United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, TUESDAY, JUNE 19, 2001 No. 85

Senate

The Senate met at 10 a.m. and was called to order by the Honorable THOMAS R. CARPER, a Senator from the State of Delaware.

PRAYER

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

Gracious Father, You have called us to be creative thinkers. We begin this day by yielding our thinking brains to Your magnificent creativity. You know everything; You also know what is best for us and the Nation You have entrusted to the care of this Senate. We are grateful that You not only are omniscient but also omnipresent. You are here in this Chamber and will be with the Senators and their staffs wherever this day's responsibilities take them. We take seriously the admonition of Proverbs 16:3: ''Commit your works to the Lord, and your thoughts will be established.''

Thank You for this secret of success in Your Word. In response we look to what is ahead this day and thank you in advance for supernatural intelligence to maximize our thinking. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable THOMAS R. CARPER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 19, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS R. CARPER, a Senator from the State of Delaware, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARPER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, we will be in a period for morning business until 11:30 this morning. By virtue of a previous unanimous-consent agreement, Senators KYL and BROWNBACK will be in control of the time until 10:45 a.m. and Senator DURBIN will be in control of the time from 10:45 a.m. to 11:30 a.m.

At 11:30 this morning, Majority Leader DASCHLE will be in the Chamber to move to begin consideration of the Patients' Bill of Rights. As Members know, this legislation has been around for years, and the leader is going to announce at 11:30 a.m. today his movement toward consideration of that bill. We expect to be able to move to it. We hope the minority will not have any problems with our going to that bill.

Majority Leader DASCHLE will announce at 11:30 a.m. that we are going to finish that bill before the July 4 recess. That means if there are problems moving to the bill and cloture has to be filed, we will work this weekend and perhaps the next weekend to complete this legislation.

The Senate will be in recess from 12:30 p.m. to 2:15 p.m. today for our weekly party conferences.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the time until 10:30 a.m. shall be under the control of the Senator from Arizona, Mr. KYL.

PRESIDENT BUSH'S EUROPEAN TRIP

Mr. KYL. Mr. President, President Bush has just returned from his trip to Europe, and the newspapers are full of glowing accounts. Some of the headlines include the following: ''Europe sees Bush's Trip Exceeding Expectations.'' That from the New York Times on June 18. The International Herald Tribune: ''President Climbs in European Esteem.''

Similarly, other headlines and stories noted the fact that the President was successful in communicating his views on a wide variety of subjects, including most especially our view of national security issues and specifically the question of missile defense.

I want to spend a few minutes talking about the President's successful trip, his vision for the future in a new post-cold-war era, and the acceptance of those views by most of our allies and even, to some extent, by those whom he characterizes as friends, countries that could, indeed, someday perhaps be allies, countries such as Russia, following especially his visit with President Putin during the course of this trip.

I think the pundits had a good time as the President was preparing for his

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

trip, speculating about whether this President, who had not extensively traveled abroad and did not have a great deal of international experience, would be able to impress these savvy international leaders.

What they found—and it was interesting—on the Sunday morning talk shows they were all doing a little bit of a retreat, which pleased me because I had seen the same kind of questioning of the President when he was beginning his run for the Presidency as Governor of Texas.

There were those who said: He is a very congenial fellow, but does he really have what it takes? I think we all saw, and even my Democratic colleagues who supported Vice President Gore at the time concluded, that this is a man who not only has great charm but also significant substance and a view of the world which is in keeping with the times as we commence our journey into this 21st century.

He proved that during the campaign. He proved it in domestic affairs, achieving a milestone of success with the tax cuts we passed and he signed into law a little over a week ago, and then this foreign trip, which was the first major trip, the trip to Europe, to visit with our NATO allies and other leaders in the region. We heard the same kind of questions: Was the President prepared to meet these leaders?

There is a problem here, Mr. President, as you know, and that is that most of the countries of Western Europe—the majority, I should say—are governed by left-of-center political leaders. They are, obviously, not of the same political viewpoint as President Bush, but our alliance with our NATO allies has gone through a series of changes where we have had generally conservative leadership, more left-of-center leadership, and then a combination of the two.

We have always been able to accommodate our differences politically because of the common goal of providing a defense for the members of the NATO alliance and in working together in national security matters that go beyond just the question of the NATO alliance, especially during the cold war as we were dealing with the then-Soviet Union and subsequent to that time dealing with other challenges, including the Balkans and, of course, in dealing with the evolution of the changes that have been occurring in the country of Russia itself.

That was the state of play when the President made this journey. Yet what we found was, notwithstanding the political differences of these leaders, there still is more that binds us than divides us. President Bush is one of those innate leaders who has the capacity to bring people together because of the force of his personality, which is one of reaching out, of showing that he is willing to listen, that he is willing to accommodate, but also making it very clear he has some very firm principles upon which U.S. policy is going to be based.

At the conclusion of my remarks, I am going to ask unanimous consent to print in the RECORD two very fine pieces by one of the finest columnists and political writers of our time, Charles Krauthammer. One of them appeared in the Weekly Standard in the June 4 issue. It is entitled ''The Bush Doctrine, ABM, Kyoto, and the New American Unilateralism.'' The other is an op-ed the Washington Post carried on June 18 in which he makes a similar point that the type of unilateralism President Bush took to Europe and is intent on pursuing with respect to United States interests throughout the world is not a unilateralism that says the United States is going to do what we want to do no matter what anybody else thinks and basically ignores their points of view at all, but, rather, as Charles Krauthammer carefully points out, this new Bush doctrine is a subtle change from the past in this regard.

It says we are going to identify what we believe is in the best interests of the United States of America and in the interests of the rest of the family of nations of the world.

We are going to pursue a course that achieves the goals that sustain those interests, and we are not going to be deterred by naysayers, by countries that, frankly, do not have the same goals in mind or by any kind of international view that everything has to be done by international accord or it cannot be done at all. We are not going to have our national security interests vetoed by any other country of the world. So we will pursue our national interests, and we are not going to allow other countries of the world that do not share those goals to dictate the results.

However, that does not mean we are simply going to try to impose our will on others or that we are going to go our own way and to heck with the rest of the world. Not at all. As Mr. Krauthammer points out, President Bush has very carefully conducted an overarching strategy, and then the tactics of achieving that strategy include a very heavy dose of consultation, especially with our allies and particularly with our NATO allies. It also involves consultation with other friends of the United States, countries such as Russia and India, and other countries such as China, with which we have had some difficulties in recent times.

But the point of these consultations is not to tell other leaders what we are going to do come heck or high water but, rather, to say: Look, this is what we believe is in our best interests and your best interests. Let's work together to try to find a way to achieve these goals. There is some room for discussion. We have not finalized everything we plan to do, so there is an opportunity for everybody to help shape the future of the world as we begin this next century. But there are certain goals and objectives we are going to attempt to achieve. If you want to be with us we would like to have you come along and help us find the right way to do that. In that spirit, he visited with these European leaders.

We all know the President is very convincing. I realize the situation there is a little different. In politics, it is not the typical kind of diplomacy coming out of the State Department or other areas of diplomatic expertise, in our country and in others, where subtlety and the spoken word are so very important. President Bush is a man who means and says what he means very plainly. There is a certain advantage to that when you are dealing with foreign leaders who do not know you so well. It quickly becomes apparent to them that what you are telling them is exactly what you believe, exactly what the United States intends to do, and that there is no guile, there is no hidden agenda.

I think it has an effect of disarming some leaders who might be looking for hidden agendas or games that sometimes people in the political world like to play. President Bush is not like that. He has been very straightforward. He has been very clear about his vision. He has not wavered from that, which is, of course, tempting to do when visiting with other world leaders who do not totally share your world view.

The net result of that diplomacy and the new American vision of national security for the family of nations of the world has been an acceptance by many of the European leaders, expressed very overtly. As the headlines noted, a view among even those who do not necessarily totally share the President's view is that there is room to work with this President on these common goals.

Our NATO allies, countries such as Spain and Italy, the Czech Republic, Vaclav Havel, made some very eloquent statements in support of the President. The Polish Government, even some statements from leaders of the British Government, Hungary, and other countries in Europe, have in one way or another expressly supported the President's plans for missile defense to protect the United States, our troops deployed abroad, and our allies. Vaclav Havel said:

> The new world we are entering cannot be based on mutually assured destruction. An increasingly important role should be played by defense systems.

There are many similar quotations in these various news stories that were filed by the reporters covering the President's trip.

While there were many European leaders who overtly expressed support for what the President was trying to do, as I said, there were others who were not specific in their endorsement but who made it very clear they believed President Bush was somebody with whom they could sit down, talk these things over with, and reach some kind of mutual conclusion.

I was especially pleased this morning to find President Putin being quoted over and over again, in the lead story

in the Washington Post saying he believed there was room for the United States and Russia to talk about these issues.

He was talking about something that has been very fundamental, from the Russian point of view, to the relationship between Russia and the United States, the ABM Treaty. There is a suggestion it is no longer absolutely necessary that that treaty remain in existence as the cornerstone of the strategic relationship between Russia and the United States, as he has characterized it. President Bush has said it no longer is the cornerstone. That was a treaty developed during the height of the cold war when the Soviet Union and the United States totally mistrusted each other. Whether or not it helped keep the peace during that time is totally irrelevant to the circumstances of today, where the threat of mutually assured destruction simply cannot be the basis for the relationship, the strategic relationship between the Russian people and the American people.

It has even been put into the context of a moral statement. Dr. Henry Kissinger was one of the architects of the ABM Treaty. He was there at the creation. He has testified to Congress, and he has told many of us, that it is time to scrap this treaty. He knew why it was put into place in 1972. He knew the function it might perform at that time. But he now fully appreciates that it no longer serves that function and, more importantly, leaves us nude, unprotected, vulnerable to attack by countries that were not parties to that treaty and never would be. Here is what he said during testimony in 1999:

> The circumstances that existed when the treaty was agreed to were notably different from the situation today. The threat to the United States from missile proliferation is growing and is, today, coming from a number of hostile Third World countries. The United States has to recognize that the ABM Treaty constrains the nation's missile defense programs to an intolerable degree in the day and age when ballistic missiles are attractive to so many countries because there are currently no defenses against them. This treaty may have worked in a two-power nuclear world, although even that is questionable. But in a multinuclear world it is reckless.

He was even more blunt during a press conference with then-Governor Bush on May 23, 2000, when he said:

> Deliberate vulnerability when the technologies are available to avoid it cannot be a strategic objective, cannot be a political objective, and cannot be a moral objective of any American President.

He is correct. For any President of the United States or Congress to deliberately leave the United States vulnerable to attack when we understand that there is a growing threat of that attack, and to leave in place any kind of legal regimes that would inhibit us from developing the means of protecting ourselves, is intolerable; it is morally indefensible, especially, as Dr. Kissinger says, when the technology is there to provide a defense.

One of the questions raised by some of our European friends was, Is the technology really there?

By the way, I am somewhat amused by the twin arguments of opponents. ''This thing will be so effective that it will start another arms race.'' That is argument No. 1. Argument No. 2: ''It will never be effective.'' It is going to be effective or it is not going to be effective. I think it will be effective. I also do not think it will start another arms race.

But what about the state of technology?

The Bush administration has decided that, because of the immediacy of the threat identified in the Rumsfeld Commission report 3 years ago, we need to get on with this now; that we cannot test forever to try to develop the perfect system. There will never be a perfect system, at least for the amount of money we are willing to spend, and right now we do not need a perfect system. The threat is from an accidental launch or rogue nation, and those are not the most robust threats to have to defeat.

So I think what Secretary Rumsfeld and the President have in mind doing is fielding, as soon as possible, whatever technology we have, understanding that it is not necessarily the best and it may not work in all circumstances.

Now, is that an indictment of what they intend to do? I do not think so. It is an honest acknowledgement of the fact that there is no such thing as a perfect shield, and that we are in the beginning stages of actually fielding this equipment.

We have done a lot of research, to be sure. But, frankly, for political reasons, a lot of that research has been wasted because the systems that could take advantage of that research have been stopped from development and eventual deployment. So we have had a lot of starts and stops, but we have never gone the next step, which is to actually put it out in the field and see how it works.

What Secretary Rumsfeld has said is go back to the gulf war. That was an emergency. We knew the Iraqis had Scud missiles. In fact, they were beginning to shoot them toward Israel. We did not have a missile defense. But Secretary of Defense CHENEY at that time said: Don't we have anything that we might employ here? And the answer from the Pentagon was: Yes, we have the Patriot. It is an anti-aircraft system, but it is very good at that, and it might be able to shoot down some Scud missiles.

So they tinkered with it. They took the Patriot batteries that we had—I think some of them were even test batteries—and put them into the field. And those Patriots did a remarkably good job. I think that the end result was somewhere in the neighborhood of about one-third of the Scud missiles were brought down by the Patriot.

That is important when you recognize—and you will recall, Mr. President—that the single biggest loss of life of U.S. servicemen in the gulf war occurred when 28 American soldiers were killed by one Scud missile.

It is a very lethal weapon if you don't have a defense against it. So what Secretary Rumsfeld and President Bush have decided to do is to take what we have—such as the Patriot missile of the gulf war time—get it into the field and begin working with it, all the while continuing to test more and more advanced systems. In this way, we will actually have a rudimentary defense to begin with, and we can continue to build on that as the technology evolves.

I will give you an analogy. We build ships in classes. We will start the *Los Angeles* class of attack submarines, for example. The first of the *Los Angeles* class submarines that came out of the dock was a good submarine, but it was not nearly as good as the last *Los Angeles* class submarine that came out many years later. Throughout the time that basic class of submarines was built, changes were being made and embodied in that submarine, so that the last one that came off the dock, in many respects, was not much like the very first one; it was much, much improved and, frankly, was the basis for the evolution to the next generation of attack submarines.

And so it is with missile defenses. I believe what the Secretary and the President have in mind is fielding a combination of air and space and land systems, combined with the satellite and radar that is necessary to detect a launch, and continue to follow a rogue missile, and then provide information at the very end of its flight for intercept and shootdown.

That combination might include the airborne laser, something with great promise. It might include standard missiles aboard the so-called Aegis cruisers, cruisers with very good radar, and a missile which today is, obviously, not capable against the most robust of intercontinental ballistic missiles but at least has some capability if especially you are able to sail the cruisers close enough to the launching point of the missile.

As those missiles are made bigger, and another stage is added to them, and a more sophisticated seeker is put on top of that missile, it will become more and more robust, to the point that at some point it will have the capability of stopping just about any missile that might be launched against us. We also have the potential for land-based systems.

The point is this: The President has in mind moving forward, getting off the dime. Almost no one, any longer, denies the threat. Even President Putin has pointed that out.

So the question is: Do you test forever, until you are absolutely certain, or do you move forward?

I saw my little nephew over the weekend. He is just now trying to crawl and walk; and he is falling down

more than he is walking, but he is trying. And the next time I see him, I suspect he is going to be walking. You don't quit just because you fell down the first time. And we don't stop just because we had a couple tests that were not totally successful.

The point is, we will continue to test; we will continue to develop; we will deploy what we have as we get it ready to deploy, and we will continue to evolve those systems until we are satisfied that we have a system that can work.

To those critics who say we don't have the technology or we won't have it, I say, give us a chance. Let's try. Let's see. Don't say, you can't do it, and we never start and we never try. The consequences are simply too great. As Dr. Kissinger said, it would be literally reckless and immoral for us not to try when the technology is there.

Another question in this respect that the allies asked is, What would the reaction from Russia be? It is a fair question. Russia has some concerns. But Russia should not have concerns. Does anybody believe that the United States intends to attack Russia? Even the Russians have to acknowledge that is no longer the relationship between our two countries. And we don't believe they intend to attack us. Why would they?

So these large inventories of nuclear weapons that both sides have, frankly, are going to come down. We are not going to maintain that level of warhead, and we do not think the Russians are either. In fact, they have made it clear they cannot afford to do so. Frankly, we would rather not have to spend the money on all those weapons so both sides can draw down their nuclear weapons.

For anybody to suggest that our building the rudimentary defense is going to cause the Russians to begin spending billions more to build new weapons, when they cannot afford to keep the ones they have, is, I think, ludicrous. It is not going to happen. It is a misplaced fear.

I acknowledge the concern that these people express, but I ask them to think about the facts. Even Russian leaders have acknowledged they would not be able to maintain more than about 1,500 warheads—down from about 6,000 or more that they have today.

So I do not think it makes sense to argue that we should not prepare to defend ourselves just because the Russians might be fearful somehow and, therefore, might decide to spend billions more that they do not have in developing new weapons. Nor do I think that argument applies to anyone else.

What we are talking about is building a defense that rogue nations will understand, making it unprofitable for them to develop and deploy the technology of missile defenses.

Are there other threats out there from these countries such as the so-called suitcase bomb? Yes, we are spending a lot to try to deal with that, too. The cruise missile is another challenge that we have to meet. But the mere fact that we have other kinds of challenges as well does not mean that we ignore the one that is first and foremost on the minds of these rogue leaders. Why else would they be spending the billions of dollars they are spending to develop or buy the technology for these missiles and the weapons of mass destruction that they put on top of the missiles? Why?

This kind of weapon offers them a blackmail potential. In the wrong hands, with this kind of weapon a country can essentially say to the rest of the world—at the time they intend to attack someone else, or want to get something from the rest of the world—look, you know we can launch this missile against you. We have done it in the past. We will do it again. So you better give us what we want, or you better stay out of our way, or you better do whatever we want you to do. It is that blackmail component that worries so many of our leaders the most.

Go back to the Persian Gulf war again. If Saddam Hussein had had the weapons that could put a missile on London or Paris or Berlin or Rome or any other country in that area of the world, do you think we would have had the same quality of allied contingent to face him down in that Persian Gulf war? Do you think other countries would have been as willing to join the United States? And if, in fact, those weapons could have killed a lot more Americans, would the United States have been as anxious to kick him out of Kuwait?

The argument would have been: Kuwait is of no interest to us, especially when he can rain so much destruction down upon us. So you need the kinds of defenses that prevent these rogue nations from carrying out their aggressive intentions.

That is why—just getting back to the President's visit in Europe this week—I am so heartened by not only the way he has laid this vision out but the way he has stuck to his guns, all the while being very open in his discussions with allied leaders, as well as the Russians.

I must say, I was also heartened by the descriptions of the policy, and the steadiness with which Secretary of State Colin Powell and National Secretary Adviser Condoleezza Rice presented this case again Sunday on the talk shows. Dr. Rice, despite, I would say, bating by the questioner, was very calm and very firm in articulating that the United States will do what it takes to protect the citizens of the United States and the interests of other freedom-loving people around the world but that we will do so in a way in which we engage these other leaders. We will listen to what they have to say, and to the extent we are able to do so, within the confines of what is necessary for the United States, we will find ways to accommodate their needs as well.

One of these would be to actually provide that kind of missile defense protection for them as well.

I applaud the President. I congratulate him for a successful trip. I hope we will have more opportunities to discuss this important issue in the future.

Mr. President, I ask unanimous consent that two articles by Charles Krauthammer be printed in the RECORD.

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

[From the Weekly Standard, June 4, 2001]

THE BUSH DOCTRINE

ABM, Kyoto, and the New American Unilateralism

(By Charles Krauthammer)

I. THE WORLD AS IT IS

Between 1989 and 1991 the world changed so radically so suddenly that even today the implications have not adequately been grasped. The great ideological wars of the twentieth century, which began in the '30s and lasted six decades, came to an end overnight. And the Soviet Union died in its sleep, and with it the last great existential threat to America, the West, and the liberal idea.

So fantastic was the change that, at first, most analysts and political thinkers refused to recognize the new unipolarity. In the early '90s, conventional wisdom held that we were in a quick transition from a bipolar to a multipolar world: Japan was rising, Europe was uniting, China was emerging, sleeping giants like India were stirring, and America was in decline. It seems absurd today, but this belief in American decline was all the rage.

Ten years later, the fog has cleared. No one is saying that Japan will overtake the United States economically, or Europe will overtake the United States diplomatically, or that some new anti-American coalition of powers will rise to replace the Communist block militarily. Today, the United States remains the preeminent economic, military, diplomatic, and cultural power on a scale not seen since the fall of the Roman Empire.

Oddly enough, the uniqueness of this structure is only dimly understood in the United States. It is the rest of the world that sees it—undoubtedly, because it feels it—acutely. Russia and China never fail in their summits to denounce explicitly the ''unipolarity'' of the current world structure and to pledge to do everything to abolish it. The French—elegant, caustic, and as ever the intellectual leader in things anti-American—have coined the term ''hyperpower'' to describe America's new condition.

And a new condition it is. It is not, as we in America tend to imagine, just the superpowerdom of the Cold War writ large. It is something never seen before in the modern world. Yet during the first decade of unipolarity, the United States acted much as it had during the preceding half-century.

In part, this was because many in the political and foreign policy elite refused to recognize the new reality. But more important, it was because those in power who did recognize it were deeply distrustful of American power. They saw their mission as seeking a new world harmony by constraining this overwhelming American power within a web of international obligations—rather than maintaining, augmenting, and exploiting the American predominance they had inherited.

This wish to maintain, augment, and exploit that predominance is what distinguishes the new foreign policy of the Bush administration. If successful, it would do what Teddy Roosevelt did exactly a century ago: adapt America's foreign policy and military posture to its new position in the world. At the dawn of the 20th century, that meant

entry into the club of Great Powers. Roosevelt both urged and assured such entry with a Big Stick foreign policy that built the Panama Canal and sent a blue water navy around the world to formally announce our arrival.

At the dawn of the 21st century, the task of the new administration is to develop a military and foreign policy appropriate to our position of overwhelming dominance. In its first four months in office, the Bush administration has begun the task: reversing the premises of Clinton foreign policy and adopting policies that recognize the new unipolarity and the unilateralism necessary to maintain it.

II. ABM: BURYING BIPOLARITY

In May 2000, while still a presidential candidate, George W. Bush gave a speech at the National Press Club pledging to build a national missile defense for the United States. A year later, as president, he repeated that in a speech at the National Defense University. This set off the usual reflexive reaction of longtime missile defense opponents. What was missed both times, however, was that Bush was proposing far more than a revival of the missile defense idea that had been put on hold during the Clinton years. Bush also declared that he would make unilateral cuts in American offensive nuclear arms. Taken together, what he proposed was a radical new nuclear doctrine: the end of arms control.

Henceforth, the United States would build nuclear weapons, both offensive and defensive, to suit its needs—regardless of what others, particularly the Russians, thought. Sure, there would be consultation—no need to be impolite. Humble unilateralism, the oxymoron that best describes this approach, requires it: Be nice, be understanding. But, in the end, be undeterred.

Liberal critics argue that a missile defense would launch a new arms race, with the Russians building new warheads to ensure that they could overcome our defenses. The response of the Bush administration is: So what? If the Russians want to waste what little remains of their economy on such weapons, let them. These nukes are of no use. Whether or not Russia builds new missiles, no American defense will stop a massive Russian first strike anyway. And if Russia decides to enlarge its already massive second strike capacity, in a world in which the very idea of a first strike between us and the Russians is preposterous, then fine again.

The premises underlying the new Bush nuclear doctrine are simple: (1) There is no Soviet Union. (2) Russia—no longer either a superpower or an enemy, and therefore neither a plausibly viable nor an ideological threat—does not count. (3) Therefore, the entire structure of bilateral arms control, both offensive and defensive, which was an American obsession during the last quarter-century of the Cold War, is a useless relic. Indeed, it is seriously damaging to American security.

Henceforth, America will build the best weaponry it can to meet its needs. And those needs are new. The coming threat is not from Russia, but from the inevitable proliferation of missiles into the hands of heretofore insignificant enemies.

Critics can downplay and discount one such threat or another. North Korea, they say, is incapable of building an intercontinental ballistic missile. (They were saying that right up to the time when it launched a three-stage rocket over Japan in 1998). Or they will protest that Iraq cannot possibly build an effective nuclear capacity clandestinely. They are wrong on the details, but, even more important, they are wrong in principle: Missile technology is to the 21st century what airpower was to the 20th. In 1901, there was not an airplane in the world. Most people did not think a heavier-than-air machine could in theory ever fly. Yet 38 years later, the world experienced the greatest war in history, whose outcome was crucially affected by air power and air defenses in a bewildering proliferation of new technologies: bombers, fighters, transports, gliders, carriers, radar.

It is inconceivable that 38 years from now, we will not be living in a world where missile technology is equally routine, and thus routinely in the hands of bad guys.

It is therefore inexplicable why the United States should not use its unique technology to build the necessary defense against the next inevitable threat.

Yet for eight years, the U.S. government did nothing on the grounds that true safety lay in a doctrine (mutually assured destruction) and a treaty (the antiballistic missile treaty) that codifies it. The logic of MAD is simple: If either side can ever launch a first. And because missile defenses cast doubt on the efficacy of a second strike capacity, they make the nuclear balance more unstable.

This argument against missile defense was plausible during the Cold War. True, it hinged on the very implausible notion of a first strike. But at the time, the United States and the Soviet Union were mortal ideological enemies. We came close enough in Berlin and Cuba to know that war was plausible. But even then the idea of a first strike remained quite fantastic because it meant initiating the most destructive war in human history.

Today, the idea of Russia or America launching a bolt from the blue is merely absurd. Russia does not define itself as our existential adversary. It no longer sees its mission as the abolition of our very way of life. We no longer are nose-to-nose in flashpoints like Berlin. Ask yourself: Did you ever in the darkest days of the Cold War lie awake at night wondering whether Britain or France or Israel had enough of a second strike capacity to deter an American first strike against them? Of course not. Nuclear weapons are not in themselves threats. They become so in conditions of extreme hostility. It all depends on the intent of the political authorities who control them. A Russian or an American first strike? We are no longer contending over the fate of the earth, over the future of Korea and Germany and Europe. Our worst confrontation in the last decade was over the Pristina airport!

What about China? The fallback for some missile defense opponents is that China will feel the need to develop a second strike capacity to overcome our defenses. But this too is absurd. China does not have a second strike capacity. If it has never had one in the absence of an American missile defense, why should the construction of an American missile defense create a crisis of strategic instability between us?

But the new Bush nuclear doctrine does not just bury MAD. It buries the ABM treaty and the very idea of bilateral nuclear coordination with another superpower. Those agreements, on both offensive and defensive nuclear weapons, are a relic of the bipolar world. In the absence of bipolarity, there is no need to tailor our weapons to the needs or threat or wishes of a rival superpower.

Yet the Clinton administration for eight years carried on as if it did. It spent enormous amounts of energy trying to get the START treaties refined and passed in Russia. It went to great lengths to constrain and dumb down the testing of high-tech weaponry (particularly on missile defense) to be ''treaty compliant.'' It spent even more energy negotiating baroque extensions, elaborations, and amendments to the ABM treaty. Its goal was to make the treaty more enduring, at a time when it had already become obsolete. In fact, in one agreement, negotiated in New York in 1997, the Clinton administration amended the ABM treaty to include as signatories Kazakhstan, Ukraine, and Belarus, thus making any future changes in the treaty require five signatures rather than only two. It is as if Britain and Germany had spent the 1930s regulating the levels of their horse cavalries.

That era is over.

III. KYOTO: ESCAPE FROM MULTILATERALISM

It was expected that a Republican administration would abrogate the ABM treaty. It was not expected that a Republican administration would even more decisively discard the Kyoto treaty on greenhouse gases. Yet this step may be even more far-reaching.

To be sure, Bush had good political and economic reasons to discard Kyoto. The Senate had expressed its rejection of what Clinton had negotiated 95–0. The treaty had no domestic constituency of any significance. Its substance bordered on the comic: It exempted China, India, and the other massively industrializing polluters in the Third World from CO_2 restrictions. The cost for the United States was staggering, while the environmental benefit was negligible. The exempted 1.3 billion Chinese and billion Indians alone would have been pumping out CO_2 emissions equal to those the United States was cutting. In reality, Kyoto was a huge transfer of resources from the United States to the Third World, under the guise of environmental protection.

