in the order we talked about, Senator WARNER; Senator ENSEN on genetics, and I understand his pro bono amendment is being agreed to; and Senator THOMPSON, which I understand also has been agreed to.

Mr. THOMPSON. No. Mr. GREGG. It has not. And then Senator Frist has a substitute.

Is there anybody else who has an amendment?

That appears to be our list.

Mr. DASCHLE. Mr. President, I ask unanimous consent that be deemed as the finite list of amendments to be offered to this bill.

Mr. CRAIG. Reserving the right to object.

Mr. DASCHLE. Mr. President, is there an objection?

Mr. NICKLES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I just tell the majority leader, we have not had a chance to run that by our colleagues. We have been involved in amendments, and the Senator from New Hampshire is to be congratulated that he has reduced the number of amendments substantially.

We will need a few minutes at least to run this by the rest of our colleagues to make sure they know that if they have additional amendments to be considered, they need to get them on our list.

If the majority leader will please withhold the request, we will shop it around.

Mr. DASCHLE. 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. BYRD. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. BYRD. Mr. President, while Senators are working out their amendments, I think there ought to be an Independence Day speech. I assume we are going home for the Fourth of July.

So if there is no objection, I have a speech in hand. (Laughter.)

Mr. MCCAIN. Reserving the right to object. (Laughter.)

In admiration of the Senator's tie, how long is the speech?

Mr. BYRD. Well, now, in the face of that extraordinary compliment, I would say it is just half as long as it would have been otherwise. (Laughter.)

Mr. McCAIN. No objection.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

INDEPENDENCE DAY

Mr. BYRD. Mr. President, the Senate will shortly recess, hopefully, for the Independence Day holiday. Many Mem-

bers will return home to meet with their constituents. Some will perform a time-honored ritual and take part in hunting bugs. Independence Day parades, sweating and waving from the backs of convertibles somewhere in the line-up between the pretty festival queens, brightly polished antique cars, flashing fire engines, and, hopefully, ahead of the marchers, the most famous of all, is an American tradition as familiar and as comforting as the fried chicken and the apple pie that everyone will enjoy. Families and friends will gather to watch the fireworks light the evening sky.

This first Independence Day of the new millennium calls to mind an earlier year two centuries ago. The year was 1801. Of course, then, as now, there had been a hotly contested election.

The President-elect was Thomas Jefferson. It took a vote in the electoral college to decide the Presidency, and the House of Representatives put Thomas Jefferson into the White House instead of Aaron Burr.

Let us celebrate the 225th anniversary of the nation's independence as a new nation, a new government created under God in as thoughtful and inspired a constitution as our constitutional government.

We enjoy power coupled with restraint; wealth with generosity; individual opportunity with concern for the less fortunate. Though at times it seems that we are consumed by petty squabbles or diverse interests that threaten to fragment us as a people, each year on the glorious Fourth of July we are given a chance to come together proudly as one American people, to h.e., in Jefferson with their own wisdom of our sages and the blood of our heros . . . ” that have been devoted to the principles embodied in our Constitution and our government.

This next Wednesday evening, as fireworks thunder over the Jefferson Memorial in Washington and are mirrored in the reflecting pond around it, patriotic strains will fill the air. Similar scenes will play out around the country. Whether in Washington or in small towns or medium-sized cities around the Nation, or in large cities, we may all be proud to be Americans first and foremost. Whatever other allegiances we might have, to party, church, state, or community, we are Americans first. Let us celebrate that and let us not forget it.

As you light your sparklers and fountains, as you hear the martial music of John Philip Sousa, as you applaud the fireworks displays, as you eat the first slice of watermelon and the second, as you look around, as you feel proud. Be proud that 225 years ago, bold men risked their lives and their fortunes and their sacred honor to give us this wonderful system of States, this amazing governmental system, this land of the free, this home of the brave united as one nation under God and under the red, white, and blue flag of the United States of America. Feel glad that so many of your fellow citizens are standing at your shoulders watching the parade, or sitting nearby. Families looking up at the sky ablaze with man-made stars. In these crowds is our hope for a long future as a people united still under Old Glory, and under the Constitution of the United States.

