

commend Susan Daniels, Kenneth Nibali of the Social Security Administration and the experts from SSA for their willingness to travel from Baltimore to participate in the meeting. I am encouraged by their willingness to consider issuing new guidelines to the personnel in the SSA field offices regarding brachial plexus injuries.

We must work to ensure that everyone who meets the guidelines for receiving SSI has the opportunity to apply for the benefits and be given a fair hearing. I look forward to seeing the new guidelines from SSA, and I am eager to continue working with the Social Security Administration on this issue.●

SEQUENTIAL REFERRALS—S. 225 AND S. 400

Mr. CRAIG. Mr. President, I ask unanimous consent that S. 225 and S. 400 be sequentially referred to the Committee on Banking, Housing, and Urban Affairs. I further ask consent that if these bills are not reported out of the Banking Committee by November 2, the bills then be automatically discharged from the committee and placed on the calendar.

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

Mr. CRAIG. I ask unanimous consent that a letter to Senator LOTT relative to the two bills, S. 225 and S. 400, be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, October 26, 1999.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR LOTT: We respectfully request that unanimous consent be sought so that the Committee on Banking, Housing, and Urban Affairs may be granted a sequential referral of the "Native American Housing Assistance and Self-Determination Act Amendments of 1999" (S. 400) and the "Native American Housing Assistance and Self-Determination Act Amendments of 1999" (S. 255). These bills have been referred to the Committee on Indian Affairs, although they contain housing provisions which are under the express jurisdiction of the Banking Committee.

If S. 400 and S. 225 are not reported out by the Committee on Banking, Housing and Urban Affairs by November 2, 1999, such bills will be automatically discharged from the Committee.

Thank you for your consideration.

PHIL GRAMM,
Chairman, Committee
on Banking, Housing
and Urban Affairs.

WAYNE ALLARD,
Chairman, Sub-
committee on Housing
and Transportation.

BEN NIGHTHORSE
CAMPBELL,

Chairman, Committee
on Indian Affairs.

PAUL SARBANES,
Ranking Member,
Committee on Banking,
Housing and
Urban Affairs.

JOHN F. KERRY,
Ranking Member, Sub-
committee on Housing
and Transportation.

DANIEL INOUE,
Vice Chairman, Com-
mittee on Indian Af-
fairs.

MULTIDISTRICT, MULTIPARTY, MULTIFORUM TRIAL JURISDICTION ACT OF 1999

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 341, H.R. 2112.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2112) to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and to provide for Federal jurisdiction of certain multiparty, multiforum civil actions.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multidistrict Jurisdiction Act of 1999".

SEC. 2. MULTIDISTRICT LITIGATION.

Section 1407 of title 28, United States Code, is amended—

(1) in the third sentence of subsection (a), by inserting "or ordered transferred to the transferee or other district under subsection (i)" after "terminated"; and

(2) by adding at the end the following new subsection:

"(i)(1) Subject to paragraph (2), any action transferred under this section by the panel may be transferred, for trial purposes, by the judge or judges of the transferee district to whom the action was assigned to the transferee or other district in the interest of justice and for the convenience of the parties and witnesses.

"(2) Any action transferred for trial purposes under paragraph (1) shall be remanded by the panel for the determination of compensatory damages to the district court from which it was transferred, unless the court to which the action has been transferred for trial purposes also finds, for the convenience of the parties and witnesses and in the interests of justice, that the action should be retained for the determination of compensatory damages."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action pending on or brought on or after the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I am pleased that the Senate is about to pass S. 1748, the Multi-District Jurisdiction Act of 1999, and H.R. 2112, as amended by the Hatch-Leahy sub-

stitute during its consideration in the Senate Judiciary Committee. Our substitute amendment is the text of S. 1748, the Multi-District Jurisdiction Act of 1999, which the distinguished Chairman of the Senate Judiciary Committee and I, along with Senators GRASSLEY, TORRICELLI, KOHL, and SCHUMER, introduced last week. Our bipartisan legislation is needed by Federal judges across the country to restore their power to promote the fair and efficient administration of justice in multi-district litigation.

Current law authorizes the Judicial Panel on Multi-District Litigation to transfer related cases, pending in multiple Federal judicial districts, to a single district for coordinated or consolidated pretrial proceedings. This makes good sense because transfers by the Judicial Panel on Multi-District Litigation are based on centralizing those cases to serve the convenience of the parties and witnesses and to promote efficient judicial management.

For nearly 30 years, many transferee judges, following circuit and district court case law, retained these multidistrict cases for trial because the transferee judge and the parties were already familiar with each other and the facts of the case through the pretrial proceedings. The Supreme Court in *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998), however, found that this well-established practice was not authorized by the general venue provisions in the United States Code. Following the *Lexecon* ruling, the Judicial Panel on Multi-District Litigation must now remand each transferred case to its original district at the conclusion of the pretrial proceedings, unless the case is already settled or otherwise terminated. This new process is costly, inefficient and time consuming.

The Multi-District Jurisdiction Act of 1999 seeks to restore the power of transferee judges to resolve multidistrict cases as expeditiously and fairly as possible. Our bipartisan bill amends section 1407 of title 28 of the United States Code to allow a transferee judge to retain cases for trial or transfer those cases to another judicial district for trial in the interests of justice and for the convenience of parties and witnesses. The legislation provides transferee judges the flexibility they need to administer justice quickly and efficiently. Indeed, our legislation is supported by the Administrative Office of the U.S. Courts, the Judicial Conference of the United States and the Department of Justice.