All very good reasons. Nonetheless, the alacrity and almost casualness with which Bush withdrew from Kyoto sent a message that the United States would no longer acquiesce in multilateral nonsense just because it had pages of signatories and bore the sheen of international comity. Nonsense was nonsense, and would be treated as such.

That alarmed the usual suspects. They were further alarmed when word leaked that the administration rejected the protocol negotiated by the Clinton administration for enforcing the biological weapons treaty of 1972. The reason here is even more obvious. The protocol does nothing of the sort. Biological weapons are inherently unverifiable. You can make biological weapons in a laboratory, in a bunker, in a closet. In a police state, these are unfindable. And police states are what we worry about. The countries effectively restricted would be open societies with a free press—precisely the countries that we do not worry about. Even worse, the protocol would have a perverse effect. It would allow extensive inspection of American anti-biological-warfare facilities—where we develop vaccines, protective gear, and the like—and thus give information to potential enemies on how to make their biological agents more effective against us.

Given the storm over Kyoto, the administration is looking for a delicate way to get out of this one. There is nothing wrong with delicacy. But the thrust of the administration—to free itself from the thrall of international treaty-signing that has characterized U.S. foreign policy for nearly a decade—is refreshing.

One can only marvel at the enthusiasm with which the Clinton administration pursued not just Kyoto and the biological protocol but multilateral treaties on everything from chemical weapons to nuclear testing. Treaty-signing was portrayed as a way to build a new structure of legality and regularity in the world, to establish new moral norms that would in and of themselves restrain bad behavior. But the very idea of a Saddam Hussein being morally constrained by, say, a treaty on chemical weapons is simply silly.

This reality could not have escaped the liberal internationalists who spent the '90s pursuing such toothless agreements. Why then did they do it? The deeper reason is that these treaties offered an opportunity for those who distrusted American power (and have ever since the Vietnam era) to constrain it—and constrain it in ways that give the appearance of altruism and good international citizenship.

Moreover, it was clear that the constraints on American power imposed by U.S.-Soviet bipolarity and the agreements it spawned would soon and inevitably come to an end. Even the ABM treaty, the last of these relics, would have to expire of its own obsolescent dead weight. In the absence of bipolarity, what was there to hold America back—from, say, building ''Star Wars'' weaponry or raping the global environment or otherwise indulging in the arrogance of power? Hence the mania during the last decade for the multilateral treaties that would impose a new structure of constraint on American freedom of action.

Kyoto and the biological weapons protocol are the models for the new structure of ''strategic stability'' that would succeed the ABM treaty and its relatives. By summarily rejecting Kyoto, the Bush administration radically redefines the direction of American foreign policy: rejecting the multilateral straitjacket, disenthralling the United States from the notion there is real safety or benefit from internationally endorsed parchment barriers, and asserting a new American unilateralism.

IV. THE PURPOSES OF UNILATERALISM

This is a posture that fits the unipolarity of the 21st century world. Its aim is to restore American freedom of action. But as yet it is defined only negatively. The question remains: freedom of action to do what?

First and foremost, to maintain our preeminence. Not just because we enjoy our own power (''It's good to be the king''—Mel Brooks), but because it is more likely to keep the peace. It is hard to understand the enthusiasm of so many for a diminished America and a world reverted to multipolarity. Multipolar international structures are inherently less stable, as the catastrophic collapse of the delicate alliance system of 1914 definitively demonstrated.

Multipolarity, yes, when there is no alternative. But not when there is. Not when we have the unique imbalance of power that we enjoy today—and that has given the international system a stability and essential tranquility it had not known for at least a century.

The international environment is far more likely to enjoy peace under a single hegemon. Moreover, we are not just any hegemon. We run a uniquely benign imperium. This is not mere self-congratulation; it is a fact manifest in the way others welcome our power. It is the reason, for example, the Pacific Rim countries are loath to see our military presence diminished.

Unlike other hegemons and would-be hegemons, we do not entertain a grand vision of a new world. No Thousand Year Reich. No New Soviet Man. By position and nature, we are essentially a status quo power. We have no particular desire to remake human nature, to conquer for the extraction of natural resources, or to rule for the simple pleasure of dominion. We could not wait to get out of Haiti, and we would get out of Kosovo and Bosnia today if we could. Our principal aim is to maintain the stability and relative tranquility of the current international system by enforcing, maintaining, and extending the current peace. Our goals include:

(1) To enforce the peace by acting, uniquely, as the balancer of last resort everywhere. Britain was the balancer of power in Europe for over two centuries, always joining the weaker coalition against the stronger to create equilibrium. Our unique reach around the world allows us to be—indeed dictates that we be—the ultimate balancer in every region. We balanced Iraq by supporting its weaker neighbors in the Gulf War. We balance China by supporting the ring of smaller states at her periphery (from South Korea to Taiwan, even to Vietnam). One can argue whether we should have gone there, but our role in the Balkans was essentially to create a micro-balance: to support the weaker Bosnia Muslims against their more dominant ethnic neighbors, and subsequently to support the (at the time) weaker Kosovo Albanians against the dominant Serbs.

(2) To maintain the peace by acting as the world's foremost anti-proliferator. Weapons of mass destruction and missiles to deliver them are the greatest threat of the 21st century. Non-proliferation is not enough. Passive steps to deny rogue states the technology for deadly missiles and weapons of mass destruction is, of course, necessary. But it is insufficient. Ultimately the stuff gets through.

What to do when it does? It may become necessary in the future actually to preempt rogue states' weapons of mass destruction, as Israel did in 1981 by destroying the Osirak nuclear reactor in Iraq. Premption is, of course, very difficult. Which is why we must begin thinking of moving to a higher platform. Space is the ultimate high ground. For 30 years, we have been reluctant even to think about placing weapons in space, but it is inevitable that space will become militarized. The only question is: Who will get there first and how will they use it?

The demilitarization of space is a fine idea and utterly utopian. Space will be an avenue for projection of national power as were the oceans 500 years ago. The Great Powers that emerged in the modern world were those that, above all, mastered control of the high seas. The only reason space has not yet been militarized is that none but a handful of countries are yet able to do so. And none is remotely as technologically and industrially and economically prepared to do so as is the United States.

This is not as radical an idea as one might think. When President Kennedy committed the United States to a breakneck program of manned space flight, he understood full well the symbiosis between civilian and military space power. It is inevitable that within a generation the United States will have an Army, Navy, Marines, Air Force, and Space Force. Space is already used militarily for spying, sensing, and targeting. It could be uniquely useful, among other things, for finding and destroying rogue-state missile forces.

(3) To extend the peace by spreading democracy and free institutions. This is an unassailable goal and probably the most enduring method of promoting peace. The liberation of the Warsaw Pact states, for example, relieved us of the enormous burden of physically manning the ramparts of Western Europe with huge land armies. The zone of democracy is almost invariably a zone of peace.

There is a significant disagreement, however, as to how far to go and how much blood and treasure to expend in pursuit of this goal. The ''globalist'' school favors vigorous intervention and use of force to promote the spread of our values where they are threatened or where they need protection to burgeon. Globalists supported the U.S. intervention in the Balkans not just on humanitarian grounds, but on the grounds that ultimately we might widen the zone of democracy in Europe and thus eliminate a festering source of armed conflict, terror, and instability.

The ''realist'' school is more skeptical that these goals can be achieved at the point of a bayonet. True, democracy can be imposed by force, as both Germany and Japan can attest. But those occurred in the highly unusual circumstance of total military occupation following a war for unconditional surrender. Unless we are willing to wage such wars and follow up with the kind of trusteeship we enjoyed over Germany and Japan, we will find that our interventions on behalf of democracy will leave little mark, as we learned with some chagrin in Haiti and Bosnia.

Nonetheless, although they disagree on the stringency of criteria for unleashing American power, both schools share the premise that overwhelming American power is good not just for the United States but for the world. The Bush administration is the first administration of the post-Cold War era to share that premise and act accordingly. It welcomes the U.S. role of, well, hyperpower. In its first few months, its policies have reflected a comfort with the unipolarity of the world today, a desire to maintain and enhance it, and a willingness to act unilaterally to do so. It is a vision of America's role very different from that elaborated in the first post-Cold War decade—and far more radical than has generally been noted. The French, though, should be onto it very soon.

[From the Weekly Standard, June 4, 2001]

BIG ROTTEN APPLE

NEW YORK CITY AFTER GIULIANI

(By James Higgins)

Liberalism, or paleoliberalism to some, is what New Yorkers are told will return to City Hall when term limits force mayor Rudolph Giuliani to depart in 2002. Four Democrats are vying to succeed him.

But the potential return of unreconstructed liberalism is not the most menacing aspect of this fall's election. The greater threat is the potential return of unreconstructed crime. Not the kind in the streets, but the kind in the suites—the suites of city government and the Democratic party.

Everyone old enough to have watched TV in the 1980s and early 1990s knows that New York City before Giuliani was where foreign tourists came to pay the world's highest hotel taxes while waiting to be robbed and shot. But the depth and breadth of corruption in the city's Democratic establishment during the pre-Giuliani years may be difficult for non-New Yorkers to grasp. The problem was not just a few rotten apples at the top. Under a series of Democratic mayors—Abraham Beame, Edward Koch, and David Dinkins—the whole tree was rotten. It was corruption that the New York City Democrats stood for even more than liberalism, and it was corruption at least as much as liberalism that brought Giuliani to office. It was as if, having jailed much of the leadership of New York's ''Five Families'' of crime while he was U.S. attorney for the Southern District of New York, Giuliani had to become mayor to flush out this Sixth Family.

To appreciate the significance of the upcoming election, it's essential to know this background. The chief reason the rot was not always visible to outsiders is the canniness of Dems in the Big Apple. Unlike their counterpart New Jersey crew, the New York City Democratic leadership has refrained from putting into the highest offices sticky-fingered characters like U.S. senators Harrison Williams and Robert Torricelli. The New York Democrats could have been working from the template of the mobsters who once

controlled Las Vegas: They've always chosen clean front men. There was never a hint of personal corruption on the part of Beame, Koch, or Dinkins. Their administrations were another story. Consider:

Under Ed Koch, the entire city department charged with inspecting restaurants had to be closed because there was almost no one left to do the job after investigators arrested the inspectors who were taking bribes. Not long afterwards, the department that inspected taxicabs had to be closed for exactly the same reason.

Over an extended period of the '80s and early '90s, the felony rate among Democratic borough leaders in New York City approached 50 percent. Criminal defense lawyers tell me that if senior managers of a private business used their jobs to commit crimes at this rate, the entire enterprise would be inviting a RICO indictment.

The Beame, Koch, and Dinkins administrations approved a contract with school custodians that was close to being criminal on its face: The custodians were required only to maintain schools to ''minimum standards,'' and the contract precluded any effective enforcement mechanism. The lucky custodians then personally got to keep whatever money in their budgets they didn't spend doing their jobs. This type of contract came to an end only after a 1992 60 Minutes segment showed the custodians spending less time at the filthy schools they were ostensibly maintaining than attending to the yachts they acquired—and did maintain—at taxpayer expense.

As pre-Giuliani taxi and limousine commissioner Herb Ryan described the system after he was caught taking bribes, ''Everybody else has their own thing. I just wanted to get my own thing.'' The literal translation of ''Our Thing'' is, of course, La Cosa Nostra.

This is just a small sample of what the Sixth Family Democrats and their appointees did—indeed, just a small sample of what they were caught doing. That predicate criminal activity is a major part of what in 1989 lured political rising star and crimefighter Rudy Giuliani to run for mayor, a job that for more than a century had been a political dead end.

[From the Washington Post, June 18, 2001]

. . . FROM A NO-WOBBLE BUSH

(By Charles Krauthammer)

''Remember George, this is no time to go wobbly.'' So said Margaret Thatcher to the first President Bush just days after Saddam Hussein attacked Kuwait. Bush did not go wobbly. He invaded.

A decade later, the second George Bush came into office and immediately began a radical reorientation of U.S. foreign policy. Now, however the conventional wisdom is that in the face of criticism from domestic opponents and foreign allies, Bush is backing down.

Has W. gone wobbly? In his first days, he offered a new American nuclear policy that scraps the 1972 anti-Ballistic Missile Treaty, builds defenses against ballistic missile attack and unilaterally cuts U.S. offensive nuclear forces without wrangling with the Russians over arms control, the way of the past 30 years. He then summarily rejected the Kyoto protocol on climate control, which would have forced the United States to undertake a ruinous 30 percent cut in CO2 emissions while permitting China, India and most of humanity to pollute at will.

Bush's assertion of American freedom of action outraged those—U.S. Democrats, Europeans, Russians—who prefer to see the world's only superpower bound and restrained by treaty constraints, whether bipolar (ABM) or multipolar (Kyoto), in the name of good international citizenship.

The word now, however, is that Bush has gone soft. He sends Secretary of State Colin Powell to Europe to try to get agreement on missile defenses. He tries, reports the New York Times in high scoop mode, to cook an ABM deal with the Russians—shades of the old days. He then concedes there is global warming and promises action. ''When President Bush announces . . . that he will seek millions of dollars for new research into the causes of global warming,'' reported the Times just one week ago, ''. . . it will mark yet another example of how global and domestic politics have forced him to back away from the hairline pronouncements of his first five months in the White House.''

The Bush administration, explained Newsweek, began by ''playing the bully.'' But then ''the Bushies began to see that they could not simply impose their agenda on a balky and complex world.''

The alleged cave has been greeted with smug satisfaction from those on the left who see Bush returning, after a brief flirtation with the mad-dog ideological right, to the basic soundness of post-Cold War foreign policy as established by the Clinton administration.

Dream on.

Has Bush gone wobbly? Not at all.

Ask yourself: If you really wanted to reassert American unilateralism, to get rid of the cobwebs of the bipolar era and the myriad Clinton-era treaty strings trying Gulliver down, what would you do? No need for in-your-face arrogance. No need to humiliate. No need to proclaim that you will ignore nattering allies and nervous enemies.

Journalists can talk like that because the trust is clarifying. Governments cannot talk like that because the truth is scary. The trick to unilateralism—doing what you think is right, regardless of what others think—is to pretend you are not acting unilaterally at all. Thus if you really want to junk the ABM Treaty, and the Europeans and Russians and Chinese start screaming bloody murder, the trick is to send Colin Powell to smooth and sooth and schmooze every foreign leader in sight, have Condoleezza Rica talk about how much we value allied input, have President Bush in Europe stress how missile defense will help the security of everybody. And then go ahead and junk the ABM Treaty regardless. Make nice, then carry on.

Or, say you want to kill the Kyoto protocol (which the Senate rejected 95–0 and which not a single EU country has ratified) and the Eueopeans hypocritically complain. The trick is to have the president go to Europe to stress, both sincerely and correctly, that the United States wants to be in the forefront of using science and technology to attack the problem—but make absolutely clear that you'll accept no mandatory cuts and tolerate no treaty that penalizes the United States and lets China, India and the Third World off the hook.

Be nice, but be undeterred. The best unlateralism is velvet-glove unilateralism.

At the end of the day, for all the rhetorical bows to Russia, European and liberal sensibilities, look at how Bush returns from Europe: Kyoto is dead. The ABM Treaty is history, Missile defense is on. NATO expansion is relaunched. And just to italicize the new turn in American foreign policy, the number of those annual, vaporous U.S.-EU summits has been cut from two to one.

Might the administration yet bend to the critics and abandon the new unilateralism? Perhaps. But the crowing of the Washington foreign policy establishment that this has already occurred is wishful thinking.

Will he wobble? Everything is possible. But anyone who has watched Defense Secretary Rumsfield, read Deputy Secretary Wolfowitz known Vice President Cheney or listened to President Bush would be wise to place his bet at the ''no wobble'' window.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:45 a.m. shall be under the control of the Senator from Kansas, Mr. BROWNBACK.

Mr. BROWNBACK. Thank you, Mr. President.

EMBRYONIC STEM CELL RESEARCH

Mr. BROWNBACK. Mr. President, I rise today to address the issue of embryonic stem cell research and cloning. The two issues are inexplicably tied together. I want to discuss this in the narrow context of Federal funding for embryonic stem cell research and cloning. The two are tied together in what is currently being discussed. They take an embryo, raise it to a certain age, kill the embryo, take the stem cell out of the embryo—the young stem cells inside that are reproducing on a rapid basis—and use those in research, or use those for human development and in the capacity of making other organs in the future.

The next step will be to take the Presiding Officer's DNA material, my DNA material, the Official Reporter's DNA material, or the DNA material of some of the new interns, take it out, and put it into an embryo that has been denuclized, take that DNA material, put it into the embryo, and start the growth that is again taking place so you will have a cloned individual.

That is an individual who has exactly the same DNA as somebody else. Scientists grow it to a certain age, kill the embryo, and take those stem cells from that embryo to be used to make an organ, or make brain cells, or make something else.

These two topics are tied together. It is a gate which shouldn't open.

Initially, I think we need to talk about Federal funding in Congress. We need to discuss the issue raised regarding Federal funding of destructive embryonic research. My position is that federally funded human embryonic stem cell research is illegal, it is immoral, and it is unnecessary for where we are and what we know today. We have other solutions that are legal, ethical, moral, and superior to where we are going with these Federal funds today regarding embryonic stem cell research and cloning.

The issue of destructive embryo research has come into better focus over the past few weeks as the new administration prepares to take definitive action on the Clinton-era guidelines which call the destruction of human embryos for the purposes of subsequent federal funding for the cells that have been derived through the process of embryo destruction.

Currently, we say, OK. You can't destroy the embryo, but you can use what is taken from the destruction of

that embryo. It would be like saying of the Presiding Officer, you can't kill him, but you can take his heart, you can take his lungs and brain, and his eyes out. And, if you get those, even though somebody kills him, that is OK.

Well, that doesn't seem to be right to most of us. It certainly doesn't seem to be right to me, nor the Presiding Officer. Yet that is what is being proposed, and currently taking what applies under the Clinton-era guidelines which call for the destruction of human embryos for the purpose of subsequent Federal funding for the cells that have been derived from the process of embryo destruction.

During the Presidential campaign, then Governor Bush stated, in response to a questionnaire, ''I oppose using Federal funds to perform fetal tissue research from induced abortions. Taxpayer funds should not underwrite research that involves the destruction of live human embryos.''

Later, after assuming the Presidency, his spokesman, Ari Fleischer, stated that the President, ''would oppose federally funded research for experimentation on embryonic stem cells that require live human embryos to be discarded or destroyed.''

I would like to applaud the President for his bold and principled stand in defense of the most innocent human life. It has never been, and it will never be, acceptable to kill one person for the benefit of another—no matter how big, or how promising the purported benefit.

Few issues make this point as clearly as the issue of destructive embryo research.

As my colleagues are well aware, Congress outlawed federal funding for harmful embryo research in 1996 and has maintained that prohibition ever since. The ban is broad-based and specific; funds cannot be used for ''research in which a human embryo or embryos are destroyed, discarded or knowingly subjected to risk of injury or death.'' The intent of Congress is clear—if a research project requires the destruction of human embryos no federal funds should be used for that project.

The NIH, during the Clinton administration, published guidelines that sought to circumvent this language. At the time, several of my colleagues, and myself, sent a letter to the NIH stating our opposition to the guidelines.

It read, in part,

> Despite their title, the NIH guidelines do not regulate stem cell research. Rather, they regulate the means by which researchers may obtain and destroy live human embryos in order to receive Federal funds for subsequent stem cell research. Clearly, the destruction of human embryos is an integral part of the contemplated research, in violation of the law.

That is simply because to get embryonic stem cells you have to kill the embryo. You kill an embryo to ''harvest'' stem cells and use them. This is destructive human embryonic research.

The letter that I cited was signed by, among others, Senators TRENT LOTT, DON NICKLES, JOHN MCCAIN, MICHAEL DEWINE, and JOHN ASHCROFT.

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

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

WASHINGTON, DC,
February 4, 2000.

STEM CELL GUIDELINES,
NIH Office of Science Policy,
Bethesda, MD.

TO WHOM IT MAY CONCERN: Since 1996 Congress has banned federal funding for ''research in which a human embryo or embryos are destroyed.'' We believe the draft guidelines published December 2 by the National Institutes of Health for ''human pluripotent stem cell research'' do not comply with this law, which we support and which remains in effect.

Despite their title, the NIH guidelines do not regulate stem cell research. Rather, they regulate the means by which researchers may obtain and destroy live human embryos in order to receive federal funds for subsequent stem cell research. Clearly, the destruction of human embryos is an integral part of the contemplated research, in violation of the law.

Because Congress never intended for the Executive Branch to facilitate destructive embryo research, we urge the National Institutes of Health to withdraw these guidelines as contrary to the law and Congressional intent.

Sam Brownback, Pete V. Domenici, Don Nickles, George V. Voinovich, Trent Lott, John Ashcroft, Chuck Hagel, Rick Santorum, Kit Bond, Bob Smith, Rod Grams, John Kyl, Jeff Sessions, Michael B. Enzi, Mike DeWine, Jesse Helms, Tom Harkin, Conrad Burns, Jim Bunning, John McCain.

Mr. BROWNBACK. Mr. President, in order to provide the justification for the NIH guidelines, the Department of Health and Human Services wrote a legal opinion reviewing the ban just mentioned above and whether or not Federal money could be used to conduct research on so-called human pluripotent stem cells that had been derived from an embryo. My conclusion—and that of many of my colleagues—is that this research is illegal. it is illegal for this reason: the deliberate killing of a human embryo is an essential component of the contemplated research; and without the destruction of the embryo the proposed research would be impossible, which brings us to a discussion of the morality of this research.

Recently there was a bill introduced, the Stem Cell Research Act of 2001, seemingly based on the NBAC recommendations, which seeks to allow Federal funding for researchers to kill living human embryos.

Under this bill federal researchers would be allowed to obtain their own supply of living human embryos, which they would then be allowed to kill for research purposes.

The very act of harvesting cells from live human embryos results in the death of the embryo. Therefore, if enacted, this bill would result in the deliberate destruction of human embryos—human life in its most infant stage.

This bill even violates current Federal policy on fetal tissue, which allows harvesting of tissue only after an abortion was performed for other reasons and the unborn child is already dead. Under this bill, the Federal Government will use tax dollars to kill live embryos for the immediate and direct purpose of using their parts for research. Is that something that we want to do? I don't think so.

Taxpayer funding of this research is problematic for a variety of reasons. First among those concerns is that if Congress were to approve this bill, it would officially declare for the first time in our Nation's history that Government may exploit and destroy human life for its own, or somebody else's purposes. We don't want to go there.

Human embryonic stem cell research is also unnecessary.

I think there is a point that is lost to many in the broader debate about when human life begins. Where should we protect it, and how do we protect? But the point is that human embryonic stem cell research, and, thus, cloning, is also unnecessary.

There are legitimate areas of research which are showing more promise than embryonic stem cell research, areas which do not create moral and ethical difficulties.

In the past, Congress has increased funding for NIH. New advances in adult stem cell research, being reported almost weekly, show more promise than destructive embryo research, and I believe should receive a significant increase in funding.

The Presiding Officer, myself, and everyone else in the room have stem cells within us.

It has been a discovery within the past couple of years. These stem cells reproduce other cells within our body. We have them in our fat tissue, our bones, and our brain. These are cells that can now be taken out, grown, and they have multiple actions of other material, other tissue they can replace. It is very exciting and very promising.

It does not have the ethical problems of killing another life and does not have the immune rejection problems like taking DNA material from another life and putting it into someone else. It is our own DNA. It is our own material, and it is showing great promise. I want to read some of the significant advances that have taken place in recent times in adult stem cell research, which I strongly support, and I support our increasing funding in a substantial way for adult stem cell research.

Research has shown the pluripotent nature of adult stem cells. In other words, they can have a multitude of options. Research shows the ability of a single adult bone marrow stem cell to repopulate the bone marrow, forming functional marrow and blood cells, and also differentiating into functional cells of liver, lung, gastrointestinal tract—esophagus, stomach, intestine, colon—and skin, with indications it

could also form functional heart and skeletal muscle. The evidence shows the stem cells home to sites of tissue damage.

In other words, these stem cells can go to the place where the damage is and start to reproduce and build up the damaged material.

This was a May 4, 2001, study that was just released on this pluripotent nature of adult stem cells. Adult stem cells can repair cardiac damage.

Researchers at Baylor College of Medicine found adult bone marrow stem cells could form functional heart muscle and blood vessels in mice which had heart damage. They note their results demonstrate the potential of adult bone marrow stem cells for heart repair and suggest a therapeutic strategy that eventually could benefit patients with heart attacks. The results also suggest that circulating stem cells may naturally contribute to repair of tissues.

Also, scientists at Duke University Medical Center showed that adult stem cells from a liver could transform into heart tissue when injected into mice. They say, ''Recent evidence suggests that adult-derived stem cells, like their embryonic counterparts, are pluripotent. . . .'' They have a multitude of options of this stem cell conforming into bone, heart, and other types of tissue, and ''these results demonstrate adult liver-derived stem cells respond to the tissue microenvironment. . . .''

In other words, what is the environment that the tissue is placed into, and that is what it is responding to and developing.

Researchers at New York Medical College report results that show regeneration of heart muscle is possible after heart attack, possibly from heart adult stem cell.

I have several others I want to read, but one in particular I think is interesting is that scientists have found stem cells in our fat. So now we can take fat stem cells, of which we do not have a shortage in America, and those adult stem cells can be derived and made into other types of cells and grown.

A new report shows umbilical cord blood can provide effective treatment of various blood disorders in adults. It had previously been assumed that there were too few stem cells in cord blood to treat adults and only children were treated.

The results of this study show that cord blood stem cells can proliferate extensively and provide sufficient numbers of cells for adult treatments.

My point is we do not have to destroy another life to have the great success of stem cell work. We can take it out of our own bodies. We can take it out of our own fat and be able to grow these things, and we do not need to go down the route of what is called therapeutic cloning, to which destructive embryonic stem-cell research is going to lead.

In the future, people are going to say they want embryonic stem cells, but what they really want is to be able to clone you, to clone another individual, take that DNA material from you, from me, from somebody in this room, destroy a young human embryo, put the DNA material in there, start this to reproducing for a while, kill that embryo, take the stem cells out, and work with those because they are exact copies of the DNA from us. We do not want to open this door of going the route of cloning, and that is where this is leading.

Mr. President, that is why today I have spoken out on this topic. We should not be going this route. We do not need to go this route. It is illegal for us currently to go this route. I ask that we stop. This is a view that I believe the President shares. In fact, in a letter written to the Culture of Life Foundation, President Bush states:

I oppose Federal funding for stem-cell research that involves destroying living human embryos.

I ask unanimous consent that the President's letter be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, DC, May 18, 2001.

Mr. ROBERT A. BEST,
President, The Culture of Life Foundation, Inc., Washington, DC.

DEAR MR. BEST: Thank you for your letter about the important issue of stem cell research.

I share your concern and believe that we can and must do more to find the causes and cures of diseases that affect the lives of too many Americans.

That's why I have proposed to double funding for National institutes of Health medical research on important diseases that affect so many American families, such as breast cancer. My proposal represents the largest funding increase in the Institutes' history, I also have called for an extension of the Research and Development tax credit to help encourage companies to continue research into lifesaving treatments.

I oppose Federal funding for stem-cell research that involves destroying living human embryos. I support innovative medical research on life-threatening and debilitating diseases, including promising research on stem cells from adult tissue.

We have the technology to find these cures, and I want to make sure that the resources are available as well. Only through a greater understanding through research will we be able to find cures that will bring new hope and health to millions of Americans.

Sincerely,

GEORGE W. BUSH.

