

Returning to Rhode Island in 1970, Sister Mary Reilly began establishing the groundwork for institutions that have become a significant part of Rhode Island's landscape for social improvement. She was among the founders of McAuley House, a soup kitchen serving the homeless in Providence; the Good Friday Walk for Hunger and Homelessness; the COZ (Child Opportunity Zone), an innovative community effort to link schools with critical social service agencies and non-profit organizations; and the Annual Walk for Literacy. Sister Mary Reilly was also among those who began the Washington lobby, NETWORK.

However, the endeavor to which Sister Mary Reilly is most closely linked is Dorcas Place, which she helped found nearly 20 years ago with her colleague Deborah Thompson. Dorcas Place began as a literacy center for low-income young women. As Sister Mary Reilly and other leaders at Dorcas Place saw the need to address a greater array of issues in the community, the center grew to include women and men and took on a host of issues including literacy, employment and training, parenting, and advocacy. It has reached out to other organizations from Salve Regina University, with which Dorcas recently joined to create a certificate program for low-income and welfare dependent individuals, to Fleet Bank, to Rhode Island Legal Services, to the Rhode Island Department of Health, and many others. From a small corps of volunteers at first, Dorcas Place has grown to include 65 volunteer tutors and nearly 50 mentors. While all of this is the result of a team effort, Sister Mary Reilly certainly deserves the lion's share of the credit. She has indeed been the inspiration behind this wonderful organization.

Given Sister Mary Reilly's role in influencing the climate of social progress in Rhode Island, it was with great sadness that many Rhode Islanders learned of her decision to resign her post as Executive Director of Dorcas Place. She leaves to embark on a year's sabbatical in New York to work with other Sisters of Mercy who are following-up on the historic 1995 United Nations' Beijing Women's Conference.

For Sister Mary Reilly, it is another beginning, and we know that she will not be far from Rhode Island or from Dorcas Place. Her legacy of good will and service to others will foster the continuation the work important work at Dorcas Place, and I join all of her colleagues in wishing her well in her newest adventure. We all hope to see her in Rhode Island again before long.●

## PLEDGE OF ALLEGIANCE

Mr. SMITH of New Hampshire. Mr. President, several weeks ago a young woman named Rebecca Stewart of Enfield, NH, notified me by telephone there was no flag salute before the opening ceremonies when we opened the Senate in the morning. Due to the cooperation of both the minority and the majority side, I think we have a 100-to-0 agreement that we do that.

So at this point, I ask unanimous consent that S. Res. 113, which is the resolution to salute the flag at the beginning of the opening of the Senate each morning, be discharged from the Rules Committee, and further, the Senate now proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 113) to amend the Standing Rules of the Senate to require that the Pledge of Allegiance to the Flag of the United States be recited at the commencement of the daily session of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 733

Mr. SMITH of New Hampshire. Mr. President, there is an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself and Mr. MCCONNELL, proposes an amendment numbered 733.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, line 4, strike all after ''Presiding Officer'' and insert '', or a Senator designated by the Presiding Officer, leads the Senate from the dais in reciting the Pledge of Allegiance to the Flag of the United States''.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 733) was agreed to.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the resolution, as amended, be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to S. Res. 113 be printed in the RECORD.

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

The resolution (S. Res. 113), as amended, was agreed to.

The preamble was agreed to.

[The resolution was not available for printing. It will appear in a future issue of the RECORD.]

Mr. SMITH of New Hampshire. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## TREATMENT OF RELIGIOUS MINORITIES IN THE ISLAMIC REPUBLIC OF IRAN

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Con. Res. 39, and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 39) expressing the sense of the Congress regarding the treatment of religious minorities in the Islamic Republic of Iran, and particularly the recent arrests of members of that country's Jewish community.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SCHUMER. Mr. President, I offer this resolution on behalf of Mr. BROWNBACK of Kansas, Mr. LIEBERMAN of Connecticut, and many other cosponsors.

Last March, 13 Iranian Jews from the southern cities of Shiraz and Esfahan were arrested on preposterous charges of spying for Israel and the United States. These men have not been allowed visits by family or legal counsel, nor has any evidence been produced to warrant their arrest and imprisonment. For more than 2 months, leaders of the American Jewish community and the U.S. Government officials have worked behind the scenes for the release of these men.

Iran has done this sort of thing many times before, and they are usually just seeking some ransom money. Unfortunately, this situation is different. Iran went public with this issue first, meaning something far more nefarious is at work.

It is clear that these 13 people are being used as unfortunate pawns between two warring political factions in Iran: moderate followers of President Mohammad Khatami and hardline ayatollahs who remain entrenched in high positions of power and seek to undermine Khatami's domestic reforms and overtures to the West. These men may very well be hanged without a trial under preposterous and trumped-up charges. We must not let that happen. Indeed, we must do all we can to secure their release.

We have a resolution before the Senate condemning in the strongest possible terms the arrest of these men and calling for their immediate release. I thank all my colleagues for supporting this resolution which denounces the worst form of religious intolerance.

The notion that Iranian Jews, particularly those living hundreds of miles from Teheran, even have the capacity to spy for Israel or the United States is laughable. What access would these individuals have to any valuable information whatsoever?

The truth is that since 1979, Iran has habitually utilized the term ''spy'' for anyone it arrests for political reason. Schoolgirls and blind old men have been hanged as ''spies'' simply because they were religious minorities.

Some say we should not come down too hard on Iran on this issue, lest we play into the hands of the hardline ayatollahs and set back Khatami's reform movement. I say that is out of the question. We are not going to sacrifice innocent lives to help one side in a political battle of wills.

Khatami has the power to stand up to the hardliners on behalf of these 13 pawns and for all of Iran's 30,000-member Jewish community, as well as other religious minorities. He won the Presidency with a 70-percent landslide vote, and moderate candidates continue to score big victories in local elections. He can choose the political battles he wishes to fight, and this resolution before us today makes it perfectly clear that this needs to be one of those battles.

In fact, any talk of a kinder, gentler Iran under the supposedly moderate President Khatami is simply empty rhetoric as long as Jews and other religious minorities are victims of the most vicious forms of religious intolerance.

The Koran in Islam treats justice like all the great religions, as something at the highest pinnacle of human values. If Khatami cannot deliver on this issue, then what is his reform movement about in the first place? And if Iran seeks to do this in the name of Islamic fundamentalism, what about the teachings of the Koran in terms of justice and fairness?

The administration has spoken out strongly on this issue, but they have to make this a top priority. President Clinton and Secretary of State Albright should immediately press influential regional states—Syria, Saudi Arabia, Russia—to help secure the release of the 13.

Iran must know from the United States, and the world, that should these men be executed, as 17 other Jews have been since 1979, Iran will slip back into pariah status for decades. That means no loans, no trade, no international respect.

With this resolution, the Congress, the Senate, has spoken today, and the world is watching.

AMENDMENT NO. 734

Mr. SCHUMER. Mr. President, I ask unanimous consent that my amendment, which is at the desk, be considered and agreed to.

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

The amendment (No. 734) was agreed to, as follows:

On page 3, line 3, strike ''Clinton administration'' and insert ''United States''.

On page 3, Strike line 4 to line 5 before ''continue''.

On page 3, begin with line 7, strike the word ''recommendation'' and insert ''the recommendation of resolution 1999/13''.

On page 3, line 9, insert after ''(2)'' ''continue to''.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the concurrent resolution, as amended, be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, without intervening action.

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

The resolution (S. Con. Res. 39), as amended, was agreed to.

The preamble was agreed to.

[The resolution (S. Con. Res. 39) will be printed in a future edition of the RECORD.]

Mr. SCHUMER. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

## EXPRESSING APPRECIATION FOR THE WORK OF MILDRED WINTER

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 126, submitted earlier today by Senator BOND.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 126) expressing the sense of the Senate that appreciation be shown for the extraordinary work of Mildred Winter as a Missouri teacher and leader in

creating the Parents as Teachers program on the occasion that Mildred Winter steps down as Executive Director of such program.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 126) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 126

Whereas Mildred Winter has, with determination, expertise, and unflagging energy, dedicated her professional life to early childhood and parent education;

Whereas Mildred Winter began her remarkable career as an educator and leader as a teacher in the Berkeley and Ferguson-Florissant School Districts in Missouri;

Whereas Mildred Winter served as Missouri's first Early Childhood Education Director from 1972 until 1984, during which time the early childhood education services to Missouri families and children improved and increased dramatically;

Whereas Mildred Winter was a leader in initiating the Parents as Teachers program in Missouri in 1981 to address the critical problem of children entering school in need of special help;

Whereas the Parents as Teachers program gives all parents, regardless of social or economic circumstances, the support and guidance necessary to be their children's best teachers in the critical early years;

Whereas Mildred Winter worked to secure passage in the Missouri General Assembly of the Early Childhood Education Act of 1984, landmark legislation which led to the creation of Parents as Teachers programs in Missouri;

Whereas Mildred Winter is recognized as a visionary leader by her peers throughout the country for her unwavering commitment to early childhood education;

Whereas Mildred Winter and the Parents as Teachers program have received numerous prestigious awards at the State and national level;

Whereas today there are over 2,200 Parents as Teachers programs in 49 States, the District of Columbia, and 6 other countries;

Whereas while continually striving to move the Parents as Teachers program forward, in 1995 Mildred Winter recognized the importance of sharing with parents what is known about early brain development and the role parents play in promoting that development in their children, and used this foresight to develop the vanguard Born to Learn Curriculum; and

Whereas after nearly 2 decades of leadership of the Parents as Teachers program, Mildred Winter has chosen to step down as Executive Director of the organization: Now, therefore, be it

*Resolved,*

**SECTION 1. RECOGNITION OF MILDRED WINTER.**

That it is the sense of the Senate that—

(1) admiration and respect be shown for the visionary and innovative work of Mildred Winter in the field of childhood education; and

(2) appreciation be shown for the work that Mildred Winter has done through the Parents as Teachers program which has enriched the lives of hundreds of thousands of children and provided such children with a far better chance of success and happiness in school and in life.