Mr. President, Thomas Jefferson spoke of our constitutional government as the “sheet anchor” of our peace and safety. He chose his nautical allusion fittingly. A sheet anchor, according to the Merriam-Webster Dictionary, is a noun that first appeared in the 15th Century. It is a large, strong anchor formerly carried in the waist of a ship and used as a spare in an emergency, but the phrase has also...
come to be used for something that constitutes a main support or depend- 
ence, especially the ‘danger’ of danger. Truly, then, the Constitution is not 
just the organizing construct of our government, but also, as Jefferson saw 
it, the tool by which our Nation would preserve our liberties. It is fitting, 
then, to close with the words of the poet who wrote about the republic in “The 
Building of the Ship.”

Thou, too, sail on, O Ship of State! 
Sail on, O Union, strong and great! 
Humanity with all its fears, 
Is hanging breathless on thy fate! 
We know what Master laid thy keel, 
What Workmen wrought thy ribs of steel, 
Who made each mast, and sail, and rope, What anvils rang, what hammers beat, 
’Tis but the wave and not the rock; ’Tis but the flapping of the sail. 
And not a rip made by the gale! 
In spite of rock and tempest’s roar, 
In spite of false lights from the shore, 
Sail on, nor fear to breast the sea! 
Our hearts, our hopes, are all with thee. 
Our hearts, our hopes, ours prayers, our tears. 
Our faith triumphant over our fears, 
Are all with thee—are all with thee! 
Mr. President, I yield the floor. 
(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I cer- 
tainly join my colleagues in expressing the 
our warm appreciation for our senior 
colleague, our President pro tempore, 
for addressing the Senate in such a 
stirring manner. It lifts the hearts of 
all of us in this late hour on a Friday 
afternoon, which has, I guess, a degree 
of uncertainty as to the manner in which we are going to proceed.

BIPARTISAN PATIENT 
PROTECTION ACT—Continued

AMENDMENT NO. 833, AS FURTHER MODIFIED

Mr. WARNER. Mr. President, I have 
an amendment which has been pending. 
I send to the desk a modification of that 
amendment.

The PRESIDING OFFICER. Without 
objection, the amendment is modified.

The amendment (No. 833) as further 
modified, is as follows:

On page 154, between lines 2 and 3, insert 
the following:

“(11) LIMITATION ON ATTORNEYS’ FEES.—

“(A) IN GENERAL.—Notwithstanding any 
other provision of law, or any arrangement, 
agreement, or contract regarding an attor- 
ney’s fee, the amount of an attorney’s con- 
tingency fee allowable for a cause of action 
brought pursuant to this subsection shall not 
exceed 1⁄3 of the total amount of the plain- 
tiff’s recovery (not including the reimburse- 
ment of actual out-of-pocket expenses of the 
attorney).

“(B) DETERMINATION BY DISTRICT COURT.—

The last Federal district court in which the 
action was pending upon the final disposi-
tion, including all appeals, of the action 
shall have jurisdiction to review the attor- 
ney’s fee in accordance with subparagraph 
(C) to ensure that the fee is a reasonable one 
and may decrease the amount of the fee in 
accordance with subparagraph (C).

(2) DETERMINATION OF REASONABLENESS OF 
FEES.—

“(1) INITIAL DETERMINATION OF LODGESTAR 
ESTIMATE.—

“(1) IN GENERAL.—To determine whether 
the attorney’s fee is a reasonable one, the 
court shall first, with respect to each attor- 
ney representing the plaintiff in the cause 
of action, multiply the number of hours 
determined under subclass (II) by the hourly 
rate determined under subclass (III).