Mr. BROWNBACK. Mr. President, I fully anticipate that President Bush will settle the issue of Federal funding of embryonic stem cell research within the context of the existing embryo research ban in the very near future, and I hope we take up the issue of cloning and ban it. It is a place we should not and do not need to go. I applaud the President in advance for his defense, for his clear statement on cloning, as well, and his defense of the most innocent human life.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The time of the Senator from Kansas has expired.

Under previous order, the time until 11:30 a.m. is under the control of the Senator from Illinois, Mr. DURBIN, or his designee. The Senator from South Carolina, Mr. HOLLINGS, controls 10 minutes of that time.

BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

AMENDMENT NO. 805

Mr. DURBIN. Mr. President, I ask unanimous consent, notwithstanding passage of H.R. 1, that amendment No. 805, a Torricelli amendment, be agreed to and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 805) was agreed to, as follows:

(Purpose: To require local educational agencies and schools to implement school pest management plans and to provide parents, guardians, and staff members with notice of the use of pesticides in schools)

At the appropriate place insert the following:

SEC. 9___. PEST MANAGEMENT IN SCHOOLS.

(a) SHORT TITLE.—This section may be cited as the ''School Environment Protection Act of 2001''.

(b) PEST MANAGEMENT.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating sections 33 and 34 (7 U.S.C. 136x, 136y) as sections 34 and 35, respectively; and

(2) by inserting after section 32 (7 U.S.C. 136w–7) the following:

''SEC. 33. PEST MANAGEMENT IN SCHOOLS.

''(a) DEFINITIONS.—In this section:

''(1) BAIT.—The term 'bait' means a pesticide that contains an ingredient that serves as a feeding stimulant, odor, pheromone, or other attractant for a target pest.

''(2) CONTACT PERSON.—The term 'contact person' means an individual who is—

''(A) knowledgeable about school pest management plans; and

''(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

''(3) EMERGENCY.—The term 'emergency' means an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

''(4) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 3 of the Elementary and Secondary Education Act of 1965.

''(5) SCHOOL.—

''(A) IN GENERAL.—The term 'school' means a public—

''(i) elementary school (as defined in section 3 of the Elementary and Secondary Education Act of 1965);

''(ii) secondary school (as defined in section 3 of the Act);

''(iii) kindergarten or nursery school that is part of an elementary school or secondary school; or

''(iv) tribally-funded school.

''(B) INCLUSIONS.—The term 'school' includes any school building, and any area outside of a school building (including a lawn,

playground, sports field, and any other property or facility), that is controlled, managed, or owned by the school or school district.

''(6) SCHOOL PEST MANAGEMENT PLAN.—The term 'school pest management plan' means a pest management plan developed under subsection (b).

''(7) STAFF MEMBER.—

''(A) IN GENERAL.—The term 'staff member' means a person employed at a school or local educational agency.

''(B) EXCLUSIONS.—The term 'staff member' does not include—

''(i) a person hired by a school, local educational agency, or State to apply a pesticide; or

''(ii) a person assisting in the application of a pesticide.

''(8) STATE AGENCY.—The term 'State agency' means the an agency of a State, or an agency of an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), that exercises primary jurisdiction over matters relating to pesticide regulation.

''(9) UNIVERSAL NOTIFICATION.—The term 'universal notification' means notice provided by a local educational agency or school to—

''(A) parents, legal guardians, or other persons with legal standing as parents of each child attending the school; and

''(B) staff members of the school.

''(b) SCHOOL PEST MANAGEMENT PLANS.—

''(1) STATE PLANS.—

''(A) GUIDANCE.—As soon as practicable (but not later than 180 days) after the date of enactment of the School Environment Protection Act of 2001, the Administrator shall develop, in accordance with this section—

''(i) guidance for a school pest management plan; and

''(ii) a sample school pest management plan.

''(B) PLAN.—As soon as practicable (but not later than 1 year) after the date of enactment of the School Environment Protection Act of 2001, each State agency shall develop and submit to the Administrator for approval, as part of the State cooperative agreement under section 23, a school pest management plan for local educational agencies in the State.

''(C) COMPONENTS.—A school pest management plan developed under subparagraph (B) shall, at a minimum—

''(i) implement a system that—

''(I) eliminates or mitigates health risks, or economic or aesthetic damage, caused by pests;

''(II) employs—

''(aa) integrated methods;

''(bb) site or pest inspection;

''(cc) pest population monitoring; and

''(dd) an evaluation of the need for pest management; and

''(III) is developed taking into consideration pest management alternatives (including sanitation, structural repair, and mechanical, biological, cultural, and pesticide strategies) that minimize health and environmental risks;

''(ii) require, for pesticide applications at the school, universal notification to be provided—

''(I) at the beginning of the school year;

''(II) at the midpoint of the school year; and

''(III) at the beginning of any summer session, as determined by the school;

''(iii) establish a registry of staff members of a school, and of parents, legal guardians, or other persons with legal standing as parents of each child attending the school, that have requested to be notified in advance of any pesticide application at the school;

''(iv) establish guidelines that are consistent with the definition of a school pest management plan under subsection (a);

''(v) require that each local educational agency use a certified applicator or a person authorized by the State agency to implement the school pest management plans;

''(vi) be consistent with the State cooperative agreement under section 23; and

''(vii) require the posting of signs in accordance with paragraph (4)(G).

''(D) APPROVAL BY ADMINISTRATOR.—Not later than 90 days after receiving a school pest management plan submitted by a State agency under subparagraph (B), the Administrator shall—

''(i) determine whether the school pest management plan, at a minimum, meets the requirements of subparagraph (C); and

''(ii)(I) if the Administrator determines that the school pest management plan meets the requirements, approve the school pest management plan as part of the State cooperative agreement; or

''(II) if the Administrator determines that the school pest management plan does not meet the requirements—

''(aa) disapprove the school pest management plan;

''(bb) provide the State agency with recommendations for and assistance in revising the school pest management plan to meet the requirements; and

''(cc) provide a 90-day deadline by which the State agency shall resubmit the revised school pest management plan to obtain approval of the plan, in accordance with the State cooperative agreement.

''(E) DISTRIBUTION OF STATE PLAN TO SCHOOLS.—On approval of the school pest management plan of a State agency, the State agency shall make the school pest management plan available to each local educational agency in the State.

''(F) EXCEPTION FOR EXISTING STATE PLANS.—If, on the date of enactment of the School Environment Protection Act of 2001, a State has implemented a school pest management plan that, at a minimum, meets the requirements under subparagraph (C) (as determined by the Administrator), the State agency may maintain the school pest management plan and shall not be required to develop a new school pest management plan under subparagraph (B).

''(2) IMPLEMENTATION BY LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Not later than 1 year after the date on which a local educational agency receives a copy of a school pest management plan of a State agency under paragraph (1)(E), the local educational agency shall develop and implement in each of the schools under the jurisdiction of the local educational agency a school pest management plan that meets the standards and requirements under the school pest management plan of the State agency, as determined by the Administrator.

''(B) EXCEPTION FOR EXISTING PLANS.—If, on the date of enactment of the School Environment Protection Act of 2001, a State maintains a school pest management plan that, at a minimum, meets the standards and criteria established under this section (as determined by the Administrator), and a local educational agency in the State has implemented the State school pest management plan, the local educational agency may maintain the school pest management plan and shall not be required to develop and implement a new school pest management plan under subparagraph (A).

''(C) APPLICATION OF PESTICIDES AT SCHOOLS.—A school pest management plan shall prohibit—

''(i) the application of a pesticide to any area or room at a school while the area or room is occupied or in use by students or staff members (except students and staff participating in regular or vocational agricultural instruction involving the use of pesticides); and

''(ii) the use by students or staff members of an area or room treated with a pesticide by broadcast spraying, baseboard spraying, tenting, or fogging during—

''(I) the period specified on the label of the pesticide during which a treated area or room should remain unoccupied; or

''(II) if there is no period specified on the label, the 24-hour period beginning at the end of the treatment.

''(3) CONTACT PERSON.—

''(A) IN GENERAL.—Each local educational agency shall designate a contact person to carry out a school pest management plan in schools under the jurisdiction of the local educational agency.

''(B) DUTIES.—The contact person of a local educational agency shall—

''(i) maintain information about the scheduling of pesticide applications in each school under the jurisdiction of the local educational agency;

''(ii) act as a contact for inquiries, and disseminate information requested by parents or guardians, about the school pest management plan;

''(iii) maintain and make available to parents, legal guardians, or other persons with legal standing as parents of each child attending the school, before and during the notice period and after application—

''(I) copies of material safety data sheet for pesticides applied at the school, or copies of material safety data sheets for end-use dilutions of pesticides applied at the school, if data sheets are available;

''(II) labels and fact sheets approved by the Administrator for all pesticides that may be used by the local educational agency; and

''(III) any final official information related to the pesticide, as provided to the local educational agency by the State agency; and

''(iv) for each school, maintain all pesticide use data for each pesticide used at the school (other than antimicrobial pesticides (as defined in clauses (i) and (ii) of section 2(mm)(1)(A))) for at least 3 years after the date on which the pesticide is applied; and

''(v) make that data available for inspection on request by any person.

''(4) NOTIFICATION.—

''(A) UNIVERSAL NOTIFICATION.—At the beginning of each school year, at the midpoint of each school year, and at the beginning of any summer session (as determined by the school), a local educational agency or school shall provide to staff members of a school, and to parents, legal guardians, and other persons with legal standing as parents of students enrolled at the school, a notice describing the school pest management plan that includes—

''(i) a summary of the requirements and procedures under the school pest management plan;

''(ii) a description of any potential pest problems that the school may experience (including a description of the procedures that may be used to address those problems);

''(iii) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

''(iv) the following statement (including information to be supplied by the school as indicated in brackets):

'As part of a school pest management plan, [ ] may use pesticides to control pests. The Environmental Protection Agency (EPA) and [ ] registers pesticides for that use. EPA continues to examine registered pesticides to determine that use of

the pesticides in accordance with instructions printed on the label does not pose unreasonable risks to human health and the environment. Nevertheless, EPA cannot guarantee that registered pesticides do not pose risks, and unnecessary exposure to pesticides should be avoided. Based in part on recommendations of a 1993 study by the National Academy of Sciences that reviewed registered pesticides and their potential to cause unreasonable adverse effects on human health, particularly on the health of pregnant women, infants, and children, Congress enacted the Food Quality Protection Act of 1996. That law requires EPA to reevaluate all registered pesticides and new pesticides to measure their safety, taking into account the unique exposures and sensitivity that pregnant women, infants, and children may have to pesticides. EPA review under that law is ongoing. You may request to be notified at least 24 hours in advance of pesticide applications to be made and receive information about the applications by registering with the school. Certain pesticides used by the school (including baits, pastes, and gels) are exempt from notification requirements. If you would like more information concerning any pesticide application or any product used at the school, contact [ ]'.

''(B) NOTIFICATION TO PERSONS ON REGISTRY.—

''(i) IN GENERAL.—Except as provided in clause (ii) and paragraph (5)—

''(I) notice of an upcoming pesticide application at a school shall be provided to each person on the registry of the school not later than 24 hours before the end of the last business day during which the school is in session that precedes the day on which the application is to be made; and

''(II) the application of a pesticide for which a notice is given under subclause (I) shall not commence before the end of the business day.

''(ii) NOTIFICATION CONCERNING PESTICIDES USED IN CURRICULA.—If pesticides are used as part of a regular vocational agricultural curriculum of the school, a notice containing the information described in subclauses (I), (IV), (VI), and (VII) of clause (iii) for all pesticides that may be used as a part of that curriculum shall be provided to persons on the registry only once at the beginning of each academic term of the school.

''(iii) CONTENTS OF NOTICE.—A notice under clause (i) shall contain—

''(I) the trade name, common name (if applicable), and Environmental Protection Agency registration number of each pesticide to be applied;

''(II) a description of each location at the school at which a pesticide is to be applied;

''(III) a description of the date and time of application, except that, in the case of an outdoor pesticide application, a notice shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled;

''(IV) all information supplied to the local educational agency by the State agency, including a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied based on—

''(aa) a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied, as stated on the label of the pesticide approved by the Administrator;

''(bb) information derived from the material safety data sheet for the end-use dilution of the pesticide to be applied (if available) or the material safety data sheets; and

''(cc) final, official information related to the pesticide prepared by the Administrator and provided to the local educational agency by the State agency;

''(V) a description of the purpose of the application of the pesticide;

''(VI) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

''(VII) the statement described in subparagraph (A)(iv) (other than the ninth sentence of that statement).

''(C) NOTIFICATION AND POSTING EXEMPTION.—A notice or posting of a sign under subparagraph (A), (B), or (G) shall not be required for the application at a school of—

''(i) an antimicrobial pesticide;

''(ii) a bait, gel, or paste that is placed—

''(I) out of reach of children or in an area that is not accessible to children; or

''(II) in a tamper-resistant or child-resistant container or station; and

''(iii) any pesticide that, as of the date of enactment of the School Environment Protection Act of 2001, is exempt from the requirements of this Act under section 25(b) (including regulations promulgated at section 152 of title 40, Code of Federal Regulations (or any successor regulation)).

''(D) NEW STAFF MEMBERS AND STUDENTS.—After the beginning of each school year, a local educational agency or school within a local educational agency shall provide each notice required under subparagraph (A) to—

''(i) each new staff member who is employed during the school year; and

''(ii) the parent or guardian of each new student enrolled during the school year.

''(E) METHOD OF NOTIFICATION.—A local educational agency or school may provide a notice under this subsection, using information described in paragraph (4), in the form of—

''(i) a written notice sent home with the students and provided to staff members;

''(ii) a telephone call;

''(iii) direct contact;

''(iv) a written notice mailed at least 1 week before the application; or

''(v) a notice delivered electronically (such as through electronic mail or facsimile).

''(F) REISSUANCE.—If the date of the application of the pesticide needs to be extended beyond the period required for notice under this paragraph, the school shall issue a notice containing only the new date and location of application.

''(G) POSTING OF SIGNS.—

''(i) IN GENERAL.—Except as provided in paragraph (5)—

''(I) a school shall post a sign not later than the last business day during which school is in session preceding the date of application of a pesticide at the school; and

''(II) the application for which a sign is posted under subclause (I) shall not commence before the time that is 24 hours after the end of the business day on which the sign is posted.

''(ii) LOCATION.—A sign shall be posted under clause (i)—

''(I) at a central location noticeable to individuals entering the building; and

''(II) at the proposed site of application.

''(iii) ADMINISTRATION.—A sign required to be posted under clause (i) shall—

''(I) remain posted for at least 24 hours after the end of the application;

''(II) be—

''(aa) at least 8½ inches by 11 inches for signs posted inside the school; and

''(bb) at least 4 inches by 5 inches for signs posted outside the school; and

''(III) contain—

''(aa) information about the pest problem for which the application is necessary;

''(bb) the name of each pesticide to be used;

''(cc) the date of application;

''(dd) the name and telephone number of the designated contact person; and

''(ee) the statement contained in subparagraph (A)(iv).

''(iv) OUTDOOR PESTICIDE APPLICATIONS.—

''(I) IN GENERAL.—In the case of an outdoor pesticide application at a school, each sign shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled.

''(II) DURATION OF POSTING.—A sign described in subclause (I) shall be posted after an outdoor pesticide application in accordance with clauses (ii) and (iii).

''(5) EMERGENCIES.—

''(A) IN GENERAL.—A school may apply a pesticide at the school without complying with this part in an emergency, subject to subparagraph (B).

''(B) SUBSEQUENT NOTIFICATION OF PARENTS, GUARDIANS, AND STAFF MEMBERS.—Not later than the earlier of the time that is 24 hours after a school applies a pesticide under this paragraph or on the morning of the next business day, the school shall provide to each parent or guardian of a student listed on the registry, a staff member listed on the registry, and the designated contact person, notice of the application of the pesticide in an emergency that includes—

''(i) the information required for a notice under paragraph (4)(G); and

''(ii) a description of the problem and the factors that required the application of the pesticide to avoid a threat to the health or safety of a student or staff member.

''(C) METHOD OF NOTIFICATION.—The school may provide the notice required by paragraph (B) by any method of notification described in paragraph (4)(E).

''(D) POSTING OF SIGNS.—Immediately after the application of a pesticide under this paragraph, a school shall post a sign warning of the pesticide application in accordance with clauses (ii) through (iv) of paragraph (4)(B).

''(c) RELATIONSHIP TO STATE AND LOCAL REQUIREMENTS.—Nothing in this section (including regulations promulgated under this section)—

''(1) precludes a State or political subdivision of a State from imposing on local educational agencies and schools any requirement under State or local law (including regulations) that is more stringent than the requirements imposed under this section; or

''(2) establishes any exception under, or affects in any other way, section 24(b).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended by striking the items relating to sections 30 through 32 and inserting the following:

''Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.

''Sec. 31. Environmental Protection Agency minor use program.

''Sec. 32. Department of Agriculture minor use program.

''(a) In general.

''(b)(1) Minor use pesticide data.

''(2) Minor Use Pesticide Data Revolving Fund.

''Sec. 33. Pest management in schools.

''(a) Definitions.
''(1) Bait.
''(2) Contact person.
''(3) Emergency.
''(4) Local educational agency.
''(5) School.
''(6) Staff member.
''(7) State agency.
''(8) Universal notification.
''(b) School pest management plans.
''(1) State plans.
''(2) Implementation by local educational agencies.
''(3) Contact person.
''(4) Notification.
''(5) Emergencies.
''(c) Relationship to State and local requirements.
''(d) Authorization of appropriations.
''Sec. 34. Severability.
''Sec. 35. Authorization of appropriations.''.

(d) EFFECTIVE DATE.—This section and the amendments made by this section take effect on October 1, 2001.

Mr. TORRICELLI. Mr. President, I rise today to announce a landmark agreement regarding the use of pesticides in our Nation's schools. This agreement marks the first time that the Federal Government will institute regulations on pesticides and schoolchildren. The Senate unanimously accepted my amendment to the Elementary and Secondary Education Act, which passed in the Senate late last week. For the first time, parents in all fifty States will be notified when pesticides are used in schools.

This agreement was reached after seven weeks of negotiations between my staff, environmental health groups, a broad coalition of pesticide, agriculture, and education groups. It was developed with these various groups to achieve a balance between the need to protect children from pests and addressing the concerns about the safety of pesticide applications.

A recent study by the General Accounting Office found that no credible statistics exist regarding the amount of pesticides used in public schools and no information exists about students' exposure to pesticides or their health impacts. We can and must do a better job of providing accurate information to parents and staff at our Nation's schools regarding pesticide use and the potential effects on our children.

This amendment requires local educational agencies and schools to implement a school pest management plan. This plan must incorporate pest control methods that minimize health and environmental risks in school and around schools. This amendment does not ban any pesticide. It simply states that the area of the pesticide application must remain unoccupied during the treatment, and for some pesticides, the area must remain unoccupied for up to 24 hours after the treatment.

Perhaps the most important component of this amendment is the requirement for schools to provide universal notification to parents three times throughout the year. The universal notice must include a summary of the school pest management plan, a statement about pesticides, information on how to sign up to be notified prior to all pesticide applications, notice of pesticides that are exempt from notification requirements, and information on who to contact for additional information regarding pesticide applications at the school. The amendment also gives parents the option of being notified at least 24 hours in advance of every pesticide application. Between universal notification and this additional notice option, parents will be armed with the knowledge they need to protect their children from potentially harmful pesticides when they send them to school. It is an enormous and hard fought victory for the health of our children.

I would like to thank my colleagues, Senators BOXER and REID for joining me in introducing this important amendment. Their strong support for the protection of our children against exposure to pesticides was critical to the passage of this amendment. They have both been leaders on this issue for years, and I look forward to their continued advocacy on behalf of our Nation's children.

I extend my thanks to the majority leader, Senator DASCHLE, for working to address the concerns of all sides. I appreciate the willingness of the managers of the bill, Chairman KENNEDY and Senator GREGG, to have this important issue considered in the context of the ESEA bill. In addition, I wish to thank the many groups whose support this amendment enjoys, including: Beyond Pesticides/National Coalition Against the Misuse of Pesticides, the National Pest Management Association, Responsible Industry for a Sound Environment, American Crop Protection Association, Consumer Specialty Products Association, Chemical Producers and Distributors Association, and the International Sanitary Supply Association. I also appreciate the support of the New Jersey Pest Management Association, and the New Jersey Environmental Federation. Finally, this amendment would not have been possible without the work of Joe Fiordaliso of my staff.

I look forward to working with members of the conference on ESEA to ensure that this amendment is included in the final bill, which is presented to President Bush.

HEALTH CARE

Mr. DURBIN. Mr. President, I want to address in morning business an issue, which will be the focus of debate in the Senate for the next 2 weeks. Many times our debates in this Chamber are about issues that a lot of people across America wonder what can this possibly mean to me, my family, or my future. This debate, believe me, will affect every single one of us.

What we do—whether we pass a law or fail to pass a law—can have a direct impact on everyone witnessing this debate and virtually everyone living in this country. What could that issue possibly be? Health care. It is about whether or not our health insurance will be there when we need it.

Yesterday in Springfield, IL, my hometown, I had a press conference. I invited three local doctors and two local nurses to talk about health care today. They came and told stories which were chilling, stories of their efforts to provide quality medical care to the people of my hometown and how time and again they ran into roadblocks, obstacles, and barriers from HMOs, and other health insurance companies, which tried to overrule medical decisions.

A cardiologist who came forward said: I brought a person into my office who was complaining of pain, thinking he suffered a heart attack. I was prepared to provide emergency care and I did, only to learn that his health insurance company would not pay me because I did not happen to be in their network. This person who showed up at my office, afraid he was going to die, was supposed to read his health insurance policy, look for the appropriate doctor, and make an appointment.

That is the reality of dealing with HMOs and health insurance companies today.

A lady who is an OB/GYN in my hometown talked about women under her care preparing to deliver a baby who, because the employer of that woman changed health insurance companies, were told in the closing days of the pregnancy that she could no longer be treated by her obstetrician, but had to go to a new doctor, an approved doctor, someone who had never seen her during the course of her pregnancy simply because this health insurance company thought it could save a dollar by referring this care to a different obstetrician.

The cases went on and on and on. Frankly, it should not come as a surprise. We have known for years that HMOs, health maintenance organizations, are really cost containment organizations. Their job is to reduce the cost of health care. What is secondary in their consideration is really quality medical care that all of us count on when we go to a doctor or a hospital or rely on a nurse's advice. That has been the casualty in this debate.

Yesterday, in Springfield, IL, these health professionals came forward. They joined ranks with 500 organizations which have endorsed a bill we will begin debating today on the floor of the Senate. Let me add just a postscript to that—I hope we will begin debating it today. Yesterday we tried to take up this bill, to talk about a Patients' Bill of Rights. There was an objection from the Republican side of the aisle. They wanted more time.

I suggest to those who are following this debate, this particular issue has been debated for a long time. In 1973, the Health Maintenance Organization Act became law, allowing employers to offer managed care insurance options. That was 28 years ago.

In 1995, our current President, then Governor George Bush, vetoed a Texas bill providing protection for HMO patients.

By 1996, the first Federal law regulating private insurance, this one allowing workers to keep coverage when changing their jobs, opened the door to patients' rights. The battle went on from there.

We have known for years that we need to provide patients and their families and people working for businesses across America the protection of a Patients' Bill of Rights. What we have before us today, what we will be debating this week, is a bipartisan Patients' Bill of Rights. Senator JOHN MCCAIN, a leading Republican, is one of the leading sponsors of this bill; Senators ARLEN SPECTER and LINCOLN CHAFEE also Republicans support the bill as well; and virtually every Democratic Senator. On the House side the same can be said. Republican leaders, as well as Democrats, and some 60 Republicans voted for this bill when it came up.

So this is a bill that has been here for a long time. It is a bill that now has strong bipartisan support, and it has been subjected to a lot of give and take and compromise to come up with a reasonable approach. Yet still we run into the obstacles that are being presented by its opponents, the major opponents, of course, the health maintenance organizations.

Why are they opposed to this bill? Why don't they want to create a Patients' Bill of Rights? Frankly, they think it is going to cost them in terms of their profits. They don't want to give up the rights they have to make life-and-death decisions and overrule doctors and nurses to save a buck. That is what this debate comes down to.

If you happen to visit Washington, DC, and turn on television, you are likely to see their television advertising. These HMOs are going to dump millions of dollars into advertising, trying to tell the people across America that giving you the right to have your doctor make a medical decision is not in your best interests, that they are the ones who should be entrusted with our health care, they are the ones who should make the call in life-or-death decisions when it comes to medical treatment, when it comes to prescription drugs that are necessary to sustain your life. They say, frankly, we don't need a Patients' Bill of Rights.

That is understandable, because do you know what is at issue here? What is at issue here is accountability. We just finished 7 weeks of debate about education. The key word in that debate was ''accountability.'' People should be held accountable, students by tests, teachers by the results of those tests, principals—everyone to be held accountable. But when it comes to health care, the HMOs do not want to be held accountable. They believe they should take their profits and not be accountable.

Let's take a step back and look at the big picture. Who in the United States can be held accountable for their conduct in a court of law? Frankly, all of us—every individual, every family, every business—with only two exceptions. There are two special classes in the United States who cannot be brought into court and held accountable for their wrongdoing:

One, diplomats. You have heard of those cases. Diplomats who come to the United States, get involved in traffic accidents, and race away to their home country, never having to face a court of law. That happens to be part of a treaty. We are stuck with it.

What is the second special and privileged class in America that cannot be held accountable for its wrongdoing? HMOs, health insurance companies. That is right. If they make a decision denying you coverage and you suffer bodily injury or die as a result of it, the HMO or the health insurance company cannot be sued. That is why they oppose the Patients' Bill of Rights. They want to maintain their special status.

The HMOs think they are royalty in this country, that they should be above the law. I disagree with that completely. This bipartisan Patient Protection Act protects all patients across America. It doesn't pick and choose like the Republican alternative. It says that you should have access to specialists. If your doctor says your son or daughter has cancer and that a pediatric oncologist is the right person for your child, that should be the final word. You should not leave it to some bean counter, some accountant, some clerk in an insurance company 100 miles away.

It says you should be able to go out of network for a specialist. In other words, if the HMO does not have that doctor on the list, that should not be the deciding factor when determining who is the best doctor for your wife or your husband when they are facing a serious illness.

Care coordination, standing referrals—all of these mean that you can get good health.

Coverage for clinical trials. Clinical trials are efforts a lot of people get into when they receive a diagnosis of a condition or disease that might otherwise be incurable. They take a drug that is being tested by the Food and Drug Administration to see how it might apply to your cancer, your heart disease, your special problem. A lot of insurance companies say: We will not pay for clinical trials, you are on your own. Well, who can pay for it? Who in their right mind can say an average person in an average family in America can pay the tens of thousands of dollars necessary for life-or-death treatment in a clinical trial?

That is what is at issue here; that is what is behind this bill. The Patients' Bill of Rights say these insurance companies must cover the clinical trials that are necessary to save your life.

What about coverage for emergency care? Imagine your son falls out of a tree in the backyard and breaks his arm while you are visiting somebody, and you race to the nearest hospital only to learn they cannot treat you because you don't happen to be on the approved list for your health insurance. Who in the world is going to carry their health insurance policy around in the glove compartment of their car to find out which is the hospital that the HMO will allow you to go to? When it comes to emergency care, people should not be second-guessed. You go where you need to go when you are in an emergency situation. You should not have to face some insurance company clerk who is second-guessing that.

Direct access to OB/GYN providers—I mentioned the illustration in Springfield.

Access to doctor-prescribed drugs. Do you know what the HMOs do? They put down a list of drugs for which they will pay. They pick and choose the ones where they get the deepest discounts from the pharmaceutical companies. So you come in with a problem and your doctor takes a look and says: This is the drug. You need it. Is a breakthrough drug, and it is available, and I think I can get it for you. I say: Doctor, is it expensive? And he says it is because it is new, but it is just what you need. Then he says: Will your company cover this? Is it on their approved list, their formulary?