## RETURN OF OFFICIAL PAPERS—S. 331

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 127, submitted earlier by Senator LOTT, and I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 127) was agreed to, as follows:

S. RES. 127

*Resolved,* That the Secretary of the Senate is directed to request the House of Representatives to return the official papers on S. 331.

## FUELS REGULATORY RELIEF ACT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 141, S. 880.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 880) to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 880

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Fuels Regulatory Relief Act''.

**SEC. 2. FINDINGS.**

Congress finds that, because of their low toxicity and because they are regulated sufficiently under other programs, flammable fuels, such as propane, should not be included on the list of substances subject to the risk management plan program under section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)).

**SEC. 3. REMOVAL OF FLAMMABLE FUELS FROM RISK MANAGEMENT LIST.**

Section 112(r)(4) of the Clean Air Act (42 U.S.C. 7412(r)(4)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting appropriately;

(2) by striking ''Administrator shall consider each of the following criteria—'' and inserting the following: ''Administrator—

''(A) shall consider—'';

(3) in subparagraph (A)(iii) (as designated by paragraphs (1) and (2)), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

**[**''(B) shall not regulate non-acute toxic flammable fuels when used or stored for fuel purposes or retail sale unless the fuels are hazardous waste.''.**]**

*''(B) shall not list a flammable substance when used as a fuel or held for sale as a fuel under this subsection solely because of the explosive or flammable properties of the substance, unless a fire or explosion caused by the substance will result in acute adverse heath effects from human exposure to the substance, including the unburned fuel or its combustion byproducts, other than those caused by the heat of the fire or impact of the explosion.''.*

***SEC. 4. PUBLIC AVAILABILITY OF OFF-SITE CONSEQUENCE ANALYSIS INFORMATION IN RISK MANAGEMENT PLANS.***

*(a) DEFINITIONS.—In this section:*

*(1) ACCIDENTAL RELEASE.—The term ''accidental release'' has the meaning given the term in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2)).*

*(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.*

*(3) OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.—The term ''off-site consequence analysis information'' means those portions of a risk management plan, excluding the executive summary of the plan, consisting of an evaluation of 1 or more worst-case scenario or alternative scenario accidental releases.*

*(4) RISK MANAGEMENT PLAN.—The term ''risk management plan'' means a risk management plan submitted by an owner or operator of a stationary source under section 112(r)(7)(B) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)).*

*(5) STATE.—The term ''State'' means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Indian tribes (as defined in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a)).*

*(6) STATIONARY SOURCE.—The term ''stationary source'' has the meaning given the term in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2)).*

*(b) EXEMPTION FROM AVAILABILITY UNDER FREEDOM OF INFORMATION ACT.—*

*(1) IN GENERAL.—Off-site consequence analysis information, or information derived from off-site consequence analysis information, shall not be made available under section 552 of title 5, United States Code.*

*(2) EFFECT ON CERTAIN AVAILABILITY.—Except as provided in subsection (c), nothing in this section affects the obligation of the Administrator under section 112(r)(7)(B)(iii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(iii)) to make available off-site consequence analysis information or information derived from that information.*

*(c) AVAILABILITY OF OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.—*

*(1) GENERAL AVAILABILITY.—*

*(A) ELECTRONIC FORM.—An officer or employee of the United States may make available in electronic form off-site consequence analysis information only in the manner provided in paragraphs (2), (5), and (6) and subsection (d).*

*(B) PAPER FORM.—An officer or employee of the United States may make available in paper form off-site consequence analysis information only in the manner provided in paragraphs (3), (4), and (5), and subsection (d).*

*(2) AVAILABILITY IN ELECTRONIC FORM FOR OFFICIAL USE BY STATE OR LOCAL GOVERNMENTS.—The Administrator may make available in electronic form off-site consequence analysis information to a State or local government officer or employee for official use.*

*(3) AVAILABILITY TO PUBLIC IN PAPER FORM.—*

*(A) IN GENERAL.—In response to a request for off-site consequence analysis information or for a risk management plan, the Administrator shall make available a copy of off-site consequence analysis information, but only in paper form.*

*(B) CONDITIONS.—The conditions under which off-site consequence analysis information shall be made available, including the maximum number of requests that any single requester may make, and the maximum number of stationary sources for which off-site consequence analysis information may be made available in response to any single request, shall be determined by the Administrator in guidance issued under subsection (e)(1).*

*(C) PROMPT RESPONSE.—Consistent with this paragraph, the Administrator shall promptly respond to off-site consequence analysis information requests.*

*(D) FEE.—The Administrator may levy a fee applicable to the processing of off-site consequence analysis information requests that covers the cost to the Administrator of processing the requests and reproducing the information in paper form.*

*(4) AVAILABILITY TO STATES AND LOCAL GOVERNMENTS IN PAPER FORM.—At the request of a State or local government officer acting in the officer's official capacity, the Administrator may provide to the officer in paper form, for official use only, the off-site consequence analysis information submitted for the stationary sources located in the State in which the State or local government officer serves.*

*(5) AVAILABILITY FOR LIMITED PUBLIC INSPECTION.—*

*(A) IN GENERAL.—The Administrator shall ensure that every risk management plan submitted to the Environmental Protection Agency is available in paper or electronic form for public inspection, but not copying, during normal business hours, including in depository libraries designated under chapter 19 of title 44, United States Code.*

*(B) LIMITATION ON AVAILABILITY OF RISK MANAGEMENT PLANS IN ELECTRONIC FORM.—For the purposes of this paragraph, the Administrator may make risk management plans available in electronic form only if the electronic form does not provide an electronic means of ranking stationary sources based on off-site consequence analysis information.*

*(C) FEDERAL ASSISTANCE.—The Public Printer and the Attorney General shall assist the Administrator in carrying out this paragraph in order to ensure that the information provided to the depository libraries is adequately protected.*

*(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator and to the Public Printer such sums as are necessary to carry out this paragraph, to remain available until expended.*

*(6) AVAILABILITY TO PUBLIC OF GENERAL INFORMATION IN ELECTRONIC FORM.—*

*(A) FROM THE ADMINISTRATOR.—After consultation with the Attorney General and the heads of other appropriate Federal agencies, the Administrator may make off-site consequence analysis information available to the public in an electronic form that does not include information concerning the identity or the location of the stationary sources for which the information was submitted.*

*(B) FROM OTHER GOVERNMENT OFFICERS AND EMPLOYEES.—Except as provided in subparagraph (A), an officer or employee of the United States, or an officer or employee of a State or local government, shall not make off-site consequence analysis information available to the public in any form except as authorized by the Administrator.*

*(7) AUTHORITY OF STATES AND LOCAL GOVERNMENTS TO MAKE INFORMATION AVAILABLE.—Notwithstanding any provision of State or local law, and except as provided in subsection (d)(2), an officer or employee of a State or local government may make off-site consequence analysis information available only to the extent that an officer or employee of the United States would be permitted to make the information available, consistent with the guidance and any regulations promulgated under subsection (e), except that a State or local government officer or employee may make available only the information that concerns stationary sources located in the State in which the officer or employee serves.*

*(8) COLLECTION AND MAINTENANCE OF RECORDS OF PERSONS SEEKING ACCESS TO INFORMATION.—*

*(A) LIMITATION ON AUTHORITY OF THE ADMINISTRATOR.—*

*(i) IN GENERAL.—The Administrator may collect and maintain records that reflect the identity of individuals and other persons seeking access to information under this section only to the extent that the collection and maintenance is relevant to, and necessary to accomplish, a purpose of the Environmental Protection Agency that is required to be accomplished by statute or by executive order of the President.*

*(ii) APPLICABILITY OF FREEDOM OF INFORMATION ACT.—Records collected under clause (i) shall be subject to section 552a of title 5, United States Code.*

*(B) LIMITATION ON AUTHORITY OF STATE OR LOCAL GOVERNMENTS.—An officer or employee of a State or local government may collect and maintain records that reflect the identity of individuals and other persons seeking access to information under this section only to the extent that the collection and maintenance is relevant to, and necessary to accomplish, a purpose of the employing agency that is required to be accomplished by State statute.*

*(9) CRIMINAL PENALTIES.—An officer or employee of the United States, or an officer or employee of a State or local government, who knowingly violates a restriction or prohibition established by this subsection shall be fined under section 3571 of title 18, United States Code, imprisoned not more than 1 year, or both.*

*(d) AVAILABILITY OF INFORMATION TO AND FROM AGENTS AND CONTRACTORS.—*

*(1) AVAILABILITY FROM UNITED STATES.—*

*(A) IN GENERAL.—An officer or employee of the United States may make off-site consequence analysis information available in any form to officers and employees of agents and contractors of the Federal Government for official use only.*