In addition, we have included a section in our bill to ensure fairness during the determination of compensatory damages by adding the presumption that the case will be remanded to the transferor court for this phase of the trial. Specifically, this provision provides that to the extent a case is tried

outside of the transferor forum, it would be solely for the purpose of a consolidated trial on liability, and if appropriate, punitive damages, and that the case must be remanded to the transferor court for the purposes of trial on compensatory damages, unless the court to which the action has been transferred for trial purposes also finds, for the convenience of the parties and witnesses and in the interests of justice, that the action should be retained for the determination of compensatory damages. This section is identical to a bipartisan amendment proposed by Representative Berman and accepted by the House Judiciary Committee during its consideration of similar legislation earlier this year.

Multi-district litigation generally involves some of the most complex fact-specific cases, which affect the lives of citizens across the nation. For example, multi-district litigation entails such national legal matters as asbestos, silicone gel breast implants, diet drugs like fen-phen, hemophiliac blood products, Norplant contraceptives and all major airplane crashes. In fact, as of February 1999, approximately 140 transferee judges were supervising about 160 groups of multi-district cases, with each group composed of hundreds, or even thousands, of cases in various stages of trial development.

But the efficient case management of these multi-district cases is a risk after the Lexecon ruling. Judge John F. Nangle, Chairman of the Judicial Panel on Multi-District Litigation, recently testified before Congress that: "Since Lexecon, significant problems have arisen that have hindered the sensible conduct of multi-district litigation. Transferee judges throughout the United States have voiced their concern to me about the urgent need to enact this legislation."

Mr. President, Congress should listen to the concerned voices of our Federal Judiciary and swiftly send the Multi-District Jurisdiction Act of 1999 to the President for his signature into law.

Mr. CRAIG. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee substitute was agreed to.

The bill (H.R. 2112), as amended, was read the third time and passed.

ORDERS FOR THURSDAY, OCTOBER 28, 1999

Mr. CRAIG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, October 28. I further ask

unanimous consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period of morning business, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator DURBIN, or designee, 9:30 to 10 a.m.; Senator THOMAS, or designee, 10 to 10:30 a.m.

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

PROGRAM

Mr. CRAIG. Mr. President, for the information of all Senators, the Senate will be in a period of morning business from 9:30 to 10:30 a.m. Following morning business, the Senate will resume consideration of the African trade bill. As a reminder, cloture has been filed on the substitute amendment to the trade bill and, therefore, all first-degree amendments must be filed to the substitute by 1 p.m. tomorrow. Also, pursuant to rule XXII, that cloture vote will occur 1 hour after the Senate convenes on Friday, unless an agreement is made between the two leaders.

Currently, Senator ASHCROFT's amendment to establish the position of chief agriculture negotiator is pending. It is hoped that an agreement regarding further amendments can be made so the Senate can complete action on this important legislation.

The Senate may also consider any legislative or executive items cleared for action during tomorrow's session of the Senate.

ORDER FOR ADJOURNMENT

Mr. CRAIG. 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, following the remarks of the Senator from Oregon, Mr. WYDEN.

Mr. GRAHAM addressed the Chair. The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Reserving the right to object. I say to my colleague from Idaho, I believe the junior Senator from Washington also wishes to make a statement after the Senator from Oregon. And I wish to make a statement after the junior Senator from Washington.

Mr. CRAIG. Mr. President, I amend my unanimous consent request and ask unanimous consent that following the comments of the Senator from Oregon, Senator MURRAY from the State of Washington be allowed to speak, followed by the Senator from Florida, who would make the final remarks of the evening.

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

The Chair recognizes the Senator from Oregon.

Mr. WYDEN. I thank the Chair.

MEDICARE COVERAGE FOR PRESCRIPTION DRUGS

Mr. WYDEN. Mr. President, and colleagues, this is the seventh time I have come to the floor of the Senate in recent days to talk about the issue of Medicare coverage for prescription drugs. The reason I do so is I think it is so important that before we wrap up our work in this session of Congress, we take action on this matter, given how many vulnerable senior citizens there are in this country who simply cannot afford their prescriptions.

There is just one bipartisan bill with respect to prescription drug coverage now before the Senate. It is a piece of legislation known as the SPICE Act, the Senior Prescription Insurance Coverage Equity Act.

It is a bipartisan bill on which I have teamed with Senator OLYMPIA SNOWE of Maine; and it is one that the two of us are very hopeful this Congress will act on before we conclude our work.

There are some who think this issue is too controversial and too difficult to tackle before the next election. I would note that it is going to be more than a year until the next election. We are going to have a lot of senior citizens who are walking on an economic tight-rope, every week balancing their food costs against their fuel costs, and their fuel costs against their medical bills, who are not going to be able to pay for their prescriptions and their necessities if the Senate decides to duck this issue and put it off until after the next election. I think the reason we are sent here is to tackle issues and not just put them off until after the election.

Over the last few months, Senator SNOWE and I have worked with senior citizen groups; we have worked with people in the pharmaceutical sector, in the insurance sector, various public- and private-sector organizations; and we believe the SPICE legislation that we have crafted is the kind of bill that Members of the Senate can support.

In fact, as part of the budget, Senator SNOWE and I teamed up, and we offered a specific funding plan. And 54 Members of the Senate are now on record—they are now specifically on record—with respect to the SNOWE-WYDEN funding plan for paying for prescription drug benefits. So we are now in a position, it seems to me, colleagues, to take specific action.

One of the reasons I have come to the floor tonight is my hope that we can really show how urgent this need is.

What I have done, as the poster next to me says, is urge senior citizens to send in copies of their prescription drug bills, directly to their Senator, U.S. Senate, Washington, DC. I have decided I am going to, in my discussions on the floor each evening, read a