Sadly, a lot of HMOs have picked a list that doesn't include all the good drugs a doctor can prescribe. The Patients' Bill of Rights says the doctor has the last word. If this is the right drug that can cure your disease and give you a good life, you should not have to get into a debate or an appeals process with an HMO or a health insurance company over it.

Finally, access to point-of-service plans. We have to make certain that people across America, when they need access to good health care, have it. The HMOs and health insurance companies that put up these obstacles should not have the final word.

This is the debate we are about to have for the next 2 weeks. This is what the Senate will focus on. Is there anything more important than our health? What would you give up for your health? I don't think anyone would give up anything for their health. That is the most important thing in your life. Now we face an onslaught of opposition from the HMOs and the health insurance companies that say no to the Patients' Bill of Rights.

I salute Senator TOM DASCHLE, the majority leader, because he said this at a rally that we just held on the steps of the U.S. Capitol. He said the Senate will stay in session until we pass a Patients' Bill of Rights. He has given notice to all of us in the Senate: Put on hold your Fourth of July parades and your picnics back at the ranch. We are all talking about staying here and getting the job done.

There are going to be fireworks on The Mall, if you want to stick around

here and you don't want to pass a Patients' Bill of Rights. We can look out the back window here, skip the parades and picnics, and stay at work until we pass a Patients' Bill of Rights. I guarantee, you may or may not see fireworks on The Mall, but we will see fireworks on the floor of the Senate because the HMOs and health insurance companies are not going to give up easily. They are going to fight us every step of the way.

Who are on the different sides in this debate? On one side are 550 health organizations and consumer organizations, standing for families and individuals across America—doctors and nurses and consumer groups.

Who is on the other side, opposing our bill? One group, and one group only, the HMOs, the health insurance companies. They know what is at stake here. What is at stake is their profit, and they are going to fight us tooth and nail to try to stop this bill.

I can guarantee this. We are going to fight for a real Patients' Bill of Rights, not a bill of goods. We are not going to pass some phony law and say to America we have solved your problem. We are going to fight and stay here for this fight until we pass it. For everyone who witnesses this debate, I cannot think of a more important topic for us to face.

Mr. REID. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield to my colleague from Nevada.

Mr. REID. I have been here this morning listening to the Senator's statement, and of course it is very good and beautiful. But I would like to ask the Senator a couple of questions.

We have been working on this bill for years. I have been impressed with a couple of people who have stood out in recent weeks. They are Republicans—one by the name of JOHN MCCAIN and the other by the name of CHARLIE NORWOOD. They are both Republicans. One is a dentist from Georgia, the other is a Senator from the State of Arizona who, among other things, spent 5 or 6 years in a prisoner-of-war camp, most of that time in solitary confinement.

The Senator from Illinois and I came with Senator MCCAIN to the House of Representatives in 1982. We have long acknowledged his courage; have we not?

Mr. DURBIN. Absolutely.

Mr. REID. I have been impressed with the courage of CHARLIE NORWOOD from Georgia. Is the Senator from Illinois also impressed?

Mr. DURBIN. The fact that he has stood up and announced last Friday that he has tried to work with the HMOs, tried to work with the Republican leadership and with the White House and has virtually given up because they, frankly, will not support a real Patients' Bill of Rights. Congressman NORWOOD, a Republican, has said he will openly support the Democrats. If I am not mistaken—perhaps I am—the Senator from Nevada can correct me—I think every medical doctor in the House of Representatives now supports the Democratic approach, the bipartisan approach we are offering on the floor.

Mr. REID. The reason I asked the Senator this question is that the Senator in his chart said it is a bipartisan bill. MCCAIN a Republican, EDWARDS a Democrat from the South, KENNEDY a Senator from Massachusetts, they are the chief sponsors of this legislation. This is bipartisan legislation. We have some courageous people who have said we have had enough of this.

This legislation, I have heard the Senator say, is supported by every consumer group in America plus every medical group in America, subspecialty group, specialty group, the American Medical Association, and even the lawyers support this. I don't know of a time in the past where you have the American Medical Association and the trial lawyers together. Does the Senator know another occasion?

Mr. DURBIN. I certainly don't. Usually they fight like cats and dogs. When it comes to this bill, both sides believe the HMOs and the health insurance companies should not be above the law. They should not be a special class. They should be held accountable like every other American and every other business for their wrongdoing. They should, in being held accountable, understand when they make life-or-death decisions and they are wrong, they may face a jury of a dozen Americans who will decide whether or not it was fair.

Mr. REID. The Senator made reference to the advertisements being paid for by the HMOs. They are running in Washington and all over America. What they are focusing on is this is a bill that the lawyers want. Would the Senator agree with me that those managed care entities that oppose this legislation are trying to divert attention away from the consumer protections in this bill and making it a lawyer-versus-the-rest-of-us piece of legislation?

Mr. DURBIN. There is no question about it. I often try to reflect on whether or not the Congress of the United States could have enacted Social Security or Medicare or the Americans with Disabilities Act if some of the most well-financed special interest groups in America decided they wanted to buy large amounts of TV airtime on television of America. That is what is happening. They have done it before. They are trying to do it now. They are trying to twist and distort this debate to try to undermine the public's sentiment for real change and real protection for patients.

They are going to lose because the people of America know stories in their own family and their neighbor's family. I will share for a moment—I see two of my colleagues coming to the floor—with my colleague from the State of Nevada one of the things I think really tells the whole story. You can listen to Senators come and go on the floor of the Senate. We can talk about politics and law and all the rest of it. Let me introduce you to a little fellow I met a year or so ago named Roberto Cortes from Elk Grove Village, IL. This wonderful little kid is fighting for his life every single day on a respirator.

His mom and dad are real-life American heroes. They get up every morning and try to make a life for themselves and their family. They dedicate every waking moment so this little boy stays alive. This is a fight that goes on every minute of every day. If you can imagine, if his respirator stopped he would die, and they know this. They have him at home, and they watch him constantly. This is a fight they are willing to take on. They didn't know when they were fighting for Roberto's life that they would also have to fight the insurance companies. His problem is spinal muscular atrophy, a leading genetic cause of death in kids under the age of 2.

Last year, they sent me an e-mail to talk about the battles they have had with their health insurance company. He needs a drug called Synagus to protect him against respiratory infection. Do you know what the insurance company said? No. No. His doctor said, this little boy needs this drug to protect him against an infection when he is on a respirator, and the health insurance company said no.

Imagine that for a minute. Imagine that you are battling every single day to save this beautiful little boy, and meanwhile you have a health insurance company denying you access to a drug that his doctor says he needs to stay alive. Can it get any worse than that?

That is what this debate is all about. Forget all of us in suits and ties and fancy dresses in the Senate and remember Roberto Cortes of Elk Grove Village, IL. Remember his mom and dad. That is what the debate is all about.

We can't match the health insurance industry when it comes to all the television advertising they are buying but, believe me, if I could tell Roberto's story to moms and dads across America, I know what would happen when this bill finally comes up for final passage. I thank my colleague from Nevada for joining me.

Mr. REID. If I may ask the Senator one more question, I hope Roberto is doing OK. Senator DORGAN and I held a hearing in Las Vegas, NV, where a mother's testimony was not as optimistic. It was sad. She had had dealings with an HMO, and her son is now dead. That was her testimony. Senator DORGAN and I will talk about that more as the debate goes on. The Senator from Illinois is right; the HMOs deal with people's health: Roberto, the boy in Las Vegas, parents, mothers, brothers and sisters. There is nothing that is more devastating than having someone sick and you can't get what you know needs to be done. That is what the debate is all about.

It is about accountability. Are people going to be held to a standard that is

fair? We are not asking for a standard that is unfair or unreasonable or that has not been in place in the past. We are asking to have the standard where a doctor makes a decision as to the care their patient receives and it is not made by some clerk in a room in Baltimore or San Jose; it is made by that doctor who is taking care of that patient. Will the Senator agree?

Mr. DURBIN. I agree, and I thank the Senator from Nevada for joining me. I see the Senator from Minnesota is here seeking recognition.

Let me say, this is one of the most important debates of the year. Until the Senate leadership changed 2 weeks ago, this bill was buried in committee. The health insurance companies had us right where they wanted us. They stuck this bill in committee and said: You will not hear a national debate about the Patients' Bill of Rights. It is a new day in the Senate. There is new leadership, and there is a new agenda. I am proud of the fact that my party has brought forward as the first bill that we will debate a Patients' Bill of Rights. I am proud of it because I believe that is what we are all about.

Frankly, on a bipartisan basis with Senator MCCAIN and Congressman NORWOOD and others, we are making this a strong bipartisan fight. It isn't a fight so that at the end of the day we can say our party won; this politician won. It is a fight so that at the end of the day Roberto Cortes has a chance, and his mom and dad can focus on this little boy's life and that daily struggle, not a struggle with the health insurance companies.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Minnesota.

Mr. DAYTON. Mr. President, if I might add a refrain to what my distinguished colleagues have been talking about, last year I helped set up a health care hot line in Minnesota. I started getting a flood of calls, just as the Senator from Illinois described, from parents who are fighting those same kinds of battles. I don't have pictures here, but I can see them in my mind's eye, the young boys and girls and the grieving families, fighting families who are trying to deal with the tragedy of their lives and have heaped on them the further tragedy of HMOs or insurance companies not providing or not paying for the care. Suddenly they are incurring tens of thousands of dollars of debt, in addition to God-awful personal losses.

So I certainly rise in support of the legislation. I agree with the Senator from Illinois that the change in the leadership of this body—the now-majority leader and assistant majority leader are making the difference in this legislation coming to the Senate floor. I hope we can commence debate on it today.

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

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

Mr. NELSON of Florida. Mr. President, I rise on this first day of consideration of the Patients' Bill of Rights to say that this is a glorious day, that finally, after a 5-year wait, the Senate can take up this important legislation.

It is my hope that our colleagues on the other side of the aisle will not block this legislation, as has been rumored all over the Capitol today. We have heard that there will be all kinds of efforts to delay and distract.

This issue is way too important for this country to withstand such potentially dilatory tactics. Indeed, the people of this country embrace patient protection and they embrace it in a bipartisan and, indeed, a nonpartisan fashion.

What does this bill do? It simply addresses a grievous wrong under American law. Currently, health care providers are held accountable for their mistakes and their malpractice, save for one type of health care provider—an insurance entity known as a health maintenance organization.

An HMO is exempt under the law. So this Patients' Bill of Rights brings to the floor of this Senate the opportunity to change the law so that HMOs are held accountable for their grievous mistakes. This is just common sense and clearly, a standard of fairness. This is why we are seeing wide acceptance of the principles of this legislation reflected in the polls all over this country.

Now let's not be deceived. Those who want to torpedo this legislation say that they support a Patients' Bill of Rights, and then they get all mired in the discussion of the technical details. But it is clear cut: Either you are for the patient or for the HMO when it comes down to the question of accountability for grievous mistakes.

Now there has, in the course of this discussion, arisen a very legitimate concern. HMOs are a major provider of insurance for employers. Therefore, an employer is quite concerned that they might have some liability because they engage the particular HMO as their insurance company. So, quite naturally, an employer does not want to have joint liability with an HMO that has perpetrated some grievous malpractice.

In this bipartisan legislation offered by Senators MCCAIN, EDWARDS, and KENNEDY, there is protection for the employer, and the employer would only be liable if the employer had participated in that grievous malpractice.

So as that issue arises, particularly among the business community, which legitimately ought to be concerned with that issue, don't be deceived, because you are protected. As we get into the discussion of this legislation, let's remember what this is all about. You are either for protecting patients or you are for the status quo, which protects HMOs. Current law states that an HMO cannot be sued for any grievous wrongs, whereas a physician, a nurse, a hospital, or any other health care provider who commits a grievous wrong against a patient can be held accountable.

So it is a stark choice: Do you want to protect the patients, or do you want to protect HMOs? You will get all the other arguments about whether or not this is going to increase the cost to patients. There will be some increase, but often as we consider the formulation of law, we have to consider the tradeoffs. Is this protection of a patient's right worth the tradeoff of a small—a very small—increase in the cost? Eighty percent of the American people clearly say they want the rights of a patient protected.

I am glad that we finally have this issue before us.

One of the greatest experiences in my professional life and a great honor for me was having served for the last 6 years as the elected insurance commissioner of the State of Florida. In that capacity, I dealt weekly with insurance companies, health insurance rates, and what it took to keep those insurance companies and HMOs financially viable, while at the same time being able to protect patients' rights.

I see this discussion of a Patients' Bill of Rights as the tip of an iceberg in a discussion of the overall reform of the entire health care delivery system. Ultimately, this will become a discussion of the reform of the Medicare system in this country. I hope and have clearly had assurances from our great assistant majority leader, the Senator from Nevada, and our great leader, the Senator from South Dakota, that we are going to take up Medicare reform later this year.

We have a great opportunity for taking the first steps addressing the comprehensive question of health care reform and health insurance reform that will ultimately address the fact that 44 million people in this country do not have health insurance, 2½ million of these people are in my own State of Florida. Clearly, they get health care. They often get it at the most expensive place, which is the emergency room, and at the most expensive time when the sniffles have turned into pneumonia. But that is a discussion for another day.

The discussion, however, starts today along the long, tortuous road of health care reform with a most important first step; that is, enacting a Patients' Bill of Rights.

I am proud to come to the floor and be able to address this. I intend to speak out on this important issue again and again over the course of the next several days, and the next couple of weeks, until we pass this important piece of legislation.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

PATIENTS' BILL OF RIGHTS

Ms. STABENOW. Mr. President, today, the Senate will begin serious consideration of one of the most important issues for every family in America—genuine protections for patients in managed care plans. As many of my colleagues know, this issue has been one of my top priorities for a very long time and I am very pleased that real debate has begun on the McCain, Edwards, Kennedy bill—a bipartisan compromise for a meaningful Patients' Bill of Rights.

It is important to note that there has been a tremendous amount of work done to get to this point. This truly is a compromise. It is truly bipartisan. I congratulate my colleagues for working so hard. I am very proud to be one of the cosponsors of this bill.

I strongly believe that every person has a right to affordable quality health care. Whether we are talking about access to nursing homes, prescription drugs for seniors, or the Patients' Bill of Rights, I have fought to improve health care for every American.

As we start this debate, I remind all of my colleagues that this debate is about real people and their real experiences with HMOs.

We have not made this up. This is about real people who have come to us who have expressed concerns. They paid for health care. They assumed that their families would have it when they needed it. Too many people find out that when it is time for that care to be given, whether it is in an emergency room, whether it is a doctor recommending a form of treatment, they are not able to receive it for their family. It is not right. That is why we are here.

I want to share one story today about a young woman named Jessica and her family in Royal Oak, MI. Jessica's story is one example of many of why we need to pass these important patient protections.

I am proud to have worked with this family, speaking on behalf of families all over this country.

Jessica was born in 1975 with a rare metabolic disorder that required vigilant medical care. Unfortunately, her disorder was not curable and she passed away September 10, 1999.

During the last year of her life, Jessica's health insurance changed. Her family doctor, who had been treating her all of her life, was not covered by the new HMO that she was forced into, and Jessica had to seek treatment through another physician. Her disease, however, was so complex that she and her family could not find a new doctor with the HMO.

Mrs. Luker talks about going name by name, page by page, and book by book through all of the physicians in the HMO, and none of them were willing to treat Jessica.

As her mother said, when Jessica's family should have been spending precious time—she used to like to sit on the porch and read books and blow bubbles—with Jessica in her final year of life, they were forced to spend countless hours fighting with the HMO bureaucrats about her care.

Jessica's insurance plan was changed just days before she was admitted to the hospital for surgery. After months of trying to figure out what to do about her seizures—she had 60 seizures in a row—her family worked with the doctor who had been treating her. This is prior to the change. They said she needed an operation. It was scheduled for May 12 of 1999. Unfortunately, her insurance changed to the HMO on May 1 without their knowledge. She had the operation on May 12.

On May 17, they got a notice that the insurance had changed and they wouldn't cover it because she didn't have preauthorization.

This is not a new story. We hear story after story about people who find themselves in situations where they didn't have preauthorization for things that were beyond their knowledge at the time.

Unfortunately, to this day, that surgery was not paid for, and the Lukers are paying for that themselves, while at the same time after they found out that she had the HMO, they would not allow her doctor of 14 years to treat her—and in her final year of life.

Jessica's story demonstrates why we need patient protections. We must make sure when our families have insurance and believe the health care will be there when their families need it that they can count on that to happen; that they are not fighting about what day they got a notice about a change in the insurance; or they are not fighting about their doctor who has been treating a family member for years not being able to continue because they do not fit into the list of the HMO.

This is just one example. I have heard stories throughout Michigan. But today we have an opportunity to begin the process to change it.

When I came to Washington as a United States Senator from Michigan, I brought a picture of Jessica. The picture is sitting on my desk in my office in the Hart Building. That picture is going to remain there until we pass this bill. This bill is for Jessica and every person who has ever needed care and been denied it by an HMO.

This picture I want to be able to take down pretty soon. It has been there long enough. Families have had to fight long enough. I am looking forward to the day when I can give that picture back to Mr. and Mrs. Luker and say: We did it.

Today we can begin that process. Let's not fight about all the various wranglings of the internal politics of this body. Let's keep our focus on the Jessicas and on the families of this country. If we do the right thing, everybody will be able to celebrate that we have created the important patient protections that our families in this country need.

I yield back, Mr. President.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Nevada.

CONCLUSION OF MORNING BUSINESS

Mr. REID. My understanding is that the hour of morning business is now terminated; is that right?

The PRESIDING OFFICER. The Senator is correct.

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

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

Mr. DASCHLE. Mr. President, this is an important day—and one that has been a long, long time coming.

It has been nearly 5 years since President Clinton, at the time, appointed an independent panel of health care experts and asked them to come up with a Patients' Bill of Rights.

It has been more than 4 years since President Clinton urged Congress to pass a Patients' Bill of Rights reflecting the panel's recommendations.

It has been more than 3 years since the first bipartisan Patients' Bill of Rights was introduced in the House.

And, it has been nearly 2 years since the last time we debated a real Patients' Bill of Rights here in the Senate.

We have talked long enough. There is only one thing left to do. We need to pass a real, enforceable Patients' Bill of Rights now.

The reason we are debating this bill is because so many people—inside and outside of Congress—refused to give up. I especially want to thank the Senate sponsors: my colleague, Senator KENNEDY, who has spent his entire adult life—nearly 40 years—working to improve health care for all Americans; my colleague, Senator JOHN EDWARDS, who has played an indispensable role in finding an honest, honorable middle ground on the difficult question of liability; and my colleague, Senator JOHN MCCAIN, for having the courage—once again—to disregard party labels and challenge the special interests in order to change what needs to be changed.

This bill matters—deeply matters—to America's families. More than 70 percent of all Americans with insurance and 80 percent of all Americans who get their insurance on the job—are now in some kind of managed care program. To them, this isn't a political issue; it can be a life-or-death issue.

This bill ensures that doctors, not insurance companies, make medical decisions. It guarantees patients the right

to hear all of their treatment options—not just the cheapest ones. It says you have the right to go to the nearest emergency room when you need emergency care. It guarantees you the right to see a specialist if you need one. It gives women the right to see an OB–GYN without having to see another doctor first to get permission. And it guarantees that parents can choose a pediatrician as their child's primary care provider, if they need one.

But rights without remedies are no rights at all. That is why our bill guarantees people the right to appeal decisions by their HMO to an independent review board, and to get a timely response. Finally, if the HMO ignores the review board, our bill allows people to hold HMOs accountable—the same way doctors and employers, and everyone else in America is held accountable for their actions. The 85 million Americans enrolled in Medicare, Medicaid and other Federal health programs already have each of the protections in our bill. So does every Member of this Senate.

Our bill extends them to all privately insured Americans—no matter what State they live in, or what insurance plan their employers choose.

Opponents claim that guaranteeing these rights will cost too much. They say people will lose their insurance because insurance premiums will go through the roof. But the facts show otherwise. According to the nonpartisan Congressional Budget Office, our bill would increase employee premiums an average of about $1.20 a month for real rights that can be enforced—$1.20 a month.

Many things have changed since the first time this Senate passed a Patients' Bill of Rights. The bill itself has changed. We started with a bipartisan compromise: the Norwood-Dingell Patients' Bill of Rights. This bill is a bipartisan compromise on a bipartisan compromise.

One of the most important compromises concerns liability. This bill says very clearly that employers cannot be held liable unless they participate directly in a decision to deny health care. The only employers who can be held liable are the small fraction of companies that are large enough to run their own health care plans—less than 5 percent of all American businesses. Small businesses never make treatment decisions, so they would never be sued.

We have also compromised on where people can seek justice. Instead of allowing all disputes to be heard in State courts, this bill says disputes about administrative questions should be heard in Federal courts. Only cases involving medical decisions should go to State courts—just like doctors who make medical decisions.

Support for a Patients' Bill of Rights has grown—inside and outside of Congress. In the Senate, we have Senators MCCAIN, EDWARDS, and KENNEDY. In the House, we have Congressman JOHN DINGELL and two conservative Republicans, CHARLIE NORWOOD and GREG GANSKE. Outside of Congress, 85 percent of all people surveyed—and 79 percent of Republicans—support the protections in this plan, and so do more than 500 major health care, consumer and patient-advocate groups all across the country.

There has been one other significant change since the first time we debated a Patients' Bill of Rights. Before, we could only guess what would happen if people were able to hold HMOs accountable. Now we know. Texas and California have both passed Patients' Bills of Rights.

Texas passed its law in 1997. In nearly 4 years, 17 lawsuits have been filed—about five a year. In the last 6 months since California passed its law, 200 disputes have gone through the independent appeals process. None—not one—has gone to court. And two-thirds of the disputes were resolved in favor of the HMO. Experience from the two largest States—the two best laboratories—show that the scare tactics used by opponents of this bill are simply that: scare tactics.

There are some important things that have not changed in the years since we started this debate. Americans are still being hurt by our inaction. Every day that we delay passing a real Patients' Bill of Rights, 35,000 Americans are denied access to specialty care—and 10,000 doctors; see patients who have been harmed because an insurer refused to pay for a diagnostic test.

Despite the growing support inside and outside of Congress, we still face formidable opposition from the special interests.

HMOs and their allies reportedly are spending $15 million on ads to try to kill this bill this week. We welcome an honest and open debate on the issues. We hope opponents will resist the temptation to kill this bill by loading it up with amendments that make passage difficult.

Our hope is that this debate will be like the one we had not long ago on another important reform—campaign finance reform. In fact, I have personally suggested to Senator LOTT that we take up this bill under the exact same understanding that we took up campaign finance reform; that we have a good debate on amendments; that we offer the motion to table, if that would be offered; if it is not tabled, that it be subject to second degrees. I think it worked as well on the campaign finance reform as any bill I have recently had the opportunity to consider, and I hope we can do the same thing for the Patients' Bill of Rights. I am hopeful our Republican colleagues will agree to that this afternoon.

There is one more important change that has occurred since the first time we debated a Patients' Bill of Rights. We now have a new President. Members of his staff have said President Bush will veto our bill if this bill makes it to his desk. We remain hopeful that the President will decide to join us once he hears the debate and sees what our bill actually does.

In the second Presidential debate, then-Governor Bush said:

> It's time for our nation to come together and do what's right for people. . . . It's time to pass a national Patients' Bill of Rights.

We agree. The American people have been waiting too long. Working together in good faith we can end this wait and pass a real Patients' Bill of Rights.

I announce to all of my colleagues that it is my intention to stay on this bill for whatever length of time it takes. Obviously, we have this week and next week that are full weeks for consideration of the bill. My expectation is that if we finish the bill a week from this Thursday night, there would not be a session on Friday preceding the recess.

If we are not finished Thursday night, we will then debate the bill and continue to work on it Friday, Saturday, Sunday. We will not have a session on the Fourth of July, but we will pick up again on July 5 and go on as long as it takes. We will finish this bill. It is also my expectation that if we finish this bill in time, I would be inclined to bring up the supplemental appropriations bill following the completion of the Patients' Bill of Rights.

Those two pieces of legislation are bills I have already indicated to the Republican leader would be my hope that we could complete before the July 4th recess. In fact, it is my expectation and absolute determination to finish at least in regard to the Patients' Bill of Rights. We will see what happens with regard to the supplemental in the House and here in the committee.

BIPARTISAN PATIENT PROTECTION ACT—MOTION TO PROCEED

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 75, S. 1052, the Patients' Bill of Rights.

The PRESIDING OFFICER. Is there objection?

Mr. THOMAS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. Mr. President, I now move to proceed to S. 1052.

The PRESIDING OFFICER. The motion is debatable.

The Majority Leader.

Mr. DASCHLE. Mr. President, I regret we are not in a position to begin consideration of this important legislation at this time. I remain hopeful that by the end of the day we will be able to do so. In the event that the Senate cannot proceed to the bill today, it is my intention to file cloture on the motion. Under the rules, this cloture vote would occur on Thursday morning 1 hour after the Senate convenes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I reiterate my support for the majority leader's unanimous-consent request. I believe it is fair and also crucial for allowing us to finally engage in a real and meaningful debate that will get Americans the protections they need and want.

This unanimous-consent request is exactly along the lines of that which governed the campaign finance reform debate. Most Americans, no matter how they felt on that issue, believed that it was a fair, open, and honest debate in which the issues were ventilated and the majority of the Senate worked its will. That is how most Americans think we should function and, unfortunately, all too often we do not.

Under this unanimous-consent agreement, unlimited amendments can be offered, and each one will be provided a significant period of time, 2 hours, and after debate the amendment would be voted on by the full Senate.

I am struggling to understand why we can't agree that this is not only a fair proposal but truly it affords each and every one of us with an opportunity for engaging in a free and spirited debate. This format embodies the full spirit of the traditional Senate and should not be ignored or misconstrued as anything but a reasonable and honest proposal.

I think Americans are watching us to see if we can come together on an issue of great importance to everyone across our Nation. I don't think delay is warranted. We should not obstruct.

I am confident that engaging in a truly open debate on this issue, without stringent time restraints or limits on amendments, will result in the passage of a strong bipartisan patients' protection bill that can be signed into law by President Bush.

I want to reiterate, it is my sincere and profound commitment to see that we enact a bill that the President of the United States can sign. It would serve no one's purpose to go through the debate and amending process in the Senate and in the other body and conference and then have a bill the President will not sign.

I will make a couple of additional comments. There has been some debate as to who supports and who does not support this legislation. I have a list of over 300 organizations that are in support of this legislation—not only the nurses and doctors of America but traditional consumer advocacy groups, including health groups such as the American Cancer Society, the American Dental Association, the American Nurses Association, a long list of organizations that have traditionally advocated for the health of Americans either in a specialized or general way.

We have a clear division here between the health maintenance organizations, which according to a CNN USA Today poll enjoy the approval of some 15 percent of the American people, and the nurses and doctors and those who are required to and do commit their lives to taking care of the health of our citizens.

I have been asked many times why is it that I am involved in this issue, why is it that I have worked very hard to try to fashion a bipartisan agreement that we could use as a base for amending and perfecting a bill that we can have signed by the President. In my Presidential campaign, in hundreds of town hall meetings attended by thousands and thousands of Americans, time after time after time after time, average citizens stood up and talked about the fact that they have been denied reasonable and fair health care and attention they believe they deserve and need.

This is an issue of importance to some 170 million Americans who would be covered by this legislation. This is an issue to average Americans who are members of health maintenance organizations. This is a challenge and a problem.

These Americans want the decisions made by a doctor and not an accountant. These Americans want and need and deserve a review process that is fair. These Americans are not receiving the fundamental health care they deserve as members of health maintenance organizations and, frankly, that is available to other Americans who have larger incomes.