*(B) RESTRICTIONS AND PENALTIES.—For the purposes of this section, with respect to information made available under subparagraph (A), officers and employees of agents and contractors shall be considered to be officers and employees of the United States and shall be subject to the same restrictions and penalties as apply to officers and employees of the United States under this section.*

*(2) AVAILABILITY FROM STATE AND LOCAL GOVERNMENTS.—*

*(A) IN GENERAL.—An officer or employee of a State or local government may make off-site consequence analysis information available in any form to officers and employees of agents and contractors of the State or local government for official use only.*

*(B) RESTRICTIONS AND PENALTIES.—For the purposes of this section, with respect to information made available under subparagraph (A), officers and employees of agents and contractors shall be considered to be officers and employees of the State or local government and shall be subject to the same restrictions and penalties as apply to officers and employees of the State or local government under this section.*

*(e) GUIDANCE AND REGULATIONS.—*

*(1) ISSUANCE OF GUIDANCE.—*

*(A) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator shall issue guidance setting forth procedures and methods for making off-site consequence analysis information available to the public in a manner consistent with this section.*

*(B) CONSULTATION.—The Administrator shall consult with the heads of other appropriate Federal agencies in developing the guidance.*

*(C) REVISION OF GUIDANCE.—The Administrator may revise the guidance, as appropriate, in consultation with the heads of appropriate Federal agencies.*

*(D) JUDICIAL REVIEW.—Guidance issued under this paragraph, and any revision of the guidance, shall not be subject to judicial review.*

*(E) REGULATIONS IN LIEU OF GUIDANCE.—To the extent that the Administrator determines to be appropriate, the Administrator may promulgate regulations instead of issue guidance under this subsection.*

*(2) REGULATIONS.—*

*(A) IN GENERAL.—The Administrator may promulgate such regulations as are necessary to carry out the duties of the Administrator under this section.*

*(B) JUDICIAL REVIEW.—Regulations promulgated under this paragraph shall be subject to judicial review to the same extent and in the same manner as regulations promulgated under section 112(r)(7) of the Clean Air Act (42 U.S.C. 7412(r)(7)).*

*(f) AUTHORITY TO ISSUE ORDERS.—The Administrator may exercise the authority provided under section 112(r)(9) of the Clean Air Act (42 U.S.C. 7412(r)(9)) to withhold, or prevent the release of, off-site consequence analysis information if the Administrator determines that release of the information may present an imminent and substantial endangerment to human health or welfare or the environment.*

*(g) DELEGATION.—To the extent that the Administrator determines to be appropriate, the Administrator may delegate the powers or duties of the Administrator under this section to any officer or employee of the Environmental Protection Agency.*

*(h) SITE SECURITY REVIEW AND PERIODIC RECOMMENDATIONS.—*

*(1) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may review industry practices regarding site security and the effectiveness of this section.*

*(2) CONDITIONS OF REVIEW.—A review under paragraph (1)—*

*(A) shall use, to the maximum extent practicable, data available as of the date of the review; and*

*(B) shall be conducted in consultation with appropriate governmental agencies, affected industries, and the public.*

*(3) RECOMMENDATIONS.—The Attorney General may periodically submit to Congress recommendations relating to the enhancement of site security practices and the need for continued implementation or modification of this section.*

AMENDMENT NO. 735

(Purpose: To provide for controlled public access to off-site consequence analysis information)

Mr. GRASSLEY. Mr. President, I understand that Senator CHAFEE has an amendment at the desk, and I ask for the consideration of that amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. CHAFEE, proposes an amendment numbered 735 to the reported committee amendment.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. CHAFEE. Mr. President, I rise in support of the managers' amendment to S. 880, the Fuels Regulatory Relief Act. S. 880 was voted out of the Senate Environmental and Public Works Committee on May 11. The risk management program, RMP, created by Section 112(r) of the Clean Air Act, was designed to focus companies and emergency response personnel on reducing the change of an accidental chemical release and on improving the response to releases when they happen. The RMP was partly a reaction to the Bhopal, India chemical disaster and is part

of a larger set of programs designed to reduce the likelihood of future accidental releases. In its regulation, EPA included propane and some other fuels in the program. This was seen as a problem because the RMP was not intended to address traditional fuel use. Senator INHOFE introduced S. 880 to relieve propane users from participation in the RMP.

During markup of S. 880, the Environment and Public Works Committee adopted an administration proposal to address public access to a part of a facility's risk management plan, known as off-site consequence analysis. The EPA had intended to release this information on its website, until the FBI raised concerns that posting this information on the Internet would provide an attractive targeting tool for terrorists and criminals. The administration's proposal, which the managers' amendment would modify, attempted to balance the benefits of public access to this information with the legitimate safety concerns raised by its public availability.

At the May 11 business meeting, members of the Environment and Public Works Committee raised some concerns about the administration's proposal. We had received the proposal little more than a day before the markup. Since then, committee staff from both sides of the aisle have worked diligently to resolve the difference and crafted a compromise that I believe improves upon the administration proposal. This amendment ensures that state and local emergency response officials have immediate and full access to this information. A greater measure of public access will be established within one year through a public notice and comment rulemaking.

There are two important differences between this amendment and the administration's proposal that the Environment and Public Works Committee adopted. First, this amendment requires a rulemaking process, with public notice and comment, in the final determination of the extent of public access. Second, the exemption from FOIA is only temporary, rather than the permanent exemption proposed by the administration. In this amendment, the FOIA exemption is waived unless the rule is finalized within one year. The entire provision, including the FOIA exemption, expires after six years. If it is appropriate at that time, Congress could reauthorize the FOIA exemption.

Both the managers' amendment and the administration language attempt to address the safety concerns raised by the availability of a national database of worst-case chemical accident information. To that end, the language in this bill will preempt State and local law regarding public access to government information. It makes little sense for us to limit public access at the federal level but not at the State level. As a former Governor, I believe the federal government must use the greatest restraint in exercising a preemption of State law. With that in mind, the managers' amendment makes clear that the preemption only applies to that information collected by the federal government. In other words, if a State were to require the submission of similar—or even identical—information about chemical releases, no federal restrictions would apply to its distribution.

I believe most companies will want to work with community leaders and emergency response personnel to reduce the risks associated with their facility. This amendment includes several tools to assist in the process of reducing risks. First, this amendment ensures that emergency response personnel get full and immediate access to this information. Second, the regulation will allow access to a limited number of copies for any member of the public so each of us can have the information about facilities in our community. Third, this amendment will allow access to a national database of this information that does not identify the facilities. This will allow people to compare their local facility with others around the country.

Finally, this amendment directs the administrator to create an information technology system that allows public access to off-site consequence analysis information on a read-only basis. This database would be centrally controlled by the federal government, much like the system the FBI uses to do background checks. Terminals to access the database could be placed in libraries and government offices around the nation where users could assess the information for research purposes, but not make copies of the information.

This product is not perfect, everyone had to make concessions in order to reach agreement, but what we have is a product that strikes an appropriate balance between public access to this information and the safety concerns raised by posting it on the Internet. I want to thank Senator INHOFE and Senator BAUCUS for their efforts to achieve a reasonable and speedy solution acceptable to all parties.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 735) was agreed to.

Mr. GRASSLEY. I ask unanimous consent that the committee amendment, as amended, be agreed to.

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

The committee amendment, as amended, was agreed to.

Mr. BAUCUS. Mr. President, the Fuels Regulatory Relief Act is a good measure. It has two major pieces. The first exempts flammable substances used as fuels, including propane, from the regulatory requirements of the Clean Air Act's risk management program. The second is the matter of public access to worst case scenario data.

The committee and all of Congress has heard the concerns of propane users and distributors. I have met with propane distributors from Montana on this subject. They feel that the burden imposed by the EPA's risk management program is costly and provides little public health protection. They have achieved some relief in court, but prefer, and this bill provides, a clearer statement of Congress' intent.

In the Clean Air Act Amendments of 1990, Congress directed EPA to compile a list of at least 100 substances that ''pose the greatest risk of causing death, injury, or serious adverse effects to human health or the environment from accidental releases.'' EPA was to consider the severity of acute health effects, the likelihood of releases, and the potential magnitude of exposure associated with accidental releases of a substance before putting it on the list.

I was a member of the conference committee on that bill. And, I believe that Congress did not intend that propane or flammables used as fuels would pass those tests and be listed. Congress was focused on preventing major toxic catastrophes, such as occurred in Bhopal, India, not the type of accidents that are covered by existing Federal or State fire safety or transportation laws. Because it was not Congress' intent that they be added, I am supporting removing them from the list.

As I mentioned during the committee's markup of S. 880, I wanted to be responsive to concerns of the firefighters and fire chiefs. They had hoped to get information on flammables used as fuels as part of the risk management program. But, as we discussed the matter further, it became clearer that their interests would be best served by the comprehensive GAO study we have placed in the bill on their information needs and the ability of Federal and State laws and programs to help them do their jobs.

The bill also directs the GAO to do an additional study on the status of changes to the National Fire Protection Association Code for propane (NFPA 58). This voluntary industry standard was often cited by members of the propane industry as sufficiently protective of the public so that no additional regulations were necessary. The GAO will report back on changes to NFPA 58 that will hopefully provide at least the same level of public benefit as would have been provided by the listing of propane under the RMP requirements. I look forward to seeing progress on NFPA 58 that is responsive to the fire fighting community.