“(II) NUMBER OF HOURS.—The court shall 
determine the number of hours reasonably 
expended by each such attorney.

“(III) HOURLY RATE.—The court shall deter-
mine a reasonable hourly rate for each such 
attorney, taking into consideration the 
actual fee that would be charged by each such 
attorney and what the court determines is 
the prevailing rate for other similarly situ-
atured attorneys.

“(IV) CONSIDERATION OF OTHER FACTORS.— 
A court may increase or decrease the product 
determined under clause (i) by taking into 
consideration any or all of the following fac-
tors:

“(I) The time and labor involved.

“(II) The novelty and difficulty of the ques-
tions involved.

“(III) The skill required to perform the 
legal service properly.

“(IV) The extent of other employment of 
the attorney due to the acceptance of the case.

“(V) The customary fee of the attorney.

“(VI) Whether the original fee arrange-
ment is a fixed or contingent fee arrange-
ment.

“(VII) The time limitations imposed by the 
attorney’s client on the circumstances of the 
representation.

“(VIII) The amount of damages sought in 
the cause of action and the amount recov-
ered.

“(IX) The experience, reputation, and abil-
ity of the attorney.

“(X) The undesirability of the case.

“(XI) The nature and length of the attor-
ney’s professional relationship with the cli-
ent.

“(XII) The amounts recovered and attor-
ney’s fees awarded in similar cases.

“(D) RARE, EXTRAORDINARY CIR-
CUMSTANCES.—Notwithstanding subpara-
graph (A), in rare, extraordinary cir-
cumstances, the court may raise the attor-
ney’s fee above the 1⁄3 cap imposed under sub-
paragraph (A) to ensure a balance of equity 
and fairness to both the attorney and the 
plaintiff.

“(E) NO PREEMPTION OF STATE LAW.—Sub-
paragraph (A) shall not apply with respect to 
a cause of action under paragraph (1) that is 
brught in a State that has a law or frame-
work of laws with respect to the amount of 
an attorney’s contingency fee that may be 
incurred for the representation of a partici-

cant or beneficiary (or the estate of such 
participant or beneficiary) who brings such 
a cause of action.

Mr. WARNER. Mr. President, I want 
to comply with the wishes of the dis-
tinguished leaders.

Mr. DASCHLE. Mr. President, may 
we have order.

The PRESIDING OFFICER. The Sen-
ate is not in order. The Senate will sus-
pend. Please take your conversations 
off the floor.

Mr. WARNER. Mr. President, I wish 
to accommodate the managers, but I 
am ready to proceed. I think I can de-
scribe my amendment in about 10 or 15 
minutes or less. I urge colleagues to ac-
ccept that offer to move ahead and give 
equal time to each side.

Mr. REID. I am sorry. I say to my 
friend, the distinguished Senator from 
Virginia, we have had trouble hearing 
on here.

The PRESIDING OFFICER. The Sen-
ate will be in order. The Senator from 
Virginia is entitled to be heard.

The Senator from Virginia.

Mr. WARNER. I say to my good 
friend, the distinguished majority 
whip, I am seeking now to address my 
amendment. It has been pending for 
some several days. I am perfectly will-
ing to enter into a time agreement. I need but, say, 15 minutes.

Mr. REID. Say 30 minutes evenly di-
vided?

Mr. WARNER. I am quite agreeable 
to 30 minutes equally divided.

Mr. REID. Our anticipation now—we 
will work this out, speaking with the 
managers of the bill—is to offer side by 
side with yours, or second degree, 
whatever your manager wishes to do, 
but you should go ahead and proceed. 
We are available during our 15 minutes 
to respond.

Mr. WARNER. Mr. President, might I 
have clarification? If I understand it on 
the second-degree, in the event it 
seems we need some adjustment in the 
time agreement with which to address this?

Mr. REID. Why not take an hour 
evenly divided, and if we don’t need it, 
we will yield back the time?