Mr. President, this is not something we should delay any longer. This is an issue we should take up and address, amend, debate, and then come to a reasonable conclusion. I want to repeat my commitment to working with the White House, to working with all opponents of the legislation in its present form. For us to do nothing, as has been the case over the last several years, as time after time this issue has been brought up and blocked through parliamentary procedures, is not fair. It is not fair and honest to the American people to refuse to address the issue.

As I said with campaign finance reform, if the result of the debates and amendments is not to my liking and I don't agree with the result, I will respectfully vote against it. But I will not try to block it. I hope Members on both sides of the aisle will make that commitment as well because of the importance of the issue to the American people. It deserves a full and complete debate and vote.

I want to work together with my colleagues on both sides of the aisle. We have had meaningful negotiations. We have had good discussions. As a result of amendments, we will have further discussions. I hope that over time we will be able to reach an agreement. I again express my support for the unanimous consent request the majority leader propounded because I think it is a fair and honest way, providing no advantage to either side on this debate.

Again, I thank my colleagues for their commitment and involvement in this issue, but most of all I want to thank these 300-some organizations—the nurses and the doctors of America, in particular—who have committed themselves to addressing this issue so that all Americans can receive the health care they deserve.

I ask unanimous consent that a list of organizations supporting the bill be printed in the RECORD.

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

PROFESSIONAL GROUPS AND GRASSROOTS ORGANIZATIONS SUPPORTING THE MCCAIN-EDWARDS-KENNEDY BILL—THE BIPARTISAN PATIENT PROTECTION ACT

Abbott House of Irvington, NY; Abbott House, Inc. in South Dakota; AIDS Action; Alliance for Children and Families; Alliance for Lung Cancer Advocacy, Support and Education; Alpha 1; Alternative Services, Inc; Amalgamated Transit Union; American Academy of Child and Adolescent Psychiatry; American Academy of Dermatology Association; American Academy of Emergency Medicine; American Academy of Facial Plastic and Reconstructive Surgery.

American Academy of Family Physicians; American Academy of Mental Retardation; American Academy of Neurology; American Academy of Ophthalmology; American Academy of Otolaryngology—Head and Neck Surgery; American Academy of Pain Medicine; American Academy of Pediatrics; American Academy of Physical Medicine and Rehabilitation; American Association for Geriatric Psychiatry; American Association for Marriage and Family Therapy; American Association for Psychosocial Rehabilitation; American Association for the Study of Liver Diseases.

American Association of Children's Residential Center; American Association of Neurological Surgeons; American Association of Nurse Anesthetists; American Association of Oral and Maxillofacial Surgeons; American Association of Pastoral Counselors; American Association of People with Disabilities; American Association of Private Practice Psychiatrists; American Association of University Affiliated Programs for Persons with Developmental Disabilities; American Association of University Women; American Association on Health and Disability; American Association on Mental Retardation; American Bar Association.

American Board of Examiners in Clinical Social Work; American Cancer Society; American Children's Home in Lexington, NC; American Chiropractic Association; American College of Cardiology; American College of Gastroenterology; American College of Legal Medicine; American College of Nurse Midwives; American College of Nurse Practitioners; American College of Obstetricians and Gynecologists; American College of Osteopathic Emergency Physicians; American College of Osteopathic Family Physicians.

American College of Osteopathic Pediatricians; American college of Osteopathic Surgeons; American College of Physicians—American Society of Internal Medicine; American College of Surgeons; American Congress of Community Supports and Employment Services—ACCSES; American Council on the Blind; American Counseling Association; American Dental Association; American Family Foundation; Federation of Teachers; American Foundation for the Blind; American Gastroenterological Association.

American Group Psychotherapy Association; American Headache Society; American Health Quality Association; American Heart Association; American Lung Association; American Medical Association; American Medical Rehabilitation Providers Association; American Medical Student Association;

American Medical Women's Association, Inc.; American Mental Health Counselors Association; American Music Therapy Association; American Network of Community Options and Resources.

American Nurses Association; American Occupational Therapy Association; American Optometric Association; American Orthopsychiatric Association; American Osteopathic Association; American Pain Society; American Pharmaceutical Association; American Physical Therapy Association; American Podiatric Medical Association; American Psychiatric Association; American Psychiatric Nurses Association; American Psychoanalytic Association.

American Psychological Association; American Public Health Association; American Small Business Association; American Society for Clinical Laboratory Science; American Society for Therapeutic Radiology and Oncology; American Society of Cataract and Refractive Surgery; American Society of Clinical Oncology; American Society of Clinical Pathologists; American Society of Gastrointestinal Endoscopy; American Society of General Surgeons; American Society of Internal Medicine; American Society of Nuclear Cardiology.

American Speech-Language-Hearing Association; American Therapeutic Recreation Association; American Thorasic Society; American Urogynecologic Association; American Urological Association; American Urological Society; American for Democratic Action; Anxiety Disorders Association of America; Arc of the United States; Association for Ambulatory Behavioral Healthcare; Association for Education and Rehabilitation of the Blind and Visually Impaired; Association for the Advancement of Psychology.

Association of Academic Physiatrists; Association of Academic Psychiatrists; Association of American Cancer Institutes; Association of Community Cancer Centers; Association of Persons in Supported Employment Association of Women's Health, Obstetric and Neonatal Nurses; Assurance Home in Roswell, NM; Auberle or McKeesport, PA; Baker Victory Services In Lackawanna, NY; Baptist Children's Home of NC; Barium Springs Home for Children in Barium Spring, NC; Bazelon Center for Mental Health Law.

Berea Children's Home and Family in OH; Bethany for Children and Families; Bethesda Children's Home/Luthera of Meadsville, PA; Board of Child Care in Baltimore, MD; Boys & Girls Country of Houston Inc., TX; Boys & Girls Homes of North Carolina; Boys and Girls Harbor, Inc. in TX; Boys and Girls Home and Family Services in Sioux City, IA; Boys' Village, Inc. of Smithville, OH; Boysville of Michigan, Inc.; Brain Injury Association; Brazoria County Youth Homes in TX.

Brighter Horizons Behavioral Health in Edinboro, PA; Buckner Children and Family Service in TX; Butterfield Youth Services in Marshall, MO; Cal Farley's Boys Ranch and Affiliates; California Access to Speciality Care Coalition; Cancer Care, Inc.; Cancer Leadership Council; Cancer Research Foundation of America; Catholic Family Center of Rochester, NY; Catholic Family Counseling in St. Louis, MO; Catholic Social Services of Wayne County, in IN; Center for Child and Family Services in VA.

Center for Families and Children in OH; Center for Family Services, Inc. in Camden, NJ; Center for Patient Advocacy; Center on Disability and Health; Chaddock; Charity Works, Inc.; Child and Family Guidance Center in TX; Child and Family Service of Hawaii; Child and Family Services in TN; Child and Family Services of Buffalo, NY; Child and Family Services, Inc. in VA; Child Care Association of Illinois.

Child Welfare League of America; Children & Families First; Children & Family Services Association; Children and Adults with Attention Deficit/Hyperactivity Disorder; Children's Aid and Family Service in Paramus, NJ; Children's Aid Society of Mercer, PA; Children's Alliance; Children's Board of Hillsborough; Children's Choice, Inc. in Philadelphia, PA; Children's Defense Fund; Children's Home & Aid Society of Chicago, IL; Children's Home Association of Illinois.

Children's Home of Cromwell; Children's Home of Easton in Easton, PA; Children's Home of Northern Kentucky; Children's Home of Poughkeepsie, NY; Children's Home of Reading, PA; Children's Home of Wyoming Conference; Children's Village, Inc.; ChildServ; Christian Home Association-Child; Clinical Social Work Federation; Coalition of National Cancer Cooperative Group; Colon Cancer Alliance.

Colorectal Cancer Network; Committee of Ten Thousand; Community Agencies Corporation of New Jersey; Community Counseling Center in Portland, ME; Community Service Society of New York; Community Services of Stark County in OH; Community Solutions Association of Warren, OH; Compass of Carolina in SC; Congress of Neurological Surgeons; Connecticut Council of Family Service; Consortium for Citizens with Disabilities; Consuelo Foundation.

Consumers Union; Cornerstones of Care in Kansas City, MO; Corporation for the Advancement of Psychiatry; Council of Family and Child Caring Agencies in NY; Counseling and Family Services of Peoria, IL; Court House, Inc. in Englewood, CO; Covenant Children's Home and Families; Crittenton Family Services in Columbus, OH; Crossroads of Youth; Cure for Lymphoma Foundation; Cystic Fibrosis Foundation; Daniel, Inc.

Denver Childrens Home; DePelchin Children's Center in TX; Digestive Disease National Coalition; Dystonia Medical Research Foundation; Easter Seals; Edgar County Children's Home; El Pueblo Boys and Girls Ranch; Elon Homes for Children in Elon College, NC; Epilepsy Foundation of America; Ettie Lee Youth and Family Services in Baldwin Park, CA; Excelsior Youth Center in WA; Eye Bank Association of America.

Facing Our Risk of Cancer Empowered; Families First, Inc.; Families USA; Family & Children's Center Council; Family & Children's Center in WI; Family & Counseling Service of Allentown, PA; Family Advocacy Services of Baltimore; Family and Child Services of Washington; Family and Children's Service in VA; Family and Children's Services and Tulsa, OK; Family and Children's Services of San Jose; Family and Children's Agency Inc. in Norwalk, CT.

Family and Children's Association of Mineola, NY; Family and Children's Center of Mishawaka, IN; Family and Children's Counseling of Louisville, KY; Family and Children's Service in Minneapolis, MN; Family and Children's Service in TN; Family and Children's Service of Harrisburg, PA; Family and Children's Service of Niagara Falls, NY; Family and Children's Services in Elizabeth, NJ; Family and Children's Services of Central, NJ; Family and Children's Services of Chattanooga, Inc. in TN; Family and Children's Services of Fort Wayne; Family and Children's Services of Indiana.

Family and Community Service of Delaware County, PA; Family and Social Service Federation of Hackensack, NJ; Family and Youth Counseling Agency of Lake Charles, LA; Family Centers, Inc. in Greenich, CT; Family Connections in Orange, NJ; Family Counseling & Shelter Service in Monroe, MI; Family Counseling Agency; Family Counseling and Children's and Children's Services; Family Counseling Center of Central Georgia, Inc.; Family Counseling Center of Sarasota, FL; Family Counseling of Greater New Haven, CT; Family Counseling Service in Texas.

Family Counseling Service of Greater Miami; Family Counseling Service of Lexington; Family Counseling Service of Northern Nevada; Family Counseling Service, Inc. in Lexington, KY; Family Guidance Center in Hickory, NC; Family Guidance Center of Alabama; Family Resources, Inc. in IA; Family Service Agency of Arizona; Family Service Agency of Arkansas; Family Service Agency of Central Coast; Family Service Agency of Clark and Champaign Counties in OH; Family Service Agency of Davie in CA.

Family Service Agency of Genesee, MI; Family Service Agency of Monterey in CA; Family Service Agency of San Bernardino in CA; Family Service Agency of San Mateo in CA; Family Service Agency of Santa Barbara in CA; Family Service Agency of Santa Cruz in CA; Family Service Agency of Youngstown, OH; Family Service and Children's Alliance of Jackson, MI; Family Service Association Greater Boston; Family Service Association in Egg Harbor, NJ; Family Service Association of Beloit, WA; Family Service Association of Bucks County in PA.

Family Service Association of Central Indiana; Family Service Association of Dayton, OH; Family Service Association of Greater Tampa; Family Service Association of Greater Tampa, FL; Family Service Association of Howard County, Inc., IN; Family Service Association of New Jersey; Family Service Association of San Antonio, TX; Family Service Association of Wabash Valley, IN; Family Service Association of Wyoming Valley in PA; Family Service Aurora, WI; Family Service Center in SC; Family Service Center in TX.

Family Service Center of Port Arthur, TX; Family Service Centers of Pinellas County, Inc. in Clearwater, FL; Family Service Council of California; Family Service Council of Indiana; Family Service Council of OH; Family Service in Lancaster, PA; Family Service in Lincoln, NE; Family Service in Omaha, NE; Family Service in WI; Family Service Inc. in St. Paul, MN; Family Service of Burlington County in Mount Holly, NJ; Family Service of Central Connecticut.

Family Service of Chester County in PA; Family Service of El Paso, TX; Family Service of Gaston County in Gastonia, NC; Family Service of Greater Baton Rouge, LA; Family Service of Greater Boston, MA; Family Service of Greater New Orleans, LA; Family Service of Lackawanna County, PA; Family Service of Morris County in Morristown, NJ; Family Service of Norfolk County, MA; Family Service of Northwest, OH; Family Service of Racine, WI; Family Service of Roanoke Valley in VA.

Family Service of the Cincinnati, OH; Family Service of the Piedmont in High Point, NC; Family Service of Waukesha County, WI; Family Service of Westchester, NY; Family Service of York in PA; Family Service Spokane in WA; Family Service, Inc. in SD; Family Service, Inc. in TX; Family Service, Inc. of Detroit, MI; Family Service, Inc. of Lawrence, MA; Family Services Association, Inc. in Elkton, MD; Family Services Center in Huntsville, AL.

Family Services in Canton, OH; Family Services Cedar Rapids; Family Services of Central Massachusetts; Family Services of Davidson County in Lexington, NC; Family Services of Delaware County; Family Services of Elkhart County, IN; Family Services of King County in WA; Family Services of Montgomery County, PA; Family Services of Northeast Wisconsin; Family Services of Northwestern in Erie, PA; Family Services of Southeast Texas; Family Services of Summit County in Akron, OH.

Family Services of the Lower Cape Fear in NC; Family Services of the Mid-South in TN; Family Services of Tidewater, Inc. in VA; Family Services of Western PA; Family Services Woodfield; Family Services, Inc. in SC; Family Services, Inc. of Layfette; Family Services, Inc. of Wintson-Salem, NC; Family Solutions of Cuyahoga Falls, OH; Family Support Services in TX; Family Tree Information, Education & Counseling in LA; Family Violence Prevention Fund.

FamilyMeans in Stillwater, MN; Federation of Behavioral, Psychological & Cognitive Sciences; Federation of Families for Childrens Mental Health; FEI Behavioral Health in WI; Florida Families First; Florida Sheriffs Youth Ranches; Friends Committee on National Legislation; Gateway in Birmingham, AL; Gateways for Youth and Families in WA; George Junior Republic in Indiana; Gibault; Girls and Boys Town in NE.

Goodwill-Hinckley Homes for Boys; Greenbrier Childrens Center in Savannah, GA; Growing Home in St. Paul, MN; Haddasah; Heart of America Family Services in Kansas City, KS; Hemochromatosis Foundation; Hereditary Colon Cancer Association; Highfields, Inc. in Onondage, MI; Holy Family Institute of Pittsburgh, PA; Home on the Range in Sentinel Butte in Sentinel Butte, ND; Hubert H. Humphrey, III—Former Minnesota Attorney General; Human Services, Inc. in Denver, CO.

Huntington's Disease Society of America; IARCCA An Association of Children; Idaho Youth Ranch; Indiana United Methodist Children; Infectious Disease Society of America; International Association of Psychosocial Rehabilitation Services; Jackson-Field Homes in VA; Jane Addams Hull House Association in Chicago, IL; Jeffrey Modell Foundation; Jewish Board of Family & Children in New York, NY; Jewish Community Services of South Florida; Jewish Family & Career Services in Atlanta, GA.

Jewish Family & Children's Service in TX; Jewish Family and Children's Service in Minnetonka, MN; Jewish Family and Community Service in Chicago, IL; Jewish Family Service in Providence, RI; Jewish Family Service in Teaneck, NJ; Jewish Family Service in TX; Jewish Family Service of Akron, OH; Jewish Family Services of Los Angeles; Julia Dyckman Andrus Memorial Children's Center in NY; June Burnett Institute; Kemmerer Village; Kentucky United Methodist Homes.

Kidney Cancer Association; KidsPeace National Centers, Inc. in PA; Lakeside, Kalamazoo, MI; LaSalle School, Inc. in Albany, NY; League of Women Voters; Leake and Watts Services, Inc. in Yonkers, NY; Learning Disabilities of America; Lee and Beulah Moor Children's Home in TX; Leukemia and Lymphoma Society; Lupus Foundation of America, Inc.; Lutheran Child & Family Service in Bay City, MI; Lutheran Child & Family Services in River Forest, IL.

Lutheran Social Services of Wisconsin; Manisses Communications Group in RI; Maple Shade Youth & Family Services; Maryhurst, Inc.; Maryland Association of Resources for Families & Youth; Massachusetts Council of Family; MediCo Unlimited, LLC; Mental Fitness Center; Mental Health America, Inc.; Mental Health Liaison Group; Methodist Children's Home in TX; Metropolitan Family Service of Portland, OR.

Metropolitan Family Services of Chicago; Michigan Federation of Private Child & Family Agencies; Michigan State Medical Society; Mid-South Chapter of the Paralyzed Veterans of America; Milton Hershey School in Hershey, PA; Missouri Baptist Children's Home; Missouri Coalition of Children's Agencies; Missouri Girls Town; Mooseheart Child City and School in IL; Morning Star Boys' Ranch in WA; Mountain Community Resources; Namaqua Center in CO.

Natchez Children's Home in Natchez, MS; National Association of Public Hospitals and Health Systems; National Alliance for the Mentally Ill; National Alliance of Breast Cancer Organizations; National Association for Medical Direction of Respiratory Care; National Association for Rural Mental Health; National Association for the Advancement of Orthotics and Prosthetics; National Association of Children's Hospitals; National Association of County Behavioral Health Directors; National Association of Developmental Disabilities Councils; National Association of People with AIDS; National Association of Physicians Who Care.

National Association of Private Schools for Exceptional Children; National Association of Private Special Education Centers; National Assoicaiton of Protection and Advocacy Systems; National Association of School Psychologists; National Association of Social Workers; National Black Womens Health Project, Inc.; National Breast Cancer Coalition; National Catholic Social Justice Lobby; National Coalition for Cancer Survivorship; National College of Osteopathic Emergency Physicians; National Committee to Preserve Social Security and Medicare; National Community Pharmacists Association.

National Consumers League; National Council for Community Behavioral Health; National Depressive and Manic-Depressive Association; National Down Syndrome Congress; National Family Planning and Reproductive Health Association; National Health Council; National Hemophilia Foundation; National Marfan Foundation; National Mental Health Association; National Multiple Sclerosis Society; National Organization for Rare Disorders; National Organization of Physicians Who Care.

National Organization of State Association for Children in MD; National Parent Network on Disabilities; National Partnership for Women and Families; National Patient Advocate Foundation; National Psoriasis Foundation; National Rehabilitation Association; National Therapeutic Recreation Society; National Transplant Action Committee; National Women's Health Network; National Women's Law Center; Nation's Voice on Mental Illness; Nazareth Children's Home in Rockwell, NC.

NETWORK; Neurofibromatotis, Inc.; New Community Corporation in Newark, NJ; Newark Emergency Services for Families in New Jersey; NISH; Norris Adolescent Center in WI; North American Brain Cancer Coalition; Northeast Parent & Child Society in New York; Northern Virginia Family Service; Northwest Chapter of Paralyzed Veterans of America; Northwest Childrens Home, Inc.; Northwood Children's Services in Duluth, MN.

Oak Grove Institute Foundation; Oakland Family Services; Olive Crest Treatment Centers; Omaha Home for Boys in Nebraska; Oncology Nursing Society; Organization of Specialist in Emergency Medicine; Outcomes, Inc. in Albuquerque, NM; Ovarian Cancer National Alliance; PA Alliance for Children and Families in Hummelstown, PA; Pacific Lodge Youth Services; Paget Foundation; Pain Care Coalition.

Palmer Home for Children in Columbus, MS; Pancreatic Cancer Action Network; Paralyzed Veterans of America; Patient Access Coalition; Patient Access to Responsible Care Alliance; Patients Who Care, Inc.; Pediatric Orthopaedic Society of North America; Pennsylvania Council of Children in Harrisburg, PA; Perkins School for the Blind; Personal & Family Counseling Service of New Philadelphia, OH; Philadelphia Health Management Corporation in PA; Planned Parenthood Federation of America;

Presbyterian Home for Children; Pressley Ridge Schools in PA; Provident Counseling, Inc. in St. Louis, MO; Rehabilitation Engineering and Assistive Technology Society of North America; Religious Action Center of Reform Judaism; Research Institute for Independent Living; RESOLVE; Riverbend Head Start & Family Service; Salem Children's Home; Salvation Army Family Services; San Mar, Inc. of Boonsboro, MD; Scarsdale Edgemont Family Counsel in NY.

School Social Work Association of America; Seattle Children's Home in WA; Seedco/Non-Profit Assistance,; Service Net. Inc. in PA; Sheriffs Youth Programs of Minneapolis; Sipe's Orchard Home in Conover, NC; Sjogren's Syndrome Foundation; Society for Excellence in Eye care; Society for Maternal-Fetal Medicine; Society of Cardiovascular & Interventional Radiology; Society of Gastroenterology Nurses and Associates, Inc.; Society of Gynecologic Oncologist;

Southmountain Children's Homes in Nebo, NC; Spina Bifida Association of America; St. Anne Institute of Albany, NY; St. Colman's Home in Watervliet, NY; St. Joseph Chilren's Home; St. Joseph's Indian School in SD; St. Mary's Home Home of Beaverton, OR; St. Vincent's Services, Inc. of Brooklyn, NY; Starr Commonwealth; Sunbeam Family Services of Oklahoma City, OK; Sunny Ridge Family Center; Susan G. Komen Breast Cancer Foundation.

Tabor Children's Services, Inc. of Doylestown, PA; Teen Ranch, Inc. Marlette, MI; Tennessee Citizen Action; Texas Association of Leaders in Children & Family; Texas Medical Association; The Arc of the United States; The Bradley Center in PA; The Center for Families, Inc.—Shreveport, LA; The Children's Home in Catonsville, MD; The Endocrine Society; The Family Center; The Hutton Settlement in WA.

The Learning Disabilities of America; The Mechanicsburg Children's Home of Mechanicsburg, PA; The Omaha Home for Boys in NE; The Organization of Specialists in Emergency Medicine; The Paget Foundation for Pagets's Diseases of Bone and Related Disorders; The Pressley Ridge Schools in PA; The Village Family Service Center in Fargo, ND; The Woodlands in Newark, OH; Third Way Center; Thornwell Home and School for Children in SC; Title II Community AIDS National Network; Tourette Syndrome Association.

Treatment Access Expansion Project; Triangle Family Services in Raleigh, NC; Tulsa Boys' Home in Tulsa, OK; Turning Point Center; Uhlich Children's Home; United Auto Workers; United Cerebral Palsy Association; United Community & Family Service; United Family Services in Charlotte, NC; United Methodists Childrens Home; United Ostomy Association; United States Public Interest Research Group (U.S. Pirg).

US TOO International, Inc.; USAction; Vera Lloyd Presbyterian Home & Family Services in AR; Verdugo Mental Health Center; Village for Families & Children; Virginia Home for Boys; Webster-Cantrell Hall; Wellness Community; Whaley Children's Center; Wisconsin Association of Family and Children; Wisconsin Paralyzed Veterans of America; Woodland Hills in Duluth, MN; Yellowstone Boys and Girls Ranch in Billings, MT; Youth Haven, Inc. in Naples, FL; Youth Service Bureau in Portland, IN; YWCA of Northeast Louisana.

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

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, I ask unanimous consent that at the conclusion of my remarks I be followed by Senator KENNEDY, who is also a sponsor of this legislation.

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

Mr. EDWARDS. Mr. President, I thank my friend from Arizona, who worked with me over a period of many months to help put together this legislation—after work had been done for many years by a number of Members of the Senate, led by Senator KENNEDY.

The law for many years in this country has been on the side of big HMOs and insurance companies. They have been treated like no other person in America is treated, like no other business, small or large; they are privileged citizens. The American people want to take away that privileged status from HMOs and insurance companies. They are the only group in America that can say to a family: Your child is not going to get the medical care your doctor thinks they need.

They can overrule the decision of a medical doctor that has been made after many years of training and experience, even though they may have no experience or training whatsoever. Some young clerk sitting behind a desk somewhere can overrule a medical expert, and if they do it, there is absolutely nothing that can be done about it.

The HMOs, the insurance companies, are accountable to no one. Their judgment can't be questioned; their decision can't be reversed; and they can't be challenged anyplace, including in court.

That is what this bill is about. What we are about—Senator MCCAIN, Senator KENNEDY, I, and all of the sponsors of this legislation—is changing the law. We want to move the law from the side of big insurance companies and HMOs and finally put the law on the side of patients, nurses, and doctors.

Every one of us, in traveling around our home States, has heard horror story after horror story of families and patients being run over by big HMOs. Let me recount one I heard in North Carolina.

A young man, Steve Grissom, contracted leukemia. In the course of his treatment, he had to get a blood transfusion. As part of the blood transfusion, he got AIDS. He got sicker and sicker and sicker. He was being seen by a heart specialist at Duke University Hospital. That doctor prescribed 24-hour-a-day oxygen for Steve because he needed it. This was a doctor with many years of training at one of the leading medical institutions in the country. Steve's wife's employer changed HMOs. Some clerk sitting behind a desk somewhere, without medical training, having never seen Steve Grissom, knowing nothing about it, decided they weren't going to pay for this oxygen anymore. They literally cut off his oxygen.

Steve had nowhere to go. Why? Because under the law of the land, as we stand here today, HMOs can do exactly what they did to Steve Grissom, and no one can do a single thing about it. You can't question their decision; you can't question their judgment; you can't reverse it; and you can't take them to court. So somebody such as Steve, who has a terrible time trying to pay for this oxygen himself, is stuck—even though they have paid premiums and paid for coverage, and any reasonable physician in America knows he needs this care.

That is what this act is about. The Bipartisan Patient Protection Act changes that. We are going to change the law so that finally patients, nurses, doctors, and health care providers who know how to make these medical decisions and families who are involved and whose children are being affected by these decisions will have some power of the law on their side.

Let me talk briefly about some specifics of our legislation. We provide and guarantee access by women to OB/GYNs as their primary care provider. They don't have to get permission from anybody. They can do that. If a child needs to see a specialist, a pediatrician—a child with cancer who may need to be seen by a pediatric oncologist—that child has an absolute right to go see that specialist if they need it for their life-sustaining care.

Emergency room care. If a patient or a family experiences an emergency and they need to get to the doctor, to the hospital, to the emergency room, they don't have to call a 1–800 number; they don't have to call the HMO; they don't have to get written permission. What any family will do when under an emergency situation such as that and they need care quickly, quality care, they can go straight to the nearest emergency room without worrying about whether the HMO will cover. Under our law, they are covered, period.

Scope. Our bill specifically provides that every American who has health insurance or HMO coverage is covered by our bill, period. They have at least the protections provided in this bipartisan legislation. If a State has better protections for the patient, better protections for the doctor, those protections stay in place. But our bill provides a floor below which no State can go.

So the basic protections provided in our bill—access to specialists, women being able to go see an OB/GYN, going to the nearest emergency room, access to clinical trials, which is critical to many Americans—they will have under this legislation an absolute right to those protections.

Finally, accountability. Mr. President, these rights mean nothing if they are not enforceable. If they are not enforceable, this is not a Patients' Bill of ''Rights;'' it is a patients' bill of ''suggestions.'' But because we have accountability and we have enforceability, these are substantive rights that in fact can be enforced. Finally, HMOs are going to be treated as everybody else in America. They are going to be held accountable, held responsible, which means at the outset that they have an incentive to do the right thing, which is what this legislation is about—having the HMO do the right thing from the beginning and having the patient, if they don't, be able to do something about it.

What we do is set up a system that is designed to avoid lawsuits. We have, first, an internal review process so that if the HMO says they are not going to cover a particular kind of care or treatment, the patient can go through an internal review at the HMO. Second, if that process is unsuccessful, the patient can then go to an independent external review. This is a panel of doctors, health care providers, who aren't connected to the HMO, aren't connected to the patient or the treating doctor, who can make a fair and objective decision about whether this treatment is necessary. So the patient now has two different ways to get the HMO's decision reversed.