I am pleased to note that we have been able to come to an agreement on a managers' amendment which is a substitute for section 4 of the reported version of S. 880. That was largely the Administration's proposal for providing appropriate public access to the sensitive parts of the risk management plans. Our amendment will help the administration continue implementing the accident prevention provisions of

the Clean Air Act in a sensible way. The amendment balances the public's right to know information about extremely hazardous substances with the need to place some limits on access to that information to prevent terrorists and other criminals from misusing it.

Section 4 is a response to a potential threat identified by the administration and industry. The Federal Bureau of Investigation (FBI) has testified before the Committee about its concerns that Internet posting of parts of the risk management plans (RMPs) required under section 112(r) of the Clean Air Act could increase the threat of criminal or terrorist actions. The FBI is particularly concerned about the possible use of off-site consequence or worst case scenario information in the RMPs by terrorists to rank targets and maximize harm to the public. That section of the Act was created to help prevent incidents like the one in Bhopal, India, where 3,000 people died and 200,000 were injured due to a chemical plant disaster.

I thank Senators LAUTENBERG, CHAFEE, INHOFE and representatives of the Administration for their work in developing the managers' amendment and moving this process along. It represents a real bipartisan team effort. Senator LAUTENBERG and his staff were particularly helpful in achieving a balanced agreement on the risk management plan portions of the amendment.

In early May, the administration sent up a legislative proposal to create a more secure system for handling sensitive RMP information. The administration's hope was that Congress would act before June 21, 1999, because that is the statutory deadline under the Clean Air Act for significant users of extremely hazardous substances to submit their RMP information to EPA. The act directs EPA to make that information available to local emergency responders, the States and the public. Unless this bill or similar legislation is passed soon, with a retroactivity clause included, the Administration cannot limit public access to this sensitive information and would not be able to prevent it from getting on the Internet. The Freedom of Information Act, FOIA, requires this kind of information be made available to the public, since it is not classified or considered confidential business information. The RMP information is a truly new category of government information.

The committee approved the administration's proposal on May 11, 1999, with the understanding that changes would have to be made before it would be ready for the full Senate's consideration. Fundamentally, this managers' amendment is similar to the Administration proposal. They both establish a system for accessing RMP information which is separate and distinct from the usual FOIA process. However, the approach in the managers' amendment provides a one-year exemption from FOIA while regulations are developed to govern the handling of and access to worst-case scenario information. This rulemaking period is a recognition of the need to air the many issues rising from the creation of this new information access system. Concerns about it have been raised by the public, the States' Attorneys General, first responders, librarians and environmental groups, since the Administration proposal was approved.

To encourage an expedited rulemaking process, the FOIA exemption would be lifted if the rule is not completed within one year. In any event, the FOIA exemption would be lifted six years after enactment. This deadline ensures that Congress revisits and oversees the matter and is in keeping with the probable obsolescence of any information technology developed to satisfy the security concerns of the FBI and the public access concerns of the EPA.

State and local government personnel and affiliated individuals who need the worst case information for the official use of detecting, preventing, and responding to chemical facility accidents and their off-site consequences would be assured of getting it during the rulemaking period and after the rule is issued. However, to limit the chances that this information could get on the Internet, these people would be required to exercise great care in their use and distribution of it. The same restrictions would be placed on qualified researchers. Guidance will be issued by EPA, as part of the rulemaking, describing the official uses of the sensitive RMP information.

The amendment establishes penalties for those who knowingly or willfully violate the restrictions on the dissemination of the sensitive parts of the RMP. There would be a two-tiered approach. People who knowingly misuse the information could be fined up to $5,000 for each infraction. People who violate willfully, meaning that they know what the law or regulations prohibit and proceed anyway regardless of potential consequences, could face fines up to $1 million per calendar year.

The Clean Air Act's risk management program was created by Congress to help prevent chemical accidents that can harm our communities. People living near chemical plants do not care whether an accident occurs because of operator negligence or criminal activity. They want to feel and be secure from such threats. That is why we are taking this step today. We want to reduce the opportunity that Internet dissemination of worst case scenario information could be used by criminals to cause terror or destruction. We have even included an emphasis on preventing criminal releases of extremely hazardous substances, to make it clear that these should be an important focus of the accidental release prevention program.

But, we also want to preserve the important incentive created by public knowledge about chemical accidents and their consequences. That knowledge encourages manufacturers to improve the efficiency of their processes and plant safety. That is why we have provided the maximum possible public access to RMP information in this amendment and the Clean Air Act.

The right-to-know effect has been very successful in reducing overall toxic emissions to air, water and land. Knowing more about the off-site consequences of these substances should encourage companies to build safer facilities and look for alternative manufacturing methods. After all, it is part of the general duty under section 112(r) for owners and operators of chemical plants ''to design and maintain a safe facility taking such steps as are necessary to prevent [accidental] releases.'' Clearly, measures which entirely eliminate the presence of potential hazards, through substitution of less harmful substances or by minimizing the quantity of an extremely hazardous substance, as opposed to those which merely provide additional containment, are the most preferred and would be most effective in reducing the risk of accidental releases. The amendment specifically authorizes EPA and the Department of Justice to help owners and operators develop voluntary industry standards to carry out the various objectives of the general duty clause.

Mr. President, we are prepared for final passage. I urge my colleagues to support the measure, and I hope the House will take up this matter and send it quickly to the President.

Mr. INHOFE. Mr. President, after many weeks of intensive negotiations, I am pleased the members of the Environment and Public Works Committee and the administration were able to come to an agreement on S. 880, the Fuels Regulatory Relief Act. I take this opportunity to clarify certain points of this important legislation.

One item that is of particular concern is the possibility for circumvention by covered persons. New subparagraph (H)(xii)(II) states that it ''does not restrict the dissemination of off-site consequence analysis information by any covered person in any manner or form except in the form of a risk management plan.'' My concern is that this provision would seem to allow a government official in possession of this information to alter it in some minor, trivial way—like white out the words ''Risk Management Plan'' at the top of the page—and then distribute it with complete impunity. That possibility would obviously undermine the entire purpose of the legislation.

The purpose of this part of the bill is simply to clarify that covered persons can talk generally to the public about off-site consequence information—so that they can prepare documents that discuss the overall effect of OCAs in a particular state or locality, or so that they can prepare summaries like the executive summaries of risk management plans. But this provision would not allow them to release OCA information about a particular facility, or

in a way that would tend to identify a particular facility, except to the extent allowed by the regulations envisioned in the bill, or in the event that the one-year moratorium expired without any regulations having been promulgated. The only exception would be where the covered person came into possession of information that could be described as ''off-site consequence information,'' but which was generated by some totally different process than the Risk Management Program.

I am also troubled about the provision entitled ''Effect on State or Local Law.'' On the one hand, subparagraph (H)(x)(I) states that the bill, and the regulations under it, shall supersede any inconsistent provision of state or local law. But on the other hand, that preemption is ''subject to'' subparagraph (H)(x)(II), which says ''nothing in [the bill] precludes a State from making available off-site consequence analysis information collected in accordance with State law.''

The issue of preemption of State laws is always a concern of mine, and I believe this legislation provides the proper balance of necessary protection of information and the guidance for States to follow. The bill prevents States from disseminating any information that they receive from a facility directly, or indirectly from any other person, that was generated in the course of complying with Clean Air Act section 112(r)(7). The only way a State can disseminate such information is pursuant to the regulations called for by the bill, or if the moratorium created by the bill expires without any regulations having been promulgated.

In plain language, what paragraph (H)(x)(II) does is say that where a State enacts its own, completely free-standing statute that calls for the independent collection of information that fits the definition of ''offsite consequence analysis information,'' then the State is allowed to release that information in accordance with State law. So far as I am aware, no such State law currently exists. Obviously, I would hope that before a State enacted such a law, it would carefully consider the reasons that have led us to entertain this legislation today; the need to keep such sensitive information from being put on the Internet or otherwise made widely available without adequate assessment of the security risks created thereby.

Many responsible companies regulated by the RMP program realized a long time ago that they needed to reach out and engage their local communities about the possible offsite consequences of releases from their facilities. Many companies started this dialogue process years ago, and many more are engaged in it right now. Clearly this sort of voluntary outreach is precisely the sort of behavior that we want to encourage, not discourage. I am worried about subparagraph (H)(v)(III), which says that where a facility ''makes off-site consequence analysis information relating to that stationary source available to the public without restriction,'' the prohibitions and sanctions created by the bill would no longer apply. I'm concerned that this provision will lead facilities to be very hesitant to reveal any information about offsite consequences, for fear that they will thereby be authorizing government agencies to put their OCA data on the Internet.

Under the legislation, ''offsite consequence analysis information'' is a defined term which is defined as ''those portions of a risk management plan, excluding the executive summary of the plan, consisting of an evaluation of 1 or more worst-case scenario or alternative scenario accidental releases * * *.'' So before a facility would lose the protections provided by this bill, it would have to release its risk management plan, or at least the OCA portion of that plan, and do so without any restrictions whatsoever. They would be free to summarize or repackage the information in a different form without triggering the provision in question. I think this creates a real bright-line test that should give facilities the kind of assurance they need to allow them to continue doing the sort of outreach I also want to encourage.