If that is unsuccessful, if for whatever reason the appeals process does not work, as a last resort, if the patient has been unsuccessful after doing all of that and if the patient has been injured as a result of what the HMO did, then as a matter of last resort the patient can go to court.

Now, first of all, with respect to employers, we specifically provide that employers cannot be held responsible. They cannot be sued; they cannot be liable. Employers are specifically protected under our bill. The only exception to that is if the employer actually makes a medical decision—if they step into the shoes of the HMO and do what no small or medium-sized employer in America would do if they actually make a medical judgment.

By the way, this provision that employers can only be held responsible if they make a medical decision and otherwise they are protected is identical to President Bush's principle on this issue. His principle provides that employers may only be held responsible if they make medical decisions. That is precisely what our bill does.

On this issue, the protection of employers, the President's principles and our bill are exactly the same.

If it becomes necessary after a patient has gone through the appeals process—internal and external review—and a patient has been injured for the case to go to court, we start with a very simple principle. That principle is this: We want to treat HMOs and insurance companies just as the other health care providers. They are making health care decisions. They have decided to overrule a doctor who decided a patient needed a particular kind of care. When they decide to overrule the doctor and step into the shoes of the doctor, we think they ought to be treated like the doctor, just like the hospitals, just like the nurses.

What we provide is they can be taken to State court, just like the doctors, just like the hospitals, and they are subject to whatever limitations exist under State law by way of recovery.

The majority of the States in this country have caps or limits on recovery, limits on noneconomic damages, in some cases, what is called pain and suffering, limits on punitive damages, and some States provide you cannot recover punitive damages.

The bottom line is this: Whatever the State law is, that law applies to the HMO, just exactly as it applies to the doctor, to the nurse, to the hospital, to everybody else in the State. We start with the basic idea that HMOs are not privileged citizens; that they are just the same as the rest of us and ought to be treated the same as the rest of us. That is what our bill does: It treats the HMOs the same as the other health care providers when they, in fact, overrule a doctor and make a health care decision.

That structure—sending those cases to State court—is what has been recommended by the Judicial Conference of the United States headed by Chief Justice Rehnquist. It is what is recommended by the American Bar Association. It is what is recommended by the State attorneys general.

People who understand the court system but are objective, not on one side or the other of this debate, have decided this is the place these cases should go for a variety of reasons. No. 1, it treats the HMOs the same as doctors and hospitals are treated. No. 2, they are courts accustomed to handling these types of cases. It makes it more likely the patient can get their case heard more quickly.

It is fair. It is equitable. It is supported by every group of objective experts—Judicial Conference, the ABA, the State attorneys general—and, by the way, follows exactly the outline set forth by the U.S. Supreme Court in the Pegram decision.

This idea of sending these cases to State court is an idea that is supported by the big legal organizations across the country and as outlined by the U.S. Supreme Court in the Pegram case.

The basic principle is we treat HMOs exactly the same way we treat doctors and hospitals if they are going to be in the business of making medical decisions.

The only cases that would go to Federal court under this bill are the cases that have, since 1974, been decided in Federal court. Those are the cases involving pure language of the contract. For example, whether a particular provision has been met or whether the 90-day waiting period has been met. Those cases go to Federal court. They have always been in Federal court. We leave them exactly where they are.

What we do not do is what has been proposed by some, which is to send every case against an HMO to Federal court. The Federal courts are backlogged so that is a way to bury the cases and assure they never get heard. It is more difficult to get attorneys because many attorneys do not practice in Federal court, and many people are a long way from the nearest Federal courthouse. There is almost always a State courthouse close by, but Federal courthouses, especially in rural America, are hundreds of miles away in many cases.

We have a system that works. It has been outlined by the U.S. Supreme Court. It is what legal experts say should be done. Most importantly, it is fair. It treats the HMOs the same as everybody else, which is the goal of this legislation.

Finally, we do require, in order for a case to be brought to court, that, first, all appeals be exhausted. That is, the patient must first go to the internal review and, second, to the external review. What we have learned from the two States that have served as models for this legislation—Texas and California—is almost all cases are resolved by that process. The reason is we structured the bill to avoid lawsuits. It has, in fact, worked in the two States that have followed our model—California and Texas, two of the biggest States in the country, two of the States where there has been historically the largest amount of litigation in the country.

There have been 16, 17 lawsuits since those bills have been enacted in those two States. The vast majority of cases have been resolved exactly as our bill provides. They have been resolved through the process of the appeal.

There has been some argument made about health care costs going up and people losing their insurance. The majority leader spoke to this earlier. Our bill, according to the Congressional Budget Office, raises insurance premiums about 4 percent over 5 years. Not 4 percent annually, 4 percent over 5 years.

The competing bill, the Frist-Breaux provision, raises insurance premiums about 3 percent over 5 years. So there is very little difference between the two bills.

In addition to that, of the 4 percent increase in our bill, the vast majority of that has to do with better health care. It has nothing to do with lawsuits, nothing to do with litigation.

Mr. President, .8 percent, less than 1 percent, has to do with litigation. The remainder, over 3 percent, has to do with better access to the clinical trials, better access to specialists, better access to emergency rooms.

It specifically provides better care. When people get better care, it costs a little bit more, and they will get a better product.

On balance, both bills increase costs slightly—3 percent in 1 case over 5 years; 4 percent in our case over 5 years. But as a direct result of this legislation being passed, people will have better quality care, and the cost has very little to do with the fact the HMOs can now be held accountable and be taken to court.

It is not an accident that the American Medical Association and over 300 health care and consumer groups in America support our bill. It is not an accident that the big HMOs and their lobby are spending millions of dollars to defeat our bill. It is not an accident that the HMOs like the Frist-Breaux bill and do not like our bill.

As we go through this debate, it will become clear that on every single difference, between the legislation we have offered and the competing legislation, whether it is coverage and whether States can opt out, whether it is access to specialists outside the plan, whether it is a truly independent review that the HMO can have no control over, whether it is going to court and which court you go to, in every single difference we protect the patients, they protect the HMOs.

Their bill, as Dr. NORWOOD, a Republican House Member from Georgia who has fought on this issue for years, has described it, is an HMO protection act. It is not an accident that all the health care groups in America and the American Medical Association support our bill.

These are people who deal with these issues every single day, and they know that on all these important issues—access to specialists, who is covered, emergency room, access to a true independent review process—our bill protects the patients; their bill protects the HMOs.

All of us have worked long and hard on this issue for a substantial period of time. Some have worked on it, including Senator KENNEDY, for many years. It is time to quit talking about doing something about HMOs and HMO reform and actually do something about it. The American people are not interested in the politics—Republicans, Democrats, Independents—and their positions politicizing this issue. What they care about is that when their child needs to see a specialist, they want to be sure that child can see that specialist. When they need to go to the emergency room, they need to know they can go to the emergency room without having to worry if the HMO is going to pay for it. If the HMO does something wrong and runs over them and runs over their family and overrules a doctor's medical decision, they want to be able to do something about that. They want the HMOs to be treated just as all the rest of us.

Ultimately that is what this bill is about. The bottom line question is, with whom do we stand? Do we stand with the big HMOs and the big HMO lobbies or do we stand with the doctors, nurses, and families of America?

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, before the Senator leaves, I wonder if he might respond to a question or two as one of the principal sponsors.

First of all, I wonder if he shares with me a certain degree of disappointment that we are not going to have the opportunity to debate these protections that are so important for American families. Every day that we fail to

take action, families are being hurt. Without this legislation, more than 50,000 of our fellow citizens today are going to suffer further injury or pain. This is the result of failing to take action.

I want to make some general comments along the lines of those that the Senator made. I first say that that was an outstanding presentation with regard to the substance. It is difficult for me to understand the opposition to this, other than, as the Senator pointed out, the special interests of the HMO industry do not want it. I have not heard the administration or the Senators who are in opposition, indicate what protections in this legislation they would not want to give to the American people.

We were informed by the Republican leadership that because this bill has been changed so many times, we need to hold further hearings to find out what is in it. There have been no hearings since March of 1999.

One of the leaders pointed to paragraph (C) in the legislation, where employers can be held accountable. Then they talked about the rising costs of 20 percent a year and talked further about employer liability.

As I understand, the changes that had been made over the weekend were basically in response to some of the observations that were made about the underlying legislation. One question was about whether you could be sued in Federal or State court. The opposition claims our bill allows them to be sued in Federal and State courts at the same time. This was never the intention. I understand there was an attempt to explicitly clarify that proceeding so there would not be two forums. I understand that was one of the clarifications made. It was never intended to permit forum shopping and that was clarified.

I might mention the rest, since there were only four of them, and then get the reaction of the Senator since he was very much involved in this.

No. 2 was the question about the exhaustion of appeals before going to court. The opposition claims our bill made it too easy to go to court, arguing that patients can bypass the appeals process simply by alleging harm. Since it was not our intent to make it easy to bypass appeals, we resolved this matter by eliminating the word ''alleged.''

The third was about making it easier to sue doctors. The other side has been claiming our bill makes doctors liable for plan administration. This is a rather technical issue, being sued in State court and now in Federal court again. That wasn't the intent. We clarify that the positions are protected. We also included language to extend civil protections to hospitals and insurance agents. There was some question about the application of the language. The change was specifically included to clarify that, to demonstrate the protections for those groups.

In the fourth change, regarding protecting the State cause of action, we added clarifying language to protect existing State court jurisdiction from inadvertent preemption under our bill. A rather extraneous example or two were given that might have created some confusion. As I understand it, that was the fourth piece of clarifying language.

Finally, the IRS enforcement language was dropped, including an additional enforcement provision that we understand has a revenue impact and a blue-slip problem. To avoid the blue-slip issue, we dropped the provision.

Those are the totality of the changes. Evidently they are being used to somehow represent that there were major kinds of alterations or changes to the bill which are difficult to understand. Therefore, the other side refuses to permit us to begin the debate on the bill.

If the Senator would be good enough to indicate to me whether it is his understanding that these were the areas in which adjustments were made and whether the representations that were made, in terms of the clarifications? Was that his understanding as well?

Mr. EDWARDS. Will the Senator yield for me to reply to the question?

Mr. KENNEDY. I am glad to yield.

Mr. EDWARDS. In response to the question, the areas that were changed were all changes in the direction of the objections of our opponents. In other words, they raised concerns and we made changes to clarify so there would be no question but that we intended exactly what they intended.

For example, the first one the Senator mentions: exhaustion, which means you have to go through the appeals before you can take somebody to court, both sides intended that that be required because we want cases to be decided by the appeal without having to go to court, to avoid unnecessary lawsuits. We made it clear in this clarification that there is no question about that. We intend for that to be true. That was the purpose of the clarification.

Second is the cases being brought in State and Federal court. The purpose for the change was to make it clear we want nobody to be sued in both State and Federal court; to clarify the language so there was no doubt in anybody's mind about which cases go to State court and which cases go to Federal court.

Third, they complain that under our bill some physicians, perhaps, could be subject to lawsuits to which they otherwise would not be subject. So we made a change to eliminate that possibility.

Our bill, as the Senator well knows, is intended to empower doctors, to empower nurses, to make the health care decisions that only they have the medical training and experience to make, that they have the qualifications to make, not some bureaucrat sitting behind a desk at some HMO somewhere. That is the purpose of this clarifying language.

Mr. KENNEDY. Let me speak to this point. I am confused as to why there is an attempt by the Republican leadership to misrepresent what is in the employer provisions of the bill on page 144. I think all of us who have been around here find language is misrepresented and subsequently individuals disagree with the misrepresentation. It appears that is what is happening.

The Senator has stated my understanding. Then if we look at page 144, regarding the responsibility of the employer in the plans, it says:

> Causes of action against employers. . . .

Then it says:

> Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

That is extremely clear. In the President's language, which he sent to the Congress, and I have here, the President lists his requirement in his bill of particulars, which says:

> Only employers who retain the responsibility for and make final medical decisions should be subject to the suit.

That is what President Bush said is the principle. It is my understanding that that exact point is stated in the legislation on page 145, line 8:

> . . . to the extent there was direct participation by the employer. . . .

That talks about when they would be open to the responsibility.

But as I understand it, and I welcome the comments of the Senator, that completely conforms with what President Bush himself has established. Is that correct?

Mr. EDWARDS. The Senator is correct. The President specifically provided he does not want employers to be sued unless they make medical decisions. Our legislation does exactly that. The language completely conforms, in almost identical language, to the President's principle. We do not want employers to be sued unless somehow they step in the shoes of the HMOs and make a medical decision. That is exactly what the President is suggesting. The Senator is correct, to the extent our opponents—who, by the way, are trying to prevent this bill from ever being considered at this point in this Chamber—to the extent our opponents suggest under our legislation lawsuits against employers are allowed, they need to read the President's principles because, in fact, our legislation is identical to the President's principle on this issue.

Mr. EDWARDS. Mr. President, if the Senator will allow me one final comment, the Senator well knows, having fought on this issue for many years and having led the fight, as Senator DASCHLE, our majority leader pointed out in his earlier comments, the American people can get a lesson from what is happening at this moment. We made it clear we intended to bring bipartisan patient protection to the floor of the Senate, a bill supported by Republican

Senators in this Chamber and also in the House.

What has been the response by our opponents? Has the response been to debate this issue in an open way before the American people and to make their case to support the HMOs' position on the floor of the Senate? No. Their response is to try to prevent an issue that affects millions and millions of Americans every year from even being heard on the floor of the Senate.

I think it becomes clear who wants to provide real and meaningful patient protection and who wants to keep this issue from ever getting to the floor of the Senate so HMOs maintain their privileged status.

Mr. KENNEDY. Mr. President, I thank the Senator.

In the press conference of the Republican leadership, it was represented that there were complicated changes and alterations to the bill. The Senator responded to questions raised as to what these changes and clarifications are. This is a result of the White House asking the principals to work out some clarification in these areas and to accommodate these kinds of requests.

Those changes were made. Now they are being used as an excuse for failing to bring this matter up.

Mr. GREGG. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes; briefly.

Mr. GREGG. I know that the Senator from Massachusetts and the Senator from North Carolina said the employer is not subject to liability under this bill. The Senator cited section 5 on page 144, subparagraph (A). The Senator didn't cite subparagraph (B), which says, notwithstanding subparagraph (A), the cause of action may arise against an employer, or other plan sponsor—it goes down the list—as directed participation in the employer's plan, and the decisions of the plan under section 102.

So, very clearly, an employer is subject to liability under that section, and that ''directed participation'' is an extremely ambiguous phrase, I believe. I would be happy to discuss that.

Then, if we go to page 141, where a new Federal cause of action against employers is created, subsection (ii) on that page says, ''otherwise fails to exercise ordinary care in the performance of a duty under the terms and conditions of the plan with respect to a participant'' in the plan. That action creates a new cause of action, which is a new cause of action against the plan's sponsor, and, by the terms of ERISA, section 3 definition, plan sponsor is defined as—lo and behold—the employer.

I believe it is very clear under this bill that employers are subject to the right to be sued. They are subject to the right to be sued for what I expect are going to be multiple opportunities for a creative attorney. In fact, the Congressional Budget Office has basically rated this as a lawsuit against employers and has in fact rated the costs in this bill, which is significant and will lead to employers giving up their insurance.

I would be interested in the Senator's definition and explanation of why, when the bill says in part (B) on page 144 that cause of action may arise against an employer or other plan sponsor, the language means something other than cause of action arising against the employer or other plan sponsor.

Mr. KENNEDY. I am glad to respond. I hope we can do this briefly because we are going to recess. I will let the Senator from North Carolina respond to that, if I may.

Mr. EDWARDS. Mr. President, I respond to the Senator's question by saying, first of all, I suggest that he read the principles because the language of this legislation comes directly from the President's principles.

Mr. GREGG. If the Senator will yield, I am not asking the President.

Mr. EDWARDS. Excuse me. Do I have the floor? Excuse me.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Mr. President, I think we only have 2 or 3 more minutes. I wanted to give the opportunity for a response. I think the answer, as the Senator pointed out, is read from President Bush's own words. Only employers who retain responsibility for or make final medical decisions should be subject to suit. It is that language and that principle that has been included in the language.

If the Senator from New Hampshire thinks that is in some way ambiguous, or doesn't achieve that objective, that is the objective that we had. That is the language that was drafted in the Senate to carry that purpose forward. But we are open.

Does he agree with that principle? I ask the Senator. Does the Senator agree with that fundamental principle or differ with the President on it?

Mr. GREGG. No. I actually agree with the principle. I think the President's point was that employers generally should not be subjected and opened up to massive liability. And this bill does that. That is why I asked the Senator to explain the section.

Mr. KENNEDY. I will have to reclaim the floor.

Mr. GREGG. The Senator asked me a question. Doesn't he want me to respond?

Mr. KENNEDY. I asked specifically whether the Senator agreed with the President's principles. The Senator said yes, he did.

He went on to say that the language in the legislation opens up massive opportunity for suing employers, which is different. He answered my question. I am reclaiming my time since I only have about a minute and a half left.

I wish we had the opportunity to debate this because it is very clear what has been done with the drafting of this legislation. The employers, outside of those who are actually going to be making medical decisions affecting patients, are excluded.

I have been going to the conferences with those who are opposed to it. They say, oh, no, that is not what it does.

It is a favorite whipping provision in this language. They keep saying that isn't what it does. That is what we intend to do. That is what we have done in this language. We will have more of an opportunity to debate that later.

Mr. GREGG. Will the Senator yield for a question?

Mr. KENNEDY. I only have about 5 or 6 minutes to be able to make some presentation on this. I look forward to that time. I will be glad to yield. Could I ask that we defer the recess time from 12:30 until 12:35?

Mr. GREGG. Mr. President, I ask unanimous consent that at the expiration of the discussion of the Senator from Massachusetts I be given 10 minutes.

Mr. KENNEDY. We are about to recess.

Mr. GREGG. I am asking that the time for the recess be extended beyond the Senator's period for 10 additional minutes and that I be recognized.

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

The Senator from Massachusetts.

Mr. KENNEDY. Fine.

Mr. President, so how much time remains? It is now 12:30.

The PRESIDING OFFICER. The Senator from Massachusetts has another 5 minutes by the previous unanimous consent agreement. Then the Senator from New Hampshire will have 10 minutes, and then we will recess until 2:15.

Mr. KENNEDY. Fine.

Mr. President, this whole debate should remain focused on what it is really about. What this debate is really all about is that doctors, nurses and families are going to make decisions. And those decisions ought to be carried out. They should not be overturned by bean counters and accountants working for HMOs thousands of miles away. These accountants do not have the training, do not know the patient, and do not know the complete medical circumstances surrounding the patient's case. That is what this legislation is really all about.

We have taken the kinds of protections which have been outlined now by the Senator from Arizona and the Senator from North Carolina and indicate what those protections are. There are 26 different protections which have been included. We have yet to hear from the other side, as we have had these debates now for 2 or 3 years, regarding which protections they do not agree with. Is it the emergency room? Is it the clinical trials, specialty care, or the OB/GYN protections? Is it the gag rules? We have not heard what particular guarantees and protections that are there for the American families to which they object.

They talk a good deal about the cost of this legislation. They want to do the bidding, I guess, of the HMOs, and have them be the one industry in this country not held accountable for actions

they take that can harm, kill, or maim children and workers in our country.

What we are basically saying is, if HMOs make decisions which put individuals at risk, then they ought to be held accountable. The HMOs should be held accountable. If there is an employer making a similar decision which is going to result in the same kind of pain and affliction to that individual, they ought to be held accountable. Otherwise, employers that just go out and make the contracts should not be. If there is a question of clarification of language, we would work that out.

Over the period of time, one of the attacks that has been made on this legislation is its potential cost. I want to say that is an old red herring. I was here not long ago when we passed the Family and Medical Leave Act. We had the Chamber of Commerce stating the cost of the Family and Medical Leave Act was going to be $27 billion a year on American industry. It is not. It has been an enormous success, and companies have welcomed it. And there is going to be the opportunity to expand it.

I was here when we debated the portability of health care for those individuals with disabilities, the Kassebaum-Kennedy bill. We heard at the time that it was going to increase premiums by billions and billions of dollars. It has not. It is working, and there is no one here to suggest that we should not have gone ahead on it.

I was here when we heard the question: Should we increase the minimum wage? There were those who said it was going to mean hundreds of thousands of people were going to lose their jobs, and that it was going to add inevitably to the problems of inflation. It has not.

We know the scare tactics that were being used in terms of the cost in the past, and they are the same kinds of scare tactics that are being used at the present time.

The CBO, as the Senator from North Carolina has pointed out, indicates that last year premiums went up 10 percent, and the top four or five HMOs had $10 billion in profits in our country. They estimate that 20 percent of every premium dollar paid goes to advertising, administrative expenses, and large salaries for these individuals. It went up 10 percent last year. It went up 8 percent the year before.

As the CBO estimates, under the Breaux-Frist bill, it will go up 2.9 percent over 5 years; and under the McCain-Edwards bill, 4.2 percent—a 1.3-percent difference. As the Senator from North Carolina pointed out, if you look at those figures, the difference is in the additional kinds of expanded opportunities for patients, such as for clinical trials. For example, women need those clinical trials in relation to breast cancer. We need to make sure they are going to be able to have those trials.

We have to have greater access to specialists. If a child has, as my child had, an osteosarcoma—which only 1,200 children in this country have—they need a pediatric oncologist. They shouldn't go to a general practitioner to make the recommendation for the kind of treatment that resulted in the saving of my son's life. We are talking about access to those kinds of specialists. We see there is a difference between the bill we have before us and that which the opposition favors.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

The Senator from New Hampshire is recognized for 10 minutes.

Mr. GREGG. Mr. President, I had not intended to speak right now, but I do think some of the things that have been said in this Chamber do need to be responded to because it is very obvious there is a significant disagreement, and it is a disagreement which is core to this issue.

First off, let's begin with the question of how this bill is coming forward. You have to remember, this bill has not had a hearing since March of 1999. We have not had any hearings on this particular bill. And this is one heck of a complicated bill. The bill on Wednesday was not the bill we got on Thursday.

So when the other side says we are delaying, I think that is a little bit of a straw man debate primarily because, as a matter of responsibility, we have to at least read the bill. And then we have to figure out what is in it.

One of the big issues in relation to what is in it is what effect this will have on employers. I think the language is unequivocal on that point. The language in section (B), as I cited before, 144, says: A cause of action may arise against an employer. Sure they have the nice title, ''Exclusion of Employers,'' but they wipe out that language with the language which says: Notwithstanding anything in subparagraph (A)—that is the one with the nice title on it, ''Exclusion of Employers''—a cause of action may arise against an employer or other plan sponsor—and then it lists why.

One of the standards here is if the employer had direct participation. And ''direct participation'' has become a word of art that is incredibly broad. ''Direct participation'' just means an employer had to maybe wink at his employee, as he headed off to his doctor's office, and say: Hope you get better.

As a practical matter, today direct participation essentially brings in every employer in this country that has a plan. That is why a lot of employers are going to drop their plans. That is why no employer group supports the McCain bill—none—because it is an attack on employers, as versus a legitimate effort to try to get at malfeasance, misfeasance negligence in the areas of HMOs.

We all want to make sure that people who are poorly treated by their HMO have a right for recovery. We put together proposals which accomplish that. But let's not draw all the employers into the process and stick them with lawyers running around them in circles, suing them like crazy, shooting arrows at them, trying to recover from them because then we will drive the employers out of the insurance market, and more people will be uninsured. That is why it is projected that this bill will increase the number of uninsured by over 1.2 million people.

I am a little surprised that some of the sponsors of this bill want to expand the number of uninsured in this country. I think some supporters of this bill may want to because there is, I believe, a belief that nationalization of the health care system is a good idea, and one way to energize support for nationalization is to have a lot of uninsured. But I am hopeful some of the other folks who look at this bill and are supportive will say: Hold it. That was not our intent. We didn't want to drive employers out of the business of insuring and cause more people to be uninsured. We wanted to do just the opposite.

So this language is extremely broad, extremely pervasive, and will attack the employers of America—small employers, employers with 10 employees, with 5 employees, with 25 employees, with 50 employees. There is no exemption in this bill. Then there is other language in this bill. This bill creates a whole new cause of action against employers that has never been seen before, a whole new Federal cause of action. And it is a biggy. This is one where lawyers can really have a good time because, under this bill, it makes the employers responsible for the performance of the duties under the terms and conditions of the plan. This is a brand new concept under Federal law.

It defines the people responsible, as I said earlier, as plan sponsors. Plan sponsors, under ERISA, are defined as employers. It brings in the employers. We went through the different obligations under a plan that an insurance company has that offers that plan and which are enforceable, not today by the individual but by a variety of different processes. We calculate that there are potentially 200 new opportunities for private causes of action against employers as a result of this language. There are a lot of lawsuits because there are a lot of lawyers who can take those 200 opportunities and multiply them. That is one of those factors which has an infinity symbol beside it as to the number of potential lawsuits, that little circle you learned in eighth grade when you took physics, a little infinity circle connecting the lawyers to lawsuits as a result of this language.

I would rename this bill ''the lawyers who want to be a millionaire act'' because that is essentially what it is. This representation that employers are not subject to liability is absolutely inaccurate. Under the clear terms of the bill itself, it is absolutely inaccurate.

What is the practical effect of this bill? This issue is not about, as the Senator from Massachusetts outlined, a whole series of coverages that people need. This is not about that. We give

those coverages in our State. Most States have those coverages as a requirement in their States. It is not about that. It is not about whether or not a patient has access to a specialist, and it is not about whether or not a woman has access to an OB/GYN. All of that is available and should be available. Those are being thrown up as red herrings to try to develop support. That issue is not even on the table because there is hardly a State in the country that does not give those types of coverages and require those types of coverages of their HMOs.

It is not about whether a patient should have a timely right to appeals, both internal and external, because all the laws, all the proposals that have come forward have done that. It is not about that.

It is not about whether a patient should be compensated if they get harmed by their doctor or their HMO. All of the bills that have come forward, all the proposals that have come forward have had that as part of their language. All these bills share those same goals.

This is about a dramatic expansion in the opportunity to sue. That is what the bill is about, as it is brought forward; specifically, to sue employers, with the practical effect being that more people will be uninsured in our country today because more employers will drop their insurance. The number of new opportunities in this bill for lawyers to create havoc is significant.

You have the fact that you can basically forum shop between States and Federal law. You have States stepping into the area of ERISA. ERISA is an incredibly complex piece of legislation on which Federal courts have spent a lot of time developing expertise. There has been over 10,000 cases on ERISA decisions. Suddenly Federal and State courts are going to take on this issue. Not only are they going to get to take it on, but they are going to get to take it on without any liability caps. Essentially, there are no liability caps against health plans. There may be caps against doctors in some States, but take California; they don't have caps against health plans.

There are no liability caps.

You are going to have punitive damages, economic damages without caps. The implication of what that means is that you are going to have forum shopping from State to State, depending on which State makes the most sense for a person, which structure makes the most sense for a lawyer to pursue. Then you are going to have them proceeding in that structure. And you are going to have the employer brought in.

Plus this concept that you have to go through an appeals process before you get to bring a lawsuit is also totally subjugated in this bill. The way this bill is structured, all you have to do is show harm and you are out of the appeal process—or alleged harm. Originally it was ''alleged'' harm. Basically, you get into court and claim you show harm and then everything else gets to the table. No more appeals process of any nature. The concept of trying to reduce the amount of litigation by having a reasonable appeal process is totally undermined by this bill.

It should also be noted that the economic impact of this bill has been scored not by me, not by some political organization, but by CBO. This bill costs 4.2 percent. That is not over 5 or 10 years, as was represented here earlier. That is an annual cost on top of the health care costs which are inflating fairly rapidly right now. A 4.2 percent increase translates into a very significant increase, as has been mentioned earlier, in the uninsured because employers will have to drop their insurance because they can't afford it. That should not be our goal here.

What should our goal be?

The PRESIDING OFFICER. The Senator from New Hampshire has used his 10 minutes.

Mr. GREGG. I ask unanimous consent for 2 more minutes.

Mr. REID. Mr. President, reserving the right to object, I have no objection to my friend using 2 extra minutes. Following that, I would like to be recognized and then the Senator from North Carolina would be recognized for 5 minutes and then we will go to our party conferences.

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

The Senator from New Hampshire now has 2 minutes, to be followed by a statement from the Senator from Nevada, and then 5 minutes to the Senator from North Carolina.

Mr. GREGG. Mr. President, the goal here should be this: When you go to see a doctor and you go to your HMO, if that is who covers you, you should expect to get good treatment. If you don't get good treatment, you should have relief. And you should expect to have a certain amount of flexibility as to who you see and especially with some very common events such as OB/GYN and areas such as that, where you should have the capacity as the patient to make some choices: your primary care provider, things such as that.

That is all accomplishable. In fact, the bills that have been brought forward from our side of the aisle—some of them in a bipartisan way, such as the Breaux-Frist-Jeffords bill, last year's, the Nickles amendment, which did not have any Democratic support—have accomplished that. In the process of accomplishing that, we should not fundamentally undermine the interests of employers to participate in health insurance for their employees, which is what, unfortunately, the McCain bill does. And we should not do unnecessary and significant damage to States rights which is, unfortunately, what the McCain bill does. That is a whole other discussion. There are a variety of other problems.

The goal can be accomplished, which is better health care and better protection of our patients and people who use our health care system without this very egregious, very intrusive, very litigious piece of law being passed.

To reiterate, this is not a debate about whether patients should have rights.

This is not a debate about whether patients should be able to go the nearest emergency room without being penalized.

This is not a debate whether a patient should be able to access a specialist with appropriate expertise and training; prescription drugs that are medically necessary and appropriate; or comprehensive information about their health plan.

This is not a debate about whether a female patient should be able to directly access OB/GYN without prior authorization, nor is it a debate whether the parents of a child should be able to designate a pediatrician as their child's primary care provider.

This is not a debate about whether a pregnant, sick, or terminally ill patient is able to continue receiving care from her physician through the entire course of treatment—even if the plan terminates her physician from the network.

This is not a debate about whether physicians are able to tell their patients about all treatment options without being gagged by the health plan.

This is not a debate about whether there should be procedures to ensure that health plans make timely decisions and patients have the right to both an internal appeal to the plan and an independent external review when a plan denies coverage. And this is not a debate about whether the external review is independent from the plan and the reviewer makes a decision based on the best medical evidence and highest standard of care.

This is not a debate about whether all Americans should enjoy these types of rights.

This is not a debate about whether patient rights should be enforceable or even whether a patient should be fairly compensated when harmed or killed by the decision of his or her health plan or HMO.

We agree on all these issues. Both sides share these goals. Democrats and Republicans.

The real debate is about how we can best achieve these common goals. It's about putting patients first—ahead of special interests. It's about accomplishing these goals without driving up health care costs, giving employers more reasons to drop health coverage, adding millions more Americans to join the ranks of the uninsured, or dismantling our private, employer-based health care system.

The bill we are about to debate—the Bipartisan Patient Protection Act sponsored by Senators MCCAIN, EDWARDS, and KENNEDY—fails on all these counts.

I believe we can accomplish our common goals without inviting these unintended consequences. Unfortunately,

there appears to be no interest from the majority in addressing these concerns. Senator DASCHLE said recently that he sees no reason to compromise or address these concerns. I think that is very unfortunate for consumers and for patients.

I would like to highlight the very real problems in this bill, S. 1052 which was just introduced on June 14.

The McCain bill creates two opportunities to take a bite at the apple. First, it allows unlimited lawsuits against health plans and employers under state law. Second, it creates an expansive new remedy with very large damages under federal law.

The dual Federal-State scheme under the McCain bill will encourage dual claims and forum shopping. Plaintiff's lawyers will shop around for the forum with the highest limits on damages. And there is nothing in the bill that would prohibit suits based on the same or a similar set of facts from being filed simultaneously or consecutively in both State and Federal court.

This dual Federal-State scheme will raise complicated and costly jurisdictional questions and will ensure that plan benefits and administration will vary from State to State. This will only serve to confuse patients who are already faced with the task of navigating a complex health care system.

This scheme will also impose needless and excessive costs that will discourage employers from sponsoring health plans. It will ultimately increase the ranks of the uninsured.

Federal courts have been routinely hearing cases involving complicated employee benefit cases. The McCain bill would essentially remove all coverage and claims decisions from Federal court and place them under State jurisdiction, even though States have no experience with ERISA and employer-sponsored benefits.

Federal courts have honed their expertise in resolving complicated employee benefits issues since they were given exclusive jurisdiction over such cases in the Employee Retirement Income and Security Act of 1974, ERISA. Approximately 10,000 ERISA cases are filed each year in Federal court.

In order to provide high quality and affordable benefits to employees, employers that sponsor health plans across State lines must be able to administer their benefits in a uniform, consistent and equitable manner. The McCain bill will produce multiple and conflicting State laws, regulations and court interpretations, making it difficult for employers to administer their health plans.

Congress' rationale for giving Federal courts exclusive jurisdiction with respect to remedies is as applicable today as it was in 1974. From ERISA's legislative history: ''It is evident that the operations of employee benefit plans are increasingly interstate. The uniformity of decision which the Act is designed to foster will help administrators, fiduciaries and participants to predict the legality of proposed actions without the necessity of reference to varying state laws.''

Proponents of the McCain-Edwards bill would have you believe that they have compromised by adding a $5 million cap on punitive damages for the Federal cause of action. But this cap is merely illusory.

The bill has no caps on Federal or State economic or non-economic damages.

Plus, there are no caps on damages specified for the numerous lawsuits that would fall under State jurisdiction. And there is no evidence to suggest that State law caps would be applied to these various causes of action. In fact, most State medical malpractice law damage caps only apply to physicians and other health professionals—not health plans. California is one such example.

Excessive damage awards only harm physicians and patients. According to a study by Tillinghast-Towers Perrin, health plan liability will increase physician medical malpractice liability premiums by 8 to 20 percent because plaintiffs will target all possible defendants, including physicians. These costs will be passed on to patients in the form of higher premiums or reduced coverage.

Health plans will also pass on the increased costs of being exposed to large damage awards to employers who will in turn pass the costs on to employees or reduce or terminate coverage.

The McCain bill allows patients to go straight to court—for the purpose of collecting monetary damages—without exhausting administrative remedies first.

The independent medical review process is the best, most efficient remedy for the majority of patients. It ensures that patients get the medical care when they need it. In contrast, tort damages are only available to patients after they are injured.

The ''go straight to court provision'' creates a perverse incentive for patients, encouraged by their attorneys, to bypass the review process in order to seek the big damages awards in court.

Proponents of the exhaustion loophole argue that external review is ''not enough.'' They would have you believe that an exhaustion requirement somehow precludes the ability of an injured patient to seek recourse in court. But this is not the case. The external review process is merely a required and beneficial step before going to court.

The high standards that the medical reviewer is required to follow will help inform the court's decisions in determining whether the plan decision was the right one. Just as a medical expert is not versed in the specifics of the law, the court is not well versed in medicine and will benefit from the finding of the independent, external review—as will the patient.

The McCain bill allows the medical reviewer to consider but ''not be bound by'' a plan's definition of medical necessity which may be used to determine whether a plan covers a benefit. In effect, this allows the medical reviewer to ignore contract definitions of medical necessity and substitute their own definitions or opinions as a basis for overturning a health plan's decision.

This provision would lead to routine reversals of health plan decisions and generate increased litigation. Employers and health plans would have no predictability in administering their plans or estimating their exposure to liability. Alternatively, this may cause plans to routinely approve all coverage thereby driving up premiums astronomically and raising quality and safety concerns for the patient. Employers may reconsider their commitment to offer and administer health benefits if the McCain bill becomes law.

Health plans and employers that honor their contractual obligations could be on the losing end of a lawsuit when an external medical reviewer decides to disregard a term in the health plan contract. Even plans that adhere carefully to the terms of their contracts, no matter how generous those terms are, could be held liable if the reviewer decides to apply a different standard.

Contrary to continued assertions by its proponents, the McCain bill does not protect employers from open-ended liability. In fact, the bill specifically authorizes certain types of lawsuits to be brought against employers in Federal court for failing to perform a duty under the terms and conditions of the plan.

Because employers are required to carry out a broad range of administrative duties under ERISA's statutory scheme, the McCain bill will leave them wide open to new Federal personal injury suits. Employers will be sued for all types of alleged errors such as issuing notices required by the Health Insurance Portability and Accountability Act, HIPAA, and the COBRA, regardless of whether such errors result in a denial of a covered benefit.

The McCain bill would impose potentially huge new compensatory and punitive damages remedies for violations of COBRA, HIPAA, and ERISA's disclosure requirements. Moreover, under the statute's own requirements, the employer is specifically required to carry out COBRA and disclosure requirements. The employer is almost always the administrator. Thus, McCain-Kennedy imposes a huge new liability on employers that employers cannot avoid; despite the fact that when Congress adopted COBRA and HIPAA with large bipartisan majorities no discussion was given to the need for punitive damages to enforce the new requirements.

The ''direct participation'' provision in the McCain bill provides little comfort to employers who will still be

dragged into court on every case. Employers who do not ''directly participate'' in such decisions are not protected from being sued; they are only provided with a defense to raise in court.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I disagree with what my friend from New Hampshire has said about the content and the direction of the McCain-Edwards legislation. Why don't we decide if he is right or I am right. And how you do that is you come to the Senate and you debate the issue.

We are being prevented from doing that today. The Republicans have objected to our going forward to consider this bill. So this will necessitate our going through the procedure of filing a motion to invoke cloture which we will vote on Thursday. I believe rather than wasting that time, we should be here debating the principles enunciated by the Senator from New Hampshire and what we have been saying on this side all day.

That seems to be the fair way to do it, rather than talking about all the scary points of this bill from their perspective and the positive points from our perspective. Let's debate the issues. This bill has been around for 5 years in one version or another. We believe that we have refined this legislation. Because of the courageous actions of the Senator from Arizona and the brilliant input of the Senator from North Carolina, we now have a piece of legislation that is extremely good. It is better than the ones that have come before us before. It is so good that on our side we are going to offer very few, if any, amendments because we believe this legislation is so good.

This legislation deals with accountability. We spent 8 weeks in this body talking about education. What were we trying to establish? We wanted students and teachers and administrators to be accountable and to make sure we had good education in our public schools.

Accountability: That same argument should be and will be carried over into this legislation dealing with the Patients' Bill of Rights.

I have a lot of other things to say and I will not say them now. I showed to the Presiding Officer in the Senate that we have only a partial list of those organizations that support this legislation. These are business groups, nurses groups, physician groups, starting with the Abbott House, Inc.—Abbott House in Irvington, NY. That is No. 1 on the list. At the end of this list we have the YWCA of northeast Louisiana. Of the 300-plus groups we have listed here, we have groups that should know the difference between good and bad medical care. For example, there is the Wisconsin Paralyzed Veterans of America. They believe what we want to do is right.

It is not often that you find legislation in the Senate that is supported by hundreds and hundreds of groups. Every consumer group in America supports our legislation. We have the physician organizations, specialties and subspecialties, that support this legislation. We have the American Medical Association that supports this legislation.

You know, for the first time that I can ever remember, we have the doctors and the lawyers thinking this is good legislation. So I say to my friend from New Hampshire, who is going to be the manager for the Republicans on this legislation—I believe he should listen to what he said if he believes this—and I know he does—let's debate it, as my dad would say, ''like men,'' and now women because they are a vital part of the Senate. Let's debate this issue as grownups, not hiding behind procedural matters. If they think our legislation is so bad, let them prove it out here.

I am willing to take my chances on an up-or-down vote on the Senate floor. That is how we should decide issues. We should not be hiding behind some procedural prohibition that prevents us from moving this legislation forward.

One last thing. The majority leader said today, right here at 11:30, that this legislation, the Patients' Bill of Rights, is going to be completed before we leave for the recess—if we have a Fourth of July recess. That is what he said. He is not playing games. He is majority leader of the Senate. He said today that if we don't finish this bill by next Thursday night—if we do, we are off Friday. We have the Fourth of July recess. If we don't finish this bill by next Thursday evening, we are going to work Friday, Saturday, Sunday, and we are going to work Monday—every day except the Fourth of July. Then we will come back on the fifth. We are going to be here until we finish this legislation. So all staff members here in Washington and people watching this on C–SPAN should understand that we, the Senators, may not be home for our Fourth of July break. We may be here doing the people's work, trying to work our way through this legislation, through all the obstacles being thrown up procedurally by the money interests of this country—the HMOs who think they own the medical care of this country. They don't. It is owned by the people—the patients, nurses, and doctors.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, the great thing about debate on the floor of the Senate—particularly extended debate—is that we get past the high-pitched rhetoric and actually get to the facts. I want to respond briefly to some of the comments of my friend and colleague from New Hampshire.

He argues that under our bill employers can be held responsible—citing a particular page of the legislation—if they make a comment to an employee going out the door on the way to their doctor saying, ''hope you feel better''.

First of all, President Bush has issued a set of principles that are specific to this issue. His principles say, ''Only employers who retain responsibility for and make final medical decisions should be subject to suit.'' So the President himself, in his principles, has said employers that are making medical decisions about individual cases are subject to sue and should be subject to sue.

My colleague from New Hampshire cited language on page 141 of the bill referring to, ''otherwise, calls of action created by failing to exercise ordinary care in the performance of a duty.'' Two pages later in the bill, which unfortunately my colleague didn't talk about, there is language at the bottom of the page, subsection (A), that says: ''This section does not authorize a cause of action against an employer.''

What I suggest to my colleague is that he read the entirety of the section to which he refers.

The language of what constitutes making a medical decision in a specific case is very clear in our legislation. It includes none of the general things that the Senator from New Hampshire talked about. What has to happen under the specific language of our bill, and as set forth by the President of the United States, is that the employer has to actually override and make the decision as an HMO would in a particular case. Otherwise, under the language of our bill, and under the President's principle, the employer is protected, period.

We want to protect employers. That is the whole purpose of this language. It is why Senator MCCAIN and Senator KENNEDY and I have worked for months and months in crafting this language.

The second argument my colleague made is that there would be forum shopping between State and Federal court. The language is clear. If an HMO makes a medical decision, that case goes to State court. If the question is on the specific provisions of the plan the employee is covered by, that case goes to Federal court, period. It is where the cases have always been. The reason the other cases—the medical decision cases—go to State court is because when they make a medical judgment and overrule a doctor, we want them to be treated just as the doctors and the health care providers.

Third, he argues that ERISA is a very complicated law that will be difficult for State courts to apply. Well, the State courts won't be applying ERISA. What the State courts would be doing is applying their own State law because what our bill provides is that when a medical judgment is made by an HMO and some child is hurt as a result, and they take their case to State court, that State's law applies, so that if there are recovery limits—and there are, I think, 30-some-odd States in the country. And the argument was made that there are no caps in our legislation; there will be an outrageous explosion of litigation.

First of all, it ignores the fact that State law applies, and the vast majority of States have limits on recoveries.

Second, the evidence shows that in California and Texas—the two States that use legislation similar to ours—virtually no cases have ever gone to court. The cases get resolved in the appeals process. It is the way our legislation is designed. Cases go to court only as a matter of absolute last resort.

Finally, he suggests there will be forum shopping from State to State, where a patient will choose to go to another State to file a case because somehow that is more beneficial to them. Well, unfortunately, that has nothing to do with the real world. Patients will be required to file their case in the State where they live, which is exactly where you would expect them to file. It is where they got their care, where they were hurt by the HMO. That is where their case would be filed.

So what we have done, ultimately, is set up a system whereby HMOs are treated the same as everybody else, as all the rest of us. That is its purpose. We want to take away the privileged status that HMOs have enjoyed for so long, while protecting employers, giving patients substantive rights, access to specialists, access to emergency rooms, access to clinical trials, and having those rights be enforceable. It is so important that these rights we create in this bill have teeth in them, and the only way they have teeth in them is if the force of law is behind them and those rights are enforceable.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 1 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. The Senator from Nevada.

STATUS OF SENATOR BRYAN

Mr. REID. Mr. President, while we are talking about patients and a Patients' Bill of Rights, I want to report to my colleagues on Senator Bryan, who has been quite ill.

I talked with Senator Bryan last Friday. He was in St. Mary's Hospital in Reno when I spoke to him. He had for a couple of days a bad sore throat, for lack of a better description. Friday morning, he was in Reno and his throat was really sore. He has a son in Reno who is a cardiologist. He went to the emergency room. He was admitted to the hospital.

They did a CT scan and found an abscess in his throat area. Friday and Saturday they administered antibiotics, hoping he would get better soon. He got worse, and Sunday morning they operated. He has been on a ventilator since then in intensive care.

I spoke with the nurses taking care of him—by the way, he was back here last week with some junior high school students—and they said he was doing just fine. She had told him I was calling, and he gave the thumbs up. They expect him to be off the ventilator today.

They do not know the cause of the infection. They are still working on that. It is an unusual thing. I have had a couple people ask me about Senator Bryan today. He is doing just fine.

BIPARTISAN PATIENT PROTECTION ACT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. I thank the Chair.

Before I get into the substance of my remarks on the Patients' Bill of Rights, I wish to salute my colleagues, the Senator from Massachusetts, the Senator from North Carolina, and the Senator from Arizona, for working so long and hard on a bipartisan compromise provision, one that I am proud to support.

Mr. President, we hear a lot about this Patients' Bill of Rights, and there are many discussions about legal issues, medical issues, et cetera, but what hits home with most of us is when we travel our States and we hear stories about what has happened under present law.

When there is a conflict, which constantly arises in these days of HMOs, between what a doctor believes is best for the patient and what the insurer believes is best for the health plan, who makes the final call? That is what this bill is all about. It is about decisionmaking, and not decisionmaking on a Saturday afternoon whether you go to the beach or go to the ball park. It is about decisionmaking when all of us are at our most strained, when a loved one is in a health care problem or with a health care crisis. That is when the decisionmaking really matters.

When a child becomes sick or a parent becomes ill, when a spouse discovers a lump on her breast, and a judgment call needs to be made about care, who has the deciding vote? Is it your doctor or is it an actuary somewhere hundreds of miles away who has not had one jot of medical training? That is what this boils down to.

Those six of us supporting the McCain-Edwards-Kennedy bill believe the decision should be made by the doctor; the decision should be made by someone who is trained to make medical decisions, not a managed care bureaucrat whose primary interests—do not blame these individuals, but their primary interest, what they are instructed to do, is look at cost, not health. Health may be in the equation but cost comes first. That is why that actuary is getting paid, whereas for the doctor who has taken the Hippocratic oath, health care comes first.

We want to pass this Patients' Bill of Rights to restore the pendulum. I am not against HMOs. They were brought in with a purpose. Medical costs were climbing out of control. Something had to be brought in to help. But the pendulum has clearly swung too far, away from the decision based on health made by the doctor in the hospital, and the nurse, towards a decision made on cost, made by an actuary, an insurance company, an HMO.

So we believe we must pass a Patients' Bill of Rights to provide real protection for patients, one that allows for the doctor to decide; one that allows the insurance company, the actuaries' decision to be challenged on a health-related basis. We must end the practice of health plans putting the bottom line before the Hippocratic oath. We must restore balance when every one of us is faced with the awful choice of what medical decision to make for ourselves or for a loved one.

As this debate gets underway, I hope to bring up the cases of some families I come across as I travel the State of New York. These are not unique cases. These are not isolated cases. They happen, unfortunately, every day.

Let me talk about Tracey Shea, from Long Island, in my State. Tracey complained to her doctor about chronic headaches. The tests discovered a tumor in her brain. It was unclear what that tumor was and her doctors ordered further tests. But the HMO refused to pay for them, arguing that the tumor was not malignant and further tests were unnecessary. Four months later, Tracey died. She was 28. She was engaged to be married.

She is gone and her parents and her fiance ask every day: Why wasn't her doctor allowed to give Tracey what she needed? Even if it was 50–50, or 25–75, why didn't she get what she wanted?

For those who think McCain-Edwards-Kennedy is some kind of abstract debate, the difference this bill, this proposal would have made to Tracey Shea, under McCain-Edwards-Kennedy, is Tracey would have had a hearing and an answer in a few days. Under the Frist-Breaux-Jeffords proposal, Tracey may not have lived long enough to get an answer.

A case in Binghamton: Rene Muldoon-Murray's little boy Logan was born hydrocephalic, a condition that many of us have seen. It is when the spinal fluid builds up and puts pressure on the brain. It is terribly painful. The Muldoon-Murray's health plan contained no pediatric neurosurgeons, the very people who should have looked at little Logan. The one adult neurosurgeon, one who did not have experience with children—the brain of a child is quite different than the brain of an adult—the one adult neurosurgeon available in the plan could only work under supervision because his license was suspended.

Imagine, the only person you can go to when your child is in agony, the only one the HMO will let you go to, is someone whose license was suspended. That is the only one the HMO in Binghamton provided as 3-year-old Logan was in pain, pain, pain.

What did Miss Muldoon-Murray do? She was not a wealthy woman but she refused treatment. She wasn't going to let her son be operated on by someone whose license was suspended. When a medical crisis required an emergency room, a lifesaving spinal surgery, the place they found was New Jersey. It cost them $27,000. The HMO refused to pay the bill.

Again, the huge difference between the two pieces of legislation: Under McCain-Edwards-Kennedy, Rene would have had the right to take little Logan to a pediatric neurosurgeon, even though her plan did not include one, and the plan would be required to cover the treatment just as if it had been administered by a plan doctor.

Under Frist-Breaux-Jeffords, the health plan would decide whether or not to cover an out-of-plan specialist and Rene would have most likely ended up in the same place, in an emergency room hundreds of miles away, stuck with a $27,000 bill.

Again, the difference between these two bills is not simply paper and pencil. It is not some abstract idea, argued by lawyers. It is real. People would be alive, people would be not suffering if this bill had been in effect.

How about in Buffalo, at the other end of our State: Bailey Stanek. Bailey suffers from apnea. This is a sometimes fatal condition in which a little one stops breathing while sleeping. The HMO refused to pay for a heart monitor which would warn Bailey's parents if his breathing ceased. If you have a child with apnea, it is a heart monitor that can save you. His life depended on it. Who would not do this for their little 8-week-old boy? The Staneks, again not wealthy people, now pay $400 a month out of pocket for a heart monitor.

These cases go on and on. If McCain-Edwards-Kennedy were around, the Staneks could appeal the decision. They could go to an independent, objective review board—not someone sponsored by the HMO who is told by the HMO: if you approve bills of more than a certain amount all told, you are out. This would be an independent, objective review board. Then we would know if little Bailey needed this heart monitor, which most physicians think he would, and they would get a decision.

Under the Frist-Breaux-Jeffords plan, this would not have happened. Why? Listen to this, for everyone concerned about this issue. Who chooses the review board under the Frist-Breaux-Jeffords plan? The HMO. And the board cannot make independent decisions about medical necessity. So the choice is very clear.

These are just three cases in my State. Look at the case of little Logan Muldoon-Murray from Binghamton; the case of the late Tracey Shea, from Long Island; the case of little Bailey Stanek in Buffalo. In all three cases, because there was not a fair review, because we do not have protections so the doctors could make the decisions—not actuaries, not insurance companies—we have had untold suffering. Multiply that suffering, not just by the individual child or the young woman in Tracey's case, who suffered, but their parents and brothers and sisters, their friends and the community.

Mr. DORGAN. I wonder if my friend will yield.

Mr. SCHUMER. I am happy to yield.

Mr. DORGAN. The Senator from New York probably remembers the hearing we held about a year ago, when a constituent from New York came to the hearing. Her name was Mary Lewandowski. Mary is the mother of the late Donna Marie McIlwaine who died when she was only 22 years old. Mary came to tell us the story about her daughter and her experience with the HMO.

I will not soon forget Mary's testimony. Mary is not getting paid to come to Washington but she desperately wants the Congress to pass this patient protection legislation. Mary told us that her daughter passed away on February 8, 1997. Donna had been to the doctor four times in 5 days for an upper-respiratory infection. The doctors couldn't quite figure out what was happening, but her symptoms kept worsening.

On the evening of February 8, she was in a tremendous amount of pain, her mother said. She called the hospital. The hospital said: No, you can't bring your daughter to the hospital unless it is absolutely life or death, or unless you have a doctor's referral. She tried in vain to reach Donna's doctor, and an hour later her daughter, Donna, collapsed into a coma and died.

After she died, as my colleague from New York will remember, her mother told us that she discovered that Donna had a blood clot the size of a football in her lung.

Donna's doctor later told her mother that a $750 lung scan would likely have identified that blood clot and saved her daughter's life. But the lung scan was not ordered because it could not be justified by the HMO.

These are the kinds of problems that are raised related to the development of for-profit medicine. Too often the practice of managed care medicine becomes an enterprise of looking at a patient in terms of profit, rather than evaluating what doctors should provide in terms of needed medical services to patients.

The Patients' Bill of Rights, or Patient Protection Act, is a piece of legislation that says you ought not have to fight your illness or your disease and have to fight the insurance company as well. You ought not have to lose your life because someone said it wasn't worth $750 to do a lung scan on a 22-year-old girl who had a blood clot the size of a football in her lung. That ought not happen to people.

My colleague from Nevada, Senator REID, and I held a hearing in Las Vegas, NV, for one day. I will never forget that hearing. A mother named Susan gave riveting testimony. She stood and held up a picture of her son, Christopher Thomas for us to see. Christopher Thomas died on his 16th birthday of leukemia. His parents' health plan denied him the investigational chemotherapy drug he needed. At the end of her testimony Susan held up a large colored picture of her handsome 16-year-old son. She was crying. She said Christopher Thomas had looked up at her from his bed as he lay dying of cancer, and said, ''Mom, I don't understand how they can do this to a kid.''

Do what? This young man never got the treatment he needed to help fight the cancer that he had. This young boy and his family were put in a circumstance of having to fight cancer and fight the managed care organization at the same time. That was not fair.

That is what our patient protection legislation is about. This legislation is about empowering patients who expect to get the health care they are promised.

When I heard my colleague from New York speaking, I simply wanted to come to the floor and say that we have had plenty of hearings. Discussion has gone on for some while on the issue of a Patients' Protection Act, or Patients' Bill of Rights.

I will never forget the testimony offered at the hearing during which Mary, the mother from New York came and talked about her daughter Donna, and the hearing in Las Vegas when Susan came and talked about her son, Christopher Thomas Roe. I could stand here and cite examples from testimony after testimony of patients not getting the care they needed. I could discuss endless tragic stories and untimely deaths we have been told about. The sheer numbers of testimonies that reveal needless suffering make me so angry because none of it should have had to happen. People should have gotten the health care they deserved. They should have been able to get to an emergency room when they had an emergency, or been able to get the treatment they needed when they were suffering from cancer and trying to fight it. Yet in case after case, we discover that someone made a bad decision, and no one was held accountable for that decision. The patient wasn't given the medical treatment they deserved.

Let me quickly say, if I might, to my colleague, that there are some wonderful organizations around this country—yes, managed care organizations, some insurance companies, and health care organizations—that do great work. God bless them every day. But there are some who look at patients as profit centers and decide against providing treatment that a patient thinks they are going to get. Sometimes it is too late when they discover the consequence of that. It was too late for Donna and for Christopher.

We are trying, with a piece of legislation, to say it ought not be too late for any more Americans at any other time to not get the medical care they need. Let us pass this legislation, the Patients' Protection Act, so that people in this country can rely on getting the care that they deserve.