Section (H)(ii) of the amendment requires, first, that the President assess the risks associated with posting off-site consequence analyses on the Internet, and second, based on that assessment, to regulate in a manner that minimizes the likelihood of both accidental and criminal releases from covered facilities. At a minimum, these regulations should accomplish the following goals in providing access to off-site-consequence information:

Minimize the likelihood of accidental and criminal releases;

Allow limited access to paper copies of the analyses;

Allow other public access as appropriate; and

Provide access for official uses.

I note that the ''other public access'' contemplated under this provision relates to the availability of summaries or other discussions of off-site consequence analyses that do not identify the specific facility or location, and to mechanisms such as ''read-only'' approaches that preclude copying. Further, for the access by officials in contiguous states or localities indicated in (H)(ii)(II)(cc)-(ee), the intention is to provide official access to off-site consequence analyses in cases where the affected facilities have worst-case scenarios that impact the contiguous state or locality.

Mr. PRESIDENT, I thank the distinguished chairman, Senator CHAFEE, for his guidance and also the tremendous cooperation by the ranking member, Senator BAUCUS. Their work has ensured the passage of this important legislation. I yield the floor.

EXEMPTED SUBSTANCES

Mr. INHOFE. Mr. President, I rise to make a few remarks about S. 880, the Fuels Regulatory Relief Act. This bill is designed to address the listing of certain flammable fuels under section 112(r)(3) of the Clean Air Act. The Committee determined that propane and flammables used as fuels should not be listed as a regulated or extremely hazardous substances because they do not comport with the Act's criteria for such listing. However, the National Association of Fire Fighters are concerned that removing these substances from Federal regulation under section 112(r) of the act will limit information regarding these fuels that would have been available to the public through the Risk Management Plans, RMP required by EPA's final rule implementing that section.

Mr. BAUCUS. Mr. President, I want to thank my colleague from Oklahoma for his work on this piece of legislation. I think it is responsive to the concerns that we heard from the fire fighters and the other first responders. They are concerned about losing access to information that would have been included in RMPs for those substances exempted by this bill. The RMP information was intended by Congress to aid emergency responders and communities in the prevention of loss of life and property that might occur due to accidental releases of hazardous substances. The component of the RMPs of greatest interest to the emergency responders is the hazard assessment required by section 112(r)(7)(B)(ii)(I).

Mr. INHOFE. I also thank my colleague from Montana for his work on this bill. We are very aware of the dangers fire fighters and other emergency response personnel face every day protecting the lives of our people and we want to provide them with the information they need to handle threats posed by extremely hazardous substances. Nonetheless, the substances generally addressed by S. 880, section 3, do not warrant coverage by a Clean Air Act requirement to submit RMPs. A voluntary, non-regulatory approach, such as the voluntary standards of the National Fire Protection Association for Liquified Petroleum Gas (NFPA 58), can better supply the information needed by fire fighters to protect their and the public's health and welfare.

Mr. BAUCUS. I agree with my colleague, but NFPA 58 does not currently require the development of hazard assessment or off-site consequence analysis information. NFPA 58 also does not make specific provision for communicating or sharing this information with local emergency response authorities or personnel. Another problem with the NFPA Code is that state fire protection codes laws refer to NFPA 58 as of a certain date. Therefore, when the Code is updated, state laws do not automatically reflect subsequent changes to it.

Mr. INHOFE. That is true. There are two reports included in this legislation designed to address those specific problems. The first report will examine the status of amendments to NFPA 58 that

will provide to local emergency response personnel information concerning the off-site effects of accidental releases of those substances exempted from listing by section 3 of this legislation. We strongly encourage all the parties involved in this NFPA amendment process to work together in good faith and in a timely manner. The second report is designed to examine the sufficiency of the information local emergency response personnel receive to help them respond to chemical accidents. Specifically, the report will address the level of compliance with all federal and state requirements for submission of this information to emergency response personnel. Also, the report will examine the adequacy of the methods for delivering this information to emergency response personnel.

Mr. BAUCUS. I believe these reports will be of great help to firefighters and other emergency responders in looking at the adequacy of the information they need and get to do their jobs well. If the reports come back showing that the Federal government has not done its share to make their job of protecting the public easier, then this committee and others should take quick action to address any gaps in the system.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this bill appear at the appropriate place in the RECORD.

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

The bill (S. 880), as amended, was read the third time and passed, as follows:

S. 880

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Fuels Regulatory Relief Act''.

**SEC. 2. FINDINGS.**

Congress finds that, because of their low toxicity and because they are regulated sufficiently under other programs, flammable fuels, such as propane, should not be included on the list of substances subject to the risk management plan program under section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)).

**SEC. 3. REMOVAL OF FLAMMABLE FUELS FROM RISK MANAGEMENT LIST.**

Section 112(r)(4) of the Clean Air Act (42 U.S.C. 7412(r)(4)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting appropriately;

(2) by striking ''Administrator shall consider each of the following criteria—'' and inserting the following: ''Administrator—

''(A) shall consider—'';

(3) in subparagraph (A)(iii) (as designated by paragraphs (1) and (2)), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(B) shall not list a flammable substance when used as a fuel or held for sale as a fuel under this subsection solely because of the explosive or flammable properties of the substance, unless a fire or explosion caused by the substance will result in acute adverse heath effects from human exposure to the substance, including the unburned fuel or its combustion byproducts, other than those caused by the heat of the fire or impact of the explosion.''.

**SEC. 4. PUBLIC ACCESS TO OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.**

(a) IN GENERAL.—Section 112(r)(7) of the Clean Air Act (42 U.S.C. 7412(r)(7)) is amended by adding at the end the following:

''(H) PUBLIC ACCESS TO OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) COVERED PERSON.—The term 'covered person' means—

''(aa) an officer or employee of the United States;

''(bb) an officer or employee of an agent or contractor of the Federal Government;

''(cc) an officer or employee of a State or local government;

''(dd) an officer or employee of an agent or contractor of a State or local government;

''(ee) an individual affiliated with an entity that has been given, by a State or local government, responsibility for preventing, planning for, or responding to accidental releases and criminal releases;

''(ff) an officer or employee or an agent or contractor of an entity described in item (ee); and

''(gg) a qualified researcher under clause (vii).

''(II) CRIMINAL RELEASE.—The term 'criminal release' means an emission of a regulated substance into the ambient air from a stationary source that is caused, in whole or in part, by a criminal act.

''(III) OFFICIAL USE.—The term 'official use' means an action of a Federal, State, or local government agency or an entity referred to in subclause (I)(ee) intended to carry out a function relevant to preventing, planning for, or responding to accidental releases or criminal releases.

''(IV) OFF-SITE CONSEQUENCE ANALYSIS INFORMATION.—The term 'off-site consequence analysis information' means those portions of a risk management plan, excluding the executive summary of the plan, consisting of an evaluation of 1 or more worst-case scenario or alternative scenario accidental releases, and any electronic data base created by the Administrator from those portions.

''(V) RISK MANAGEMENT PLAN.—The term 'risk management plan' means a risk management plan submitted to the Administrator by an owner or operator of a stationary source under subparagraph (B).

''(ii) REGULATIONS.—Not later than 1 year after the date of enactment of this subparagraph, the President shall—

''(I) assess—

''(aa) the increased risk of terrorist and other criminal activity associated with the posting of off-site consequence analysis information on the Internet; and

''(bb) the incentives created by public disclosure of off-site consequence analysis information for reduction in the risk of accidental releases and criminal releases; and

''(II) based on the assessment under subclause (I), promulgate regulations governing the distribution of off-site consequence analysis information in a manner that, in the opinion of the President, minimizes the likelihood of accidental releases and criminal releases and the likelihood of harm to public health and welfare, and—

''(aa) allows access by any member of the public to paper copies of off-site consequence analysis information for a limited number of stationary sources located anywhere in the United States;

''(bb) allows other public access to off-site consequence analysis information as appropriate;

''(cc) allows access for official use by a covered person described in any of items (cc) through (ff) of clause (i)(I) (referred to in this subclause as a 'State or local covered person') to off-site consequence analysis information relating to stationary sources located in the person's State;

''(dd) allows a State or local covered person to provide, for official use, off-site consequence analysis information relating to stationary sources located in the person's State to a State or local covered person in a contiguous State; and

''(ee) allows a State or local covered person to obtain for official use, by request to the Administrator, off-site consequence analysis information that is not available to the person under item (cc).

''(iii) AVAILABILITY UNDER FREEDOM OF INFORMATION ACT.—

''(I) FIRST YEAR.—Off-site consequence analysis information, and any ranking of stationary sources derived from the information, shall not be made available under section 552 of title 5, United States Code, during the 1-year period beginning on the date of enactment of this subparagraph.

''(II) AFTER FIRST YEAR.—If the regulations under clause (ii) are promulgated on or before the end of the period described in subclause (I), off-site consequence analysis information covered by the regulations, and any ranking of stationary sources derived from the information, shall not be made available under section 552 of title 5, United States Code, after the end of that period.

''(III) APPLICABILITY.—Subclauses (I) and (II) apply to off-site consequence analysis information submitted to the Administrator before, on, or after the date of enactment of this subparagraph.

''(iv) AVAILABILITY OF INFORMATION DURING TRANSITION PERIOD.—The Administrator shall make off-site consequence analysis information available to covered persons for official use in a manner that meets the requirements of items (cc) through (ee) of clause (ii)(II), and to the public in a form that does not make available any information concerning the identity or location of stationary sources, during the period—

''(I) beginning on the date of enactment of this subparagraph; and

''(II) ending on the earlier of the date of promulgation of the regulations under clause (ii) or the date that is 1 year after the date of enactment of this subparagraph.

''(v) PROHIBITION ON UNAUTHORIZED DISCLOSURE OF INFORMATION BY COVERED PERSONS.—

''(I) IN GENERAL.—Beginning on the date of enactment of this subparagraph, a covered person shall not disclose to the public off-site consequence analysis information in any form, or any statewide or national ranking of identified stationary sources derived from such information, except as authorized by this subparagraph (including the regulations promulgated under clause (ii)). After the end of the 1-year period beginning on the date of enactment of this subparagraph, if regulations have not been promulgated under clause (ii), the preceding sentence shall not apply.

''(II) CRIMINAL PENALTIES.—

''(aa) KNOWING VIOLATIONS.—A covered person that knowingly violates a restriction or prohibition established by this subparagraph (including the regulations promulgated under clause (ii)) shall be fined not more than $5,000 for each unauthorized disclosure of off-site consequence analysis information. The disclosure of off-site consequence analysis information for each specific stationary source shall be considered a separate offense. Section 3571 of title 18, United States Code, shall not apply to an offense under this item. The total of all penalties that may be imposed on a single person or organization

under this item shall not exceed $100,000 for violations committed during any 1 calendar year.

''(bb) WILLFUL VIOLATIONS.—A covered person that willfully violates a restriction or prohibition established by this subparagraph (including the regulations promulgated under clause (ii)) shall be fined under section 3571 of title 18, United States Code, for each unauthorized disclosure of off-site consequence analysis information, but shall not be subject to imprisonment. The total of all penalties that may be imposed on a single person or organization under this item shall not exceed $1,000,000 for violations committed during any 1 calendar year.

''(III) APPLICABILITY.—If the owner or operator of a stationary source makes off-site consequence analysis information relating to that stationary source available to the public without restriction—

''(aa) subclauses (I) and (II) shall not apply with respect to the information; and

''(bb) the owner or operator shall notify the Administrator of the public availability of the information.

''(IV) LIST.—The Administrator shall maintain and make publicly available a list of all stationary sources that have provided notification under subclause (III)(bb).

''(vi) GUIDANCE.—

''(I) ISSUANCE.—Not later than 60 days after the date of enactment of this subparagraph, the Administrator, after consultation with the Attorney General and the States, shall issue guidance that describes official uses of off-site consequence analysis information in a manner consistent with the restrictions in items (cc) through (ee) of clause (ii)(II).

''(II) RELATIONSHIP TO REGULATIONS.—The guidance describing official uses shall be modified, as appropriate, consistent with the regulations promulgated under clause (ii).

''(III) DISTRIBUTION.—The Administrator shall transmit a copy of the guidance describing official uses to—

''(aa) each covered person to which off-site consequence analysis information is made available under clause (iv); and

''(bb) each covered person to which off-site consequence analysis information is made available for an official use under the regulations promulgated under clause (ii).

''(vii) QUALIFIED RESEARCHERS.—

''(I) IN GENERAL.—Not later than 180 days after the date of enactment of this subparagraph, the Administrator, in consultation with the Attorney General, shall develop and implement a system for providing off-site consequence analysis information, including facility identification, to any qualified researcher, including a qualified researcher from industry or any public interest group.

''(II) LIMITATION ON DISSEMINATION.—The system shall not allow the researcher to disseminate, or make available on the Internet, the off-site consequence analysis information, or any portion of the off-site consequence analysis information, received under this clause.

''(viii) READ-ONLY INFORMATION TECHNOLOGY SYSTEM.—In consultation with the Attorney General and the heads of other appropriate Federal agencies, the Administrator shall establish an information technology system that provides for the availability to the public of off-site consequence analysis information by means of a central data base under the control of the Federal Government that contains information that users may read, but that provides no means by which an electronic or mechanical copy of the information may be made.

''(ix) VOLUNTARY INDUSTRY ACCIDENT PREVENTION STANDARDS.—The Environmental Protection Agency, the Department of Justice, and other appropriate agencies may provide technical assistance to owners and operators of stationary sources and participate in the development of voluntary industry standards that will help achieve the objectives set forth in paragraph (1).

''(x) EFFECT ON STATE OR LOCAL LAW.—

''(I) IN GENERAL.—Subject to subclause (II), this subparagraph (including the regulations promulgated under this subparagraph) shall supersede any provision of State or local law that is inconsistent with this subparagraph (including the regulations).

''(II) AVAILABILITY OF INFORMATION UNDER STATE LAW.—Nothing in this subparagraph precludes a State from making available data on the off-site consequences of chemical releases collected in accordance with State law.

''(xi) REPORT ON ACHIEVEMENT OF OBJECTIVES.—

''(I) IN GENERAL.—Not later than 3 years after the date of enactment of this subparagraph, the Comptroller General shall submit to Congress a report that describes the extent to which the regulations promulgated under this paragraph have resulted in actions, including the design and maintenance of safe facilities, that are effective in detecting, preventing, and minimizing the consequences of releases of regulated substances that may be caused by criminal activity.

''(II) INTERIM REPORT.—Not later than 270 days after the date of enactment of this subparagraph, the Comptroller General shall submit to Congress an interim report that includes, at a minimum—

''(aa) the preliminary findings under subclause (I);

''(bb) the methods used to develop those findings; and

''(cc) an explanation of the activities expected to occur that could cause the findings of the report under subclause (I) to be different from the preliminary findings.

''(xii) SCOPE.—This subparagraph—

''(I) applies only to covered persons; and

''(II) does not restrict the dissemination of off-site consequence analysis information by any covered person in any manner or form except in the form of a risk management plan or an electronic data base created by the Administrator from off-site consequence analysis information.

''(xiii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator and the Attorney General such sums as are necessary to carry out this subparagraph (including the regulations promulgated under clause (ii)), to remain available until expended.''.

(b) REPORTS.—

(1) DEFINITION OF ACCIDENTAL RELEASE.—In this subsection, the term ''accidental release'' has the meaning given the term in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2)).

(2) REPORT ON STATUS OF CERTAIN AMENDMENTS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the status of the development of amendments to the National Fire Protection Association Code for Liquefied Petroleum Gas that will result in the provision of information to local emergency response personnel concerning the off-site effects of accidental releases of substances exempted from listing under section 112(r)(4)(B) of the Clean Air Act (as added by section 3).

(3) REPORT ON COMPLIANCE WITH CERTAIN INFORMATION SUBMISSION REQUIREMENTS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that—

(A) describes the level of compliance with Federal and State requirements relating to the submission to local emergency response personnel of information intended to help the local emergency response personnel respond to chemical accidents or related environmental or public health threats; and

(B) contains an analysis of the adequacy of the information required to be submitted and the efficacy of the methods for delivering the information to local emergency response personnel.

(c) TERMINATION OF AUTHORITY.—The authority provided by this section and the amendment made by this section terminates 6 years after the date of enactment of this Act.

## ORDERS FOR THURSDAY, JUNE 24, 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, June 24. I further ask that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that the Senate immediately resume consideration of the agriculture appropriations bill.

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

## PROGRAM

Mr. GRASSLEY. For the information of all Senators, tomorrow the Senate will convene at 9:30 a.m. and immediately resume consideration of the agriculture appropriations bill. It is hoped that an agreement can be reached to consider agriculture-related amendments during Thursday's session of the Senate. All Senators can expect rollcall votes throughout the session tomorrow as the Senate works to make progress on the agriculture appropriations bill.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:28 p.m., adjourned until Thursday, June 24, 1999, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 23, 1999:

### COMMODITY FUTURES TRADING COMMISSION

WILLIAM J. RANIER, OF NEW MEXICO, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION, VICE BROOKSLEY ELIZABETH BORN, RESIGNED.

WILLIAM J. RANIER, OF NEW MEXICO, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 2004, VICE BROOKSLEY ELIZABETH BORN, RESIGNED.

### DEPARTMENT OF LABOR

IRASEMA GARZA, OF MARYLAND, TO BE DIRECTOR OF THE WOMEN'S BUREAU, DEPARTMENT OF LABOR, VICE KAREN BETH NUSSBAUM, RESIGNED.

T. MICHAEL KERR, OF THE DISTRICT OF COLUMBIA, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR, VICE MARIA ECHAVESTE, RESIGNED.

### IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO

THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

GEORGE D. LANNING, 1598
ANDREW W. SHATTUCK, 4053
RAYMOND L.G. TAIMANGLO, 1432
DAVID T. YOHMAN, 6357
GREGORY J. ZANETTI, 5277

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

MICHAEL K. ABATE, 8316
BRADFORD E. ABLESON, 3564
JOSEPH ACEVEDO, 5385
DON C.B. ALBIA, 5924
ANGELA M. ALSBERRY, 9952
JAMES K. AMSBERRY, 8594
CHARLES J. ANDERSON, 9974
NILS ANDERSON, 0004
JAMES M. ANDREANO, 0479
ROBERT E. ANDRES, 8076
DIANNE A. ARCHER, 5681
LUISITO J. AREVALO, 4489
THOMAS C. ARMEL, 3851
MICHAEL J. ARNOLD, 6305
MARIE A. AUBINKELLY, 7075
EUNICEA S. AUGUSTUS, 9381
VINCENT G. AUTH, 3436
GARY L. BAKER, 0096
M. K. BALDWIN, 8414
KATHRYN A. BALLANTYNE, 6315
MICHAEL J. BANGS, 8828
JEFFREY R. BAQUER, 5088
JAMES M. BARNARD, 8528
WILLIAM M. BARNETT, 1962
JOANN BASLER, 4168
DEBRA D. BASSETTMITCHELL, 4220
GREGORY M. BEAVERS, 7289
STEPHEN S. BELL, 8466
IOANA BETTIOS, 2495
JOSEPH E. BIRON, 2328
RONALD L. BLACK, 6299
GREGORY S. BLASCHKE, 7946
JEFFREY P. BLICE, 9067
PETER C. BONDY, 1783
DOUGLAS S. BORREBACH, 5119
SHIRLEY M. BOWENS, 6454
ERIC A. BOWER, 1287
WILLIAM S. BOWMAN, 1269
WILLIAM P. BRADLEY, 8510
KENNETH W. BRANCH, 0394
DOUGLAS F. BREWSTER, 9858
KENNETH J. BRINSKO, 5147
GARY A. BROADWELL, 8540
JOHN E. BROWN, 1728
WALTER M. BROWN, JR., 7222
JOHN P. BROWNING, 3154
JOSEPHINE BRUMIT, 4154
CRAIG E. BUCHMANN, 6524
ROBERT H. BUCKLEY, 2727
BONNIE A. BULACH, 3101
CARRIE L. BURGER, 3917
JOHN B. BURGESS, JR., 7636
TIMOTHY W. BURNS, 5641
BARBARA A. BURR, 3147
LOURDES E. BURTH, 6403
BARBARA K. BUTLER, 1302
ROBERTO J. CABASSA, 6382
DONALD B. CAMPBELL, JR., 7066
JOHN W. CAMUSO, 1867
PHILIP J. CANDREVA, 8670
JESUS V. CANTU, 7931
DOUGLAS N. CARBINE, 1889
JAMES L. CARUSO, 1663
ROBERT A. CARUSO, JR., 1378
DAVID W. CASH, 7528
DAVID CASTELLAN, 4894
GREGG A. CERVI, 1359
ROBERT J. CHAMBERLAIN, 8646
ALEXANDER C. CHAVEZ, 8445
ROBERT W. CHENIER, 3710
RUTH A. CHRISTOPHERSON, 9302
JEFFREY B. COLE, 2619
ROBERT W. COLE, JR., 6350
TIMOTHY P. COLLINS, 9494
JEFFREY A. CONWELL, 6209
KEVIN D. COOK, 1519
RICHARD D. COOK, 3908
MARK N. COPENHAVER, 8307
WILLIAM F. CORDS, 3863
JOSEPH P. COSTELLO, 1696
CLAUDE J. COUCOULES, 0075
JEFFREY J.S. COX, 5097
JUDITH A. COX, 3250
DARRYL K. CREASY, 9535
RICHARD E. CROMPTON, 3385
MIGUEL A. CUBANO, 1821
LATANYA D. DAVIDSONWILSON, 7225
DAVID A. DAVIES, 1971
BRENDA DAVIS, 1305
CHRISTIAN C. DECKER, 2477
THOMAS J. DELANEY, 2995
CAROLINE V. DELIZO, 1777
JOHNNY M. DENHAM, 4418
EDWARD D. DIGGES, 3959
ANNE M. DIGGS, 2335
SUSAN E. DIONNE, 8136
KAREN A. DIRENZO, 7618
JEFFREY D. DISNEY, 2883
HENRY V. DOBSON, JR., 5915
STEVEN W. DOLLASE, 0162
RONALD F. DOMMERMUTH II, 3564
CATHARINE H. DUGGAN, 2425
MITCHELL DUKOVICH, 7598
KENNETH C. EARHART, 0207
LEE G. EBERT, 7984
ELAINE C. EHRESMANN, 4693
JAMES K. ELLIS, 0414
HELENA G. ELY, 1842
ROBERT G. FAHEY, 0429
KAREN FALLON, 7862
DAVID P. FAULK, 4075
EDMOND F. FEEKS, 5080
MATTHEW S. FEELY, 0726
JAMES P. FLINT, 9855
DAVID W. FLOYD, 4478
KEVIN F. FLYNN, 6304
JERRY A. FORMISANO, JR., 2371
KIRK A. FOSTER, 9265
DAVID P. FOWLER, 4887
LINO L. FRAGOSO, 4888
LAFRANCIS D. FRANCIS, 1220
DAVID J. FRYAUFF, 2869
STEVEN M. GALESKI, 9207
EDDIE A. GARCIA, 5971
THERESA S. GEE, 4260
SUSAN M. GIANINO, 2631
PATRICK J. GIBBONS, 3528
ROBERT J. GIBBS, 9836
EDUARD GONZALEZ, 5005
VIDAL E. GONZALEZ, 2065
ROBERT A. GOODMAN, 0216
WALTER A. GRAUER, 0661
LINDA K. GREENE, 3669
JEFFREY S. GRIFFITH, 7581
STEVEN L. GRIFFITTS, 5732
SANGSOO J. GRZESIK, 4759
JASON E. GUEVARA, 5036
KEITH B. GUSTAFSON, 5694
PAUL HAMMER, 9512
MARK E. HAMMETT, 0483
JAMES W. HANSEN, 1133
STEFFANI H. HANSEN, 2540
JEFFREY M. HARDIN, 0349
ROBERT R. HARFORD, 9020
DAVID M. HARMATZ, 5012
DAVID W. HARRIS II, 5210
GAIL L. HATHAWAY, 2752
CYNTHIA L. HEINS, 0860
JOHN J. HEINZEL, 8065
DAVID H. HELLMAN, 9355
JOSEPH P. HENNESSY, 2031
ERIC HERBERT, 3000
RENE S. HERNANDEZ, 0907
JENNIFER S. HEROLD, 6696
CRAIG L. HERRICK, 6072
CYNTHIA J. HILL, 2663
DEBORAH L. HILL, 1100
BRUCE R. HILT, 9906
JAMES D. HOAG, 0919
SCOTT H. HOLDEN, JR., 1071
RAYMOND J. HOOD, 2725
DIANE L. HOOVER, 6310
JAMES H. HOOVER, 6221
JEFFREY C. HORTON, 9398
CYNTHIA W. IZUMIYA, 4155
JASON A. JACKSON, 1385
MOORE H. JAN, 3058
CARLOS V. JARAMILLO, 9483
JANET R. JENISTA, 4999
CHRISTOPHER J. JENNINGS, 7007
EVAN K. JOHNSTON, 6570
DOUGLAS A. JONES, 7161
JAMES W. JOSLYN, 3141
MARK A. JUMPER, 6115
STEPHAN F. JUN, 5241
KEVIN T. KALANTA, 7552
MARY A. KASPRZAK, 1992
TIMOTHY R. KENNEDY, 4106
BRIAN G. KERR, 9642
SIDNEY J. KIM, 5744
THOMAS J. KIM, 8523
JOHN G. KING, 8596
KATHERINE KITSVANHEYNINGEN, 3029
CHRISTOPHER H. KIWUS, 2267
BARBARA A. KLUS, 4516
JOHN W. KNOWLES, 3702
BRADLEY S. KOCH, 4097
PETER E. KOPACZ, 5959
MARK P. LAMBRECHT, 5775
ALLEN H. LAMSON, 7208
FREDERICK J. LANDRO, 2892
JOHN J. LANDRY, 2039
MICHAEL W. LANGSTON, 4498
JAMES W. LANTRY, JR., 9710
TIMOTHY S. LANTZ, 2669
THERESA M. LAVOIE, 5774
RUSSELL S. LAWRY, 2468
BRYCE E. LEFEVER, 2221
JAMES C. LEIBOLD, 9209
LISA J. LEIBY, 2493
BETH E. LEINBERRY, 8044
DAVID LEONARD, 3344
THOMAS J. LEONARD, 3377
HERMAN G. LEONG, 9164
RUPERT F. LINDO, 1749
MICHAEL LIPSKI, 6779
EDWIN T. LONG, 5059
ARTURO A. LOPEZ, 5618
LOUISE A. LOY, 0127
WILLIAM H. LYNCH, 1697
JOHN F. LYNN, 0349
MARK R. MALEBRANCHE, 2288
KENNETH J. MAMOT, 6212
CHRISTOPHER J. MANN, 0917
CAMERON A. MANNING, 6995
EMILIO MARRERO, JR., 0067
SHARI E. MARSH, 9648
ROBERT W. MARSHALL, 0829
LESLIE D. MARTIN, 5968
TAMARA C. MARTIN, 0205
JEFFREY MARTINEZ, 8595
MICHAEL MATHIEU, 0109
CLIFFORD M. MAURER, 2705
NICHOLAS MAZZEO, 7671
JENNIFER B. MCCOY, 3166
GEOFFREY MCCULLEN, 8119
SHARON M. MCDONALD, 1673
K NIEMANTSVERDRIET MCDONALD, 6564
ROBERT J. MCGARRITY, 1772
JOHN R. MCKONE II, 2458
NEAL P. MCMAHON, 6019
MICHAEL B. MCPEAK, 4510
LISA K. MCWHORTER, 6456
GRETCHEN A. MEYER, 2532
CARY H. MEYERS, 9176
KATHLEEN A. MICHEL, 4646
JOHN F. MILLER, 7918
JACK Q. MILLS, 3296
KURT S. MILSON, 1418
Y. D. C. O. E. MINOSO, 6156
JOHN D. MITCHELL, 9322
PAUL MITCHELL, 9918
STEVEN W. MOLL, 8273
KENNETH R. MONTGOMERY, 0050
RANDALL W. MOORE, 0069
THOMAS K. MOORE, 7124
ANDREW S. MORGAN, 7541
TIMOTHY M. MORGAN, 0696
DAVID K. MORRIS, 3804
ALAN L. MORRISON, 1417
BRET J. MUILENBURG, 8508
DREW K. MULLIN, 1139
ROBERT J. MULVANNY, 2144
CRAIG M. NEITZKE, 1156
YVES NEPOMUCENO, 2561
LINDA K. NESBIT, 8565
AN B. NGUYEN, 9670
PAUL F. NICHOLS, 9638
DAYNE E. NIX, 2311
CURTIS OLLAYOS, 7470
RONALD L. OLSON, 8642
EDGAR P. O'NEILL, 4659
DENNIS P. O'REAR, 8475
KENNETH J. O'ROURKE, 4036
WILLIAM A. OSTER, 0366
DEAN A. PAGE, 2637
ROSEMARIE J. PARADIS, 7800
ANDREW PARSONS, 5766
JOSEPH PASTERNAK, 8459
PHILIP W. PERDUE, 2017
WILLIAM G. PERDUE, JR., 1815
BEN P. PERSINGER, 3131
JANICE M. PETERSEN, 2749
ALAN F. PHILIPPI, 9939
TRAVIS M. PHILLIPS, JR., 1477
JAMES T. PIBURN, 3117
CYNTHIA B. PICCIRILLI, 6049
GREGORY R. PORTER, 1397
MARK S. POSVISTAK, 5904
REBECCA J. POWERS, 6610
GEORGE A. PREGEL, 7432
DAVID E. PRICE, 2976
DAVID A. PRY, 9358
FRANK A. PUGLIESE, 1196
MICHAEL C. PUNTENNEY, 7876
TERENCE S. PURCELL, 9405
DWIGHT L. PURVIS, 0333
MELISSA QUINONES, 5672
ALFREDO E. RACKAUSKAS, 3793
LISA H. RAIMONDO, 2520
HARVEY E. RANARD, JR., 2526
DAVID RANDALL, 3056
DOMINICK A. RASCONA, 5189
MITCHELL J. READING, 6240
KEVIN J. REED, 8342
SCOTT R. REICHARD, 0277
GINGER B. RICE, 9312
JOHN D. RICE, 7809
JAMES V. RITCHIE, 1603
KENNETH J. RODES, 4892
PAUL M. ROSE, 7316
DEREK K. ROSS, 8225
ANTHONY M. ROWEDDER, 3600
LISA M. ROYBAL, 3729
RENDELL R. ROZIER, 8602
GIACINTO F. RUBINO, 7254
DANIEL J. RYAN, 5943
MORGAN T. SAMMONS, 6299
GUY R. SANCHEZ, 8121
SUSANNE M. SANDERS, 1128
PATRICK A. SANDERSON, 9671
ADAM R. SAPERSTON, 2202
WALTER SAWHER III, 7277
THOMAS J. SAWYER, 8629
EILEEN SCANLAN, 0827
STEVEN R. SCHARPNICK, 0882
DAVID A. SCHAUER, 7430
ROBERT M. SCHLEGEL, 4526
MARK A. SCHMETZ, 7449
PHILIP SCHOENFELD, 0958
JAMES M. SCHOFIELD, 8830
RICHARD L. SCHROFF, 0220
STEPHEN R. SHAPRO, 2799
STERLING S. SHERMAN, 7133
ALEXANDER SHIN, 4996
ROBERT SIMPSON, 9854
EUGENE F. SMALLWOOD, JR., 6122
CHARLOTTE D. SMITH, 9955
DANIEL J. SMITH, 7944
DAVID P. SMITH, JR., 0558
BRIAN D. SMULLEN, 8114
KELLY R. SNOOK, 7622
KEITH E. SONNIER, 2641
TIMOTHY C. SORRELLS, 1817
JOHN S. SPICER, 3555
DONNA J. STAFFORD, 7276
MARK E. STANLEY, 5468
ROSS R.P. STEVENS, 5998
MARK A. STILES, 2679
BRUCE A. STINNETT, 9167
MARK E. STMORITZ, 7158
PHILIP M. STOLL, 3387
BRUCE R. STRICKLAND, 7456
GREGORY F. STROH, 3903
RITA M. SULLIVAN, 7882
KATHRYN A. SUMMERS, 7607
FAY Y. SUNADA, 7380
MARK V. SUTHERLAND, 8125
ELIZABETH A. SWATZELL, 5195
SUSAN L. SWINEHART, 9916
JAMES H. TARVER, 0296
GEORGE E. TAYLOR II, 0539
STEPHEN D. TELA, 5671
PAUL D. THAYER, 5103
ROBERT W. THERRIAULT, 9576
GLENN F. THIBAULT, 0869
MICHAEL A. THOMPSON, 1354
SCOTT R. THON, 6770
JEFFREY W. TIMBY, 9263
DAVID I. TINDLE, 8700
LEE P. TOCCHI, 8164
CARLA G. TOLBERT, 2077
SANDRA S. TOMITA, 9492
GEORGE L. TRASK, 5304
CATHERINE E. TURNER, 6984
EDWIN D. TURNER, 0715
ANN M. UETZ, 9657
WILLIAM J. UPHAM, 2316
CHRISTIAN E. VALLE, 8860
GENE A. VANDERVORT, 4330
KARL F. VANORDEN, 6521
HENRY B. VILLAREAL, 0799
ROBERT C. VOGLER, JR., 0865
MICHAEL R. WAGNER, 2916
MICHAEL H. WALLNER, 9211
BRIAN D. WATKINS, 3965
DAVID M. WATT, 8295
BRYAN J. WEAVER, 6307
DAVID K. WEIL, 0350
DENTON D. WEISS, 5437
WILLIAM H. WELLMAN, 8003
BRIAN L. WENGER, 4523
DANIEL G. WHALEN, 0194
ROBERT C. WHEATLEY, 2623
THOMAS J. WHEATON, 3007
CHARLES K. WILSON, 8463
SHARON K. WINKLERPEISER, 7908
JEFFERY S. WOLFE, 9919
MICHAEL J. WOLFGANG, 5674
CLIFTON WOODFORD, 6695
SUSAN W. WOOLSEY, 5756
DAVID G. WRIGHT, 8828
PAUL R. WRIGLEY, 9105
ELLIOTT C. YODER, 0840
THOMAS R. YOUNG, 9053
JOSEPH B. YUDISKI, JR., 1966
DARLENE V. ZECKSER, 4431
GREGG W. ZIEMKE, 5131

THE FOLLOWING NAMED OFFICERS FOR ORIGINAL REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

*To be captain*

DAVID J. ABEL, 6154
JENNIFER A. ALRIDGE, 5809
CHRISTOPHER J. AMBS, 7512
CHARLES W. ANDERSON, 2702
RANDALL C. BAKER, 4943
THOMAS E. BLAKE, 8108
RICHARD A. BOWERS, 0924
JOHN W. BRADWAY, JR., 0761
TRACY G. BROOKS, 1287
RONALD J. BRUEMLEVE, JR., 0573
MICHAEL F. CAMPBELL, 6260
FRANK M. CHURCHILL, 9946
KYLE T. DEBOER, 6904
ROMEO DELOSSANTOSCOY, JR., 5214
LAFE B. ELLIOTT, 0940
KEITH E. ENYART, 8083
JEFFREY A. FULTZ, 0430
ROBERT D. GINGRAS, 3668
WILLIAM P. GORDON, 9022
PHILIP W. GRAHAM, 3063
CARLTON D. HAGANS, 5309
RONALD P. HEFLIN, 3839
JOHN E. HEIN, 2012
RICHARD A. HILL, 6010
CALVIN L. HYNES, 0898
EDWIN N. LLANTOS, 9714
ERIC R. MCBEE, 4956
JOHN M. MCKEON, 6366
BRET M. MCLAUGHLIN, 3391
CHARLES S. MORROW, JR., 2871
JUAN J. NAVARRO, JR., 9665
CHRISTOPHER RAMSEY, 9007
MANUEL RANGEL, JR., 2624
LOUANN RICKLEY, 6550
JEFFREY P. RUPPERT, 3143
MOSES P. SALDANA, JR., 5568
JERRY B. SCHMIDT, 3552
EDWARD L. SCOTT, JR., 6387
WILLIAM M. SIMONS, 3042
JOSEPH G. SINESE, 2603
STEVEN J. SKIRNICK, 8777
JEFFREY W. SMITH, 2859
PAUL J. SMITH, 3136
ROGER D. SMITH, 6245
MATTHEW E. SUTTON, 1710
TROY A. TYRE, 7338
DOUGLAS E. WEDDLE, 5774
RALPH L. WHIPKEY, JR., 5656
JOE S. WOLFE, 1284
WILLIAM E. WOODALL, JR., 5278
RAYMON ZAPATA, JR., 9757