When I heard the Senator from New York, Senator SCHUMER speak, I wanted to speak and to mention Donna because I know he knows her mother, Mary Lewandowski. I know that all of us have the same passion to want to do the right thing. We can do this. This will take some time. There will be people coming to the floor saying they don't want to do it. They will have objections to our Patients' Bill of Rights.

Mark Twain was once asked if he would be involved in a debate. He replied: Yes; of course, as long as I can be on the opposing side.

They said: We never told you about the subject matter.

Mark Twain said: It doesn't matter. It doesn't take any preparation at all to take the opposing side and to argue it effectively.

We will have some people in Congress say we should not pass this patients' protection legislation. They are naysayers.

We know in our hearts that this is important legislation for the American people. We must do this now.

Mr. SCHUMER. Mr. President, I thank my colleague from North Dakota. Along with the story I told about three New Yorkers, he added Mary Lewandowski and her daughter, Donna.

I want to add something. Mary has been down here three or four times. Each time she comes into my office with her husband. They are not wealthy people. They are humble people. A trip from Rochester to Washington is not easy for them.

But the memory of Donna and what happened to her burns within them. They come and sit by my desk. They try and I try to talk about when this bill might come up and what is preventing it from coming up. I was happy to let them know that since we took over the majority, Senator DASCHLE decided to make this our highest priority. In fact, I have asked them if they want to come down and watch a little bit of this debate. It will never bring Donna back, but it will make them feel good that future Donnas will not die in vain.

Imagine what they are thinking now—that there is an attempted filibuster to prevent this bill from coming up. This is not legislative gamesmanship. It is not an exaggeration in this case to talk about life and death. Every one of us, as we traverse our States, hear these stories and share the embraces and the tears with the people who have been damaged more irreparably than any of us have. The only thing we can do is bring our passion, our knowledge, our work, and our sweat, blood, and tears to this floor and move this bill.

I was glad to hear our leader say that if we have to, we will stay here every day through the Fourth of July break or through the summer to get this bill finished. All of us have concerns and our families. We want to be with them. We want to be back in our States. But what could be more important than this?

We are so close to the precipice of passing a real bill—the kind of bill that has been put together by our colleagues from Massachusetts, Arizona, and North Carolina. We are right on the edge. How dare we give up. How dare we let ourselves be diverted by extraneous issues and political games.

I thank the Senator from North Dakota as well as so many others. The Senator from North Carolina spent the last year working out this compromise with the Senator from Massachusetts because this is so important.

There used to be a slogan in the 1970s. You don't need a weatherman to know which way the wind blows. Yes, you are right. We will hear a lot of arguments from the other side. But look at every group that is represented here—the Mary Lewandowskis, the Tracy Sheas, and all of the others. They are on our side. They are for this bill.

It is very simple. The only people who seem to be against us are the very people out there who have done these things, not by design but the way the system is set up—done these things that have left the gaping wounds in so many as they have needlessly lost people.

It is bad enough to lose somebody you love, but when you know you did not have to lose them, and somebody made a decision somewhere based on dollars, the hole in your heart never goes away. We have examples such as Mary Lewandowski from Rochester, NY, who has come down here and said: Please, please, please.

I would like to say to Mary—and I think I speak on behalf of the six of us in this Chamber—we are not going to give up. We are going to make this fight until we pass this bill, no matter what it takes.

With that, I thank my colleagues. I know my time has expired. And I thank my friend from Iowa for waiting.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I wish to make a brief statement. And I ask unanimous consent that the Senator from Iowa be recognized for 15 minutes after my statement, and then, with the patience of my friends from North Carolina and Massachusetts, Senator CLINTON was planning to be here at 3 o'clock to speak for up to 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Thank you, Mr. President.

I say to my friend from North Dakota, and everyone within the sound of my voice, we were able to give specific examples of situations that developed in New York and Nevada, and other places, as a result of something very unusual that happened around here; and that is, Senator DORGAN, as chairman of the Democratic Policy Committee, held a series of hearings around the Nation. Why? That isn't the ordinary role of the Democratic Policy Committee. But because we were in the minority, we were unable to hold hearings in the committees that had jurisdiction over the Patients' Bill of Rights. So Senator DORGAN came up with the idea to hold these hearings around the country.

I am sure the hearings around the country went as well as the hearing in the State of Nevada. If that is the case, which I am certain it is, the Senator from North Dakota deserves all kinds of accolades because if he did nothing other than the hearing in Nevada, it said reams about what is going on in this country regarding the delivery of health care.

So I will never, ever forget the hearing we held at the University of Nevada at Las Vegas on the Patients' Bill of Rights. The men and women, the boys and girls, the doctors and nurses who testified there told us why we need this bill.

So I say to my friend from North Dakota, thank you very much for coming up with this unusual procedure so that the American people, and the people of Nevada, know how the rendition of health care is not going properly—not all the good things, but you were able to put, in a very direct perspective, what was going on in the country in regard to health care. So I personally appreciate very much you doing what you did because, but for this, we were stymied from explaining to people what was going on around the country with health care.

Mr. SCHUMER. Will the Senator from Nevada yield?

Mr. REID. I am happy to yield.

Mr. SCHUMER. I just want to add my thanks to my friend from North Dakota. Again, just as was the hearing in Nevada, the hearing in New York was moving, factual, and brought the case to real life as to why we need this proposal. And the Senator did. He went around the country, everywhere, like Paul Revere, letting people know they didn't have to just curse the darkness; that they could actually get something done with legislation that would really matter to people, knowing that this is not just a political game.

I add my voice to thank the Senator from North Dakota, as chair of the Policy Committee, for the great work he has done.

Mr. DORGAN. Mr. President, let me ask the Senator from Nevada to yield for a moment. Then I know the Senator from Iowa has a statement to make. Will the Senator from Nevada yield for a question?

Mr. REID. I am happy to yield.

Mr. DORGAN. I did want to take the time to show the picture of the young 16-year-old man mentioned earlier,

named Christopher Roe. The Senator from Nevada and I both told his mother, Susan, that her testimony would make a difference. This is the picture Susan held up at our hearing in Las Vegas, NV. As she held up this picture of her 16-year-old son, Susan described the difficulties obtaining treatment for Christopher through their managed care organization. Susan's family faced these difficulties in addition to the fight Christopher was trying to win in his battle against cancer. It was a battle this young boy lost, and it was a battle that had become an unfair fight because he had to fight cancer and he and his family had to fight the managed care organization at the same time.

This is the boy who died on his birthday. This is the boy who looked up from his bed and said to his mother: Mom, I don't understand how they can do this to a kid—''this'' meaning, how could they not have allowed him to get all of the treatment that was necessary to give him a shot at beating cancer? He died on his 16th birthday.

To his mother Susan, who also is a tireless fighter, and who believes also that there must be change, we say your son's memory, I hope, will give all of us in this Chamber the incentive and the initiative and the passion to do the right thing and to pass a Patients' Protection Act.

I mentioned yesterday that I, too, have lost a child. And I get so angry—so angry—sometimes when I hear these stories. I didn't lose a child because of a decision by a managed care organization, but I lost a child to a disease. And you never, ever get over it.

When I see mothers such as Susan, holding up a picture of her son, saying, ''this death should not have happened, I should not have lost my son, my son should have had a chance to live, my son should have been given the opportunity to fight this cancer that was invading his body'', then I say we ought to have enough passion and we ought to have enough determination and grit to stay here until we pass a piece of legislation that says no more Christopher Roes in this country will lie in bed dying of cancer having treatment withheld from them; it will never happen again because we will make sure it does not.

Patients in this country have basic protections and rights, and they have the right to the treatment they need at the time they need it. They have the right to see specialists, and they have the right to know all their options for medical treatment, not just the cheapest. They have the right to go to an emergency room when they have an emergency.

There are basic protections and rights that are in this legislation that every American deserves to have. We are going to see that we get Americans protected and their rights ensured by the time we finish the debate on this important legislation.

I thank my colleague from Nevada. And again I say to Susan, and all of the other mothers and fathers who have testified at the hearings I have held, your testimony was not in vain. We have put together a record that demonstrates the need to pass this legislation, and we intend to do just that.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I first say a big thank you to Senator KENNEDY for his many years of leadership on this issue, and also thank Senator EDWARDS for his leadership and sponsorship of this bill, along with Senator MCCAIN.

This is not a new issue in this Chamber. Senator KENNEDY led the battle on this, starting about 5 years ago, if I am not mistaken. We passed it last year, as you know. The House passed a good bill, but the Senate passed a rather bad bill. We went to conference, and we could not get anything out of conference. We used to meet periodically over here in a room, in Senator NICKLES' room, to try to hammer things out, but it became clear that the more we met, the less that was going to get done. So now we have a chance, this year, to catch up on all that and to pass this meaningful legislation.

I believe we are on the verge of a big victory for the American people. They have been waiting too long for this in the waiting rooms—about 5 years—where mothers, fathers, and children have been forced to spend countless hours negotiating the massive bureaucracy of their managed care plans, desperately trying to get the health care services they need and deserve.

Unfortunately, it is clear that the opponents of a Patients' Bill of Rights are not giving up their fight. They may succeed in convincing a few to delay it for a few more days, but they are not going to be successful in stopping the Senate from passing the protections that patients should have had years ago.

Right now, as I understand, we have an objection from the Republican side to proceed to the bill, an objection from the Republican side to not even take the bill up. That is unfortunate, but I think it indicates that we have to be resolute in our determination to answer the call of our patients all over America.

We do not have to look too hard to see that there are too many people being denied appropriate care. We have all heard the horror stories of individuals unable to see their doctor in a timely manner, of patients unable to access the specialists they need. We just heard a number of stories from the Senator from North Dakota and the Senator from New York. I am certain we will hear many more as we are here in this Chamber during this debate.

These are all individuals who have been denied the treatment their doctor has recommended or their health specialist has recommended because the HMO simply doesn't want to pay the bill.

I hope we will all remember, as we hear all these stories coming out, that those are the ones we know about. That is just the tip of the iceberg. Think about the many more Americans who have been denied the care but in their desperation they went elsewhere. Maybe they paid for it out of their pocket; they moved on with their lives. The stories we hear are the tip of the iceberg. There are many more about which we don't know. These are real stories and these are real people. These are real hurts they have.

It is very simple: Your HMO either fulfills its promises to pay for medically necessary services or it doesn't. We have heard enough to know that in too many cases it doesn't. As I said, I didn't have to look very far to find such situations in my own State of Iowa.

Let me relate the story of Eric from Cedar Falls who has had health insurance through his employer. Eric is 28 years old with a wife and two children. He suffered cardiac arrest while helping out at a wrestling clinic. He was rushed to the hospital where he was fortunately resuscitated. But tragically, while in cardiac arrest, Eric's brain was deprived of sufficient oxygen. He fell into a coma and was placed on life support. The neurosurgeon on call recommended that Eric's parents get him into rehabilitation.

It was then that the problems began. Although Eric's policy covered rehabilitation, his insurance company refused to cover his care at a facility that specialized in patients with brain injury. Well, thankfully, Eric's parents were able to find another rehabilitation facility in Iowa. Eric began to improve. His heart pump was removed, his respirator was removed, and his lungs are now working fine. But even with this progress, Eric's family received a call from his insurance company saying they would no longer cover the cost of his rehabilitation because he was not progressing fast enough.

Eric's mother wrote to me and said:

> This is when we found out we had absolutely no recourse. They can deny any treatment and even cause death, and they are not responsible.

In the coming weeks in this Chamber, we have a critical choice before us. We can choose for Eric and his family. We can choose between real or illusionary protections. We can choose between ensuring health care for millions of Americans or perpetuating the burgeoning profit margins of the managed care industry.

I have been working on this issue with my colleagues for over 5 years. Last year I was a conferee trying to work out this bill with the House. It came to naught. We have debated this issue for years. We have negotiated differences of opinion to find common ground. We have worked across party lines to develop the best bill possible. I am delighted to say that amendments I offered during the past debates, such as access to specialists and provider nondiscrimination, have been incorporated

into the underlying bill. S. 1052 truly represents the best of all of our collective ideas and, most importantly, meets the needs of the American people.

Our bill establishes a minimum level of patient protections by which managed care plans must abide. States can, and it is my hope that they will, provide even greater protections, as necessary for individuals in HMOs in their States. As a starting point, we need to pass a strong and substantive Patient Protection Act.

S. 1052, our Patients' Bill of Rights Act, delivers on what Americans want and what they need: Real protection against abuse; direct access to needed specialists, especially pediatrics specialists and OB/GYNs for women; the right for patients to see a doctor not on their HMO list, if the list does not include a provider qualified to treat their illness; access to the closest emergency room; the right for patients with ongoing serious or chronic conditions such as cancer or arthritis or heart disease to see their medical specialist without asking for permission from their HMO or primary care doctor every time they need to see their specialist; the right for patients to continue to see their doctor through a course of treatment or a pregnancy, even if the HMO drops their doctor from its list or their employer changes HMOs.

This is so important. Right now, so many people in managed care plans are seeing a doctor for a course of treatment. It could be a difficult pregnancy. The mother-to-be has every confidence in this specialist. Then her employer changes HMOs and this doctor is not on their approved list, not on their list for HMOs. Many HMOs will just drop that.

What this bill says is: If you started on a course of treatment, you can continue to see the doctor of your choice through that course of treatment even if the HMO has changed or if they have dropped the doctor from their list.

This bill has the right for patients to get the prescription drug their doctor says they need, not an inferior substitute that the HMO chooses because it is cheaper.

CONGRATULATING SENATOR CLELAND

Mr. DASCHLE. Mr. President, will the Senator yield for just a moment?

Mr. HARKIN. I am delighted to yield.

Mr. DASCHLE. I appreciate very much the senior Senator from Iowa yielding. The hour is almost over, and I do want to call attention to an important matter for me personally, for our caucus, and certainly for the Senate.

Our colleague from Georgia, Senator CLELAND, has never had the opportunity to preside before, in large measure because we have not been in the majority during the time he has been in the Senate. I want to call attention to the fact that MAX CLELAND, our colleague from Georgia, has been the Presiding Officer for this last hour. I congratulate him. I wish him well as he pursues his golden gavel of 100 hours of presiding. I compliment him on the way he has presided and thank him very much for his willingness to do so.

The PRESIDING OFFICER. The Chair thanks the majority leader.

Mr. DASCHLE. I thank the Senator for yielding.

Mr. HARKIN. I thank our leader for pointing that out. I, too, congratulate my friend and dear colleague from Georgia for being a good friend of mine and for being a great Senator.

A patient should have the right to appeal an HMO's decision to deny or delay care to an independent entity and to receive a binding and timely decision and, finally, the right to hold HMOs accountable when their decisions to deny or delay care lead to injury or death.

It was my friend from North Carolina, Senator EDWARDS, who said earlier that there are only two groups in the United States that can't be sued—diplomats and HMOs. It is time to end the HMO diplomatic immunity in this country and to allow them to be held accountable.

I know there is a lot of talk about the right to sue. Let's face it: Most of the situations will be resolved through the strong and binding appeals process that is in the bill. But the HMOs should not have special immunity when they harm patients. The reality is that unless HMOs are held accountable when they make inappropriate medical decisions that harm a patient, there is no guarantee that they will change their ways and stop putting profits before patients.

As this debate unfolds, I know that I and others will be coming to the floor to point out the tremendous profit margins some of these managed care industries have. When you think about it, that is hundreds of billions of dollars a year being sucked out of medical care that people need in this country and given to their shareholders or sometimes to a very small group who happen to own the HMO or the managed care system.

I don't mind HMOs making profits—that is fine—but they should not be able to make these unconscionably high profits by disallowing appropriate care for patients. That is what I mean. The HMOs cannot continue to put profits ahead of patients.

Mr. EDWARDS. I wonder if my colleague will yield for a question.

Mr. HARKIN. I am delighted to yield to my colleague and friend and a great leader on this issue.

Mr. EDWARDS. Mr. President, one of the reasons we are beginning this important discussion of an issue that will affect the lives of so many Americans is that for years now you have helped lead the fight on HMO reform, on a real Patients' Bill of Rights and on patient protection. I had the honor last year, during the Presidential campaign, of visiting in the Senator's State.

I say to my colleague, I heard over and over everywhere I went around the State the passionate feelings people in your State have for the fight that you have waged on behalf of real people and families and children to try to protect them against HMO abuses.

I wonder if the Senator would mind sharing with us what the people in his State have said to him in town hall meetings, visits on the street corner about how they feel about a clerk sitting behind a desk somewhere overruling experienced, well-trained doctors and nurses as to health care decisions that can literally affect the lives of their families.

Mr. HARKIN. First, I thank my friend from North Carolina for his kind words and for visiting my State. I invite him back soon and often. I thank the Senator from North Carolina for his great leadership on this issue, and I am delighted to be a soldier in his army to fight this battle and make sure our patients get decent care.

Mr. REID. Will my friend yield for a unanimous consent request?

Mr. HARKIN. Sure.

Mr. REID. Mr. President, I ask unanimous consent that following the statement of Senator CLINTON—she will speak for 15 minutes when she arrives—the Republicans be recognized for 1 hour following that time to make up for the time we have used.

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

Mr. REID. Mr. President, the one thing I ask of my friends on the minority side today, Senator ZELL MILLER has asked to come over. When he shows up, after a Republican speaker finishes his statement, perhaps Senator MILLER can speak, and you would wind up getting your full hour.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I was at a town hall meeting in Iowa, where I first heard this comment made by a gentleman who I think really brought it all home. He said to me: I don't want my doctor doing my taxes, and I don't want my accountant deciding my health care needs. To me, that sort of brought it all home and pointed out what we are trying to do: let the doctors and health care professionals make the decisions, and not the accountants, on what kind of health care we need.

As I said earlier, the stories we hear about the lack of medical care from people in HMOs in Iowa—again, this is the tip of the iceberg. We are going to hear a lot of stories. These are real people with real injuries and real hurt. We have to keep in mind that these are just the ones we know about. How many more that we don't know about are out there?

I retold a story here about Eric, a 28-year-old man who was working and had a wife with two kids. He was helping out at a wrestling clinic and he had cardiac arrest. They rushed him in and he was resuscitated. His brain had been denied sufficient oxygen, so he needed special rehabilitation. The neurosurgeon recommended to his family to

get him into rehabilitation. His insurance policy covered rehabilitation, but his insurance company refused to cover his care at a rehabilitation facility that specialized in brain-injured rehabilitation. So his family took him to another place in Iowa. He began his rehabilitation.

The good news is that he had progressed very well. The heart pump was removed, the respirator was removed, and his lungs are now working fine. But just at this point, the HMO calls his family and says they will no longer cover the cost of his rehabilitation because he is not making enough progress fast enough. I would never have known about this except that his mother wrote me a letter and said: This is when we found out we had absolutely no recourse. They can deny any treatment and even cause death and they are not responsible.

I hear stories such as this all over my State. That is why we need to move ahead aggressively and why we have to keep in mind, when this debate occurs and we hear all these amendments being proposed, that we are talking about real people, real consequences, and real hurt that is happening to these families. The need is clear.

This bill is not about doctors, nurses, or politicians; it is about patients, about our friends and our families when they get sick and they need to have the peace of mind that the health care they need and deserve—and that they have already paid for—will be available in a timely manner.

We have a chance to pass real and responsible legislation. The time is now. The American people have been in the waiting room for far too long. It is time to pass a meaningful Patients' Bill of Rights. Let's not delay any longer. We will have the debate. Let's have the amendments that are pertinent. Let's get it done once and for all.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. HARKIN. I yield to the Senator.

Mr. KENNEDY. Mr. President, I thank the Senator for his strong leadership in this battle over a very long period of time. As the Senator was mentioning in the beginning of his remarks, this has been a 5-year pilgrimage, where those who have fought for this legislation have effectively been denied the opportunity to bring this measure up on its own in the Senate. The Senator can remember last year when we had actually a numerical majority in this body, bipartisan in nature, who would have voted for this. But we were denied that opportunity. Now, as the first order of business under the leadership of Senator DASCHLE—I think it was the first comment he made after assuming leadership, that this was going to be a first priority following completion of the education bill.

I have a couple of questions because I, too, have had the good opportunity, as the Senator from North Carolina has, to travel to Iowa. More importantly, I have had the good opportunity of working closely with the Senator in the development of this legislation. The Senator can agree with me that the protections we have in this bill are basically pretty mainstream kinds of protections that I think families could recognize right at the outset. I don't have the particular chart here. We will have an opportunity to get into those as the debate proceeds.

We are talking about emergency room coverage and about specialty care, and we are talking about clinical trials and OB/GYN; and we are talking about prohibiting gagging doctors and talking about continuity of care and about point of service, so we can make sure we can get the best treatment for families needing those kinds of protections. The list goes on: prescription drugs, the right kinds of prescription drugs, and then appeals, internal and external, and then accountability provisions.

Doesn't the Senator, at times, wonder with me what are the particular protections in there to which the opponents object? What are the protections to which they most object? They say: We can't do this; we oppose this; we won't let you bring this up.

These are basic kinds of protections which, as the Senator knows, are either protections that exist under Medicare or Medicaid or have been recommended by the insurance commissioners who are not known to be Democrats or necessarily Republicans—pretty bipartisan and nonpartisan in most States. The only provisions that we have taken in the Patients' Bill of Rights—additional protections—were those that were unanimously recommended by a bipartisan commission that was set up under President Clinton. They were unanimously recommended, without dissent effectively.

They recommended that the HMO association adopt them. We said, because they were so important, to protect them we would put them in as a floor to make sure they are accepted. Does the Senator not wonder with me what the principal objectives are?

Finally, let me ask, does the Senator not believe that every day we fail to pass this legislation people are being hurt?

I took the opportunity yesterday to mention briefly what the Kaiser Foundation has found and what the various studies show. They show that every day we fail to take action, families, real people—parents, mothers, fathers, sons, daughters—their injuries are being expanded and their hurt and suffering is increased and enhanced because we are failing to pass this legislation.

Doesn't the Senator agree that for all of these reasons, and others, the importance of passing this legislation in a timely way, the importance of passing it now, the importance of supporting our leader and saying let's finish before we consider other work, deserves the support of everyone in this body?

Mr. HARKIN. I thank my friend from Massachusetts for postulating this question because it is really important. Before I answer it, I again thank the Senator for his 5 years of leadership. The Senator from Massachusetts was the leader on this issue when it started 5 years ago. He was our leader last year, and he is our leader again this year trying to bring to the American people commonsense decency.

As the Senator said, there is nothing in the bill that would not meet the test of good old common sense.

Yes, I want to know if those on the other side who oppose this are going to offer an amendment that says, no; if a woman is seeing an OB/GYN, if she is having a difficult pregnancy—this may be a specialist in whatever the difficulty might be. But then the woman's employer changes HMOs and drops the doctor. Right now they can refuse to pay that specialist. She would have to go to someone else and start over.

Doesn't it make common sense that she should at least be able to see that specialist through the end of her pregnancy, the birth, and have that same specialist see her? That is common sense.

I question out loud, will someone on the other side offer an amendment to disallow that? Fine, if they want to do that, if that is their opinion. I want to see how many people vote against something such as that. That is just common sense.

Or a person with a disability who has to see a specialist on a continuing basis, I cannot tell the Senator—he knows this as well as I do; he has been very supportive.

Mr. KENNEDY. Madam President, has the time expired?

The PRESIDING OFFICER (Mrs. LINCOLN). The time has expired.

Mr. THOMAS. Madam President, the time is to change at 3:15 p.m. We ask that be done.

Mr. HARKIN. Madam President, I will finish with 1 more minute.

As I was saying to my friend from Massachusetts, many people with disabilities have to see a specialist, but so many times it is hard for a person with a physical disability to get out, get the bus, get special transportation. Now they have to see the gatekeeper every time.

The HMO says: No, you have to come in and qualify for each and every time you want to see that specialist. This bill does away with that.

Will someone offer an amendment that says to someone with a disability: I do not care; you have to go through that gatekeeper time after time to see the specialist you need to see.

I agree with the Senator from Massachusetts; the bipartisan commission worked this out. These are commonsense approaches. You can take this bill to any townhall meeting in Massachusetts, Iowa, or Arkansas and lay it out for average Americans, and they will say: Yes, this makes sense. This bill makes sense and that is why we have to do it.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Nevada.

Mr. REID. Madam President, I have spoken with the manager of the bill, the Senator from New Hampshire. He made a very valuable suggestion. I ask to revise the unanimous consent agreement that is before us. I ask unanimous consent that the Republicans have control of the time speaking as in morning business until 4 o'clock, and thereafter, until direction of the majority leader, we will go on the half hour, from 4 to 4:30 p.m. will be Democrats, from 4:30 p.m. to 5 p.m. will be Republicans until we decide we have had enough for the night.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Hampshire.

Mr. GREGG. Madam President, I thank the assistant majority leader for helping organize the speeches this afternoon. There are a lot of Members who want to talk on this bill. That is reflective of the fact and one of the reasons why we cannot move immediately into the amendment process. It is not that we on this side are not interested in moving to the amendment process; we honestly are. There are many on our side champing at the bit to get into this bill and amend it and address fundamental issues.

We also on our side want to have the opportunity to bring forward substantive and thoughtful approaches on how to address this issue in an even more effective way than the bill before us that has been drafted by Senator MCCAIN and Senator KENNEDY.

The point, however, is that we just got this bill. It was one bill on Wednesday of last week. Then it was a different bill on Thursday. We have had 2 working days. We are talking about the bill, but it is a moving target for us. To get up to speed on it takes a little time, and there are a lot of people who want to talk about that, a lot of people who have had intimate knowledge with what has been going on with this issue for a long time but are not familiar with the specifics of the McCain-Kennedy bill and, therefore, believe they need some time to be brought up to speed before getting into the amendment process.

I note as an aside, and I think it is important to note, this is one of the most far-reaching and important pieces of legislation we will address as a Senate this year, certainly on the authorizing level. We just completed another major piece of legislation, the education bill, which is extremely important legislation. We spent 2 weeks—actually 2½ weeks—on the motion to proceed to the education bill. That was when the Republican Party held the majority in the Senate. At that time, I did not hear Senators from the other side saying we were moving too slowly as we are now hearing today from Senators on the other side, even though we have not spent more than 6 hours on the issue of whether we should proceed. It seems to me there are a few crocodile tears on that issue.

There is a legitimate reason for not immediately moving to the bill, and that is we do not know what the bill is, and we do not know the specifics of the bill. We should have a chance to read it before we proceed to it.

I use the very excellent example of the position of Members of the other side of the aisle when we were taking up the education bill when they suggested we do 2 weeks. We are not going to suggest 2 weeks, but we are going to suggest a reasonable amount of time to proceed on the issue of reviewing the bill before we address it.

This probably would not have been necessary if we had had hearings on this bill. One must remember, there has not been a hearing on this bill that is being brought before us even though it is extremely important legislation. In fact, in the Senate, there have been no hearings on the issue of patients' rights in 2 years—since March of 1999.

We have taken up the language of the Patients' Bill of Rights a couple of times, but we have not done any hearings in the committee that has jurisdiction or responsibility in the last 2 years.

That is important because at those hearings, we could have gotten constructive input. If we had had hearings on this bill, for example, we would have seen a number of people from communities across this country coming forward—small business people, people who are running mom-and-pop businesses with 9, 10, 15, 20, 30 employees saying: Listen, the hardest thing I have in my business is the cost of health insurance. I want to insure my employees. I want health insurance for them, but if the McCain bill passes, I will not be able to afford health insurance because I suddenly will not only be buying health insurance, I will be buying lawsuits. Instead of the present law which insulates the small employer especially from being sued for medical malpractice or medical malfeasance or medical events that their employees incur in the process of dealing with the health insurer with which the small business individual has contracted, instead of having that insulation, that goes down, the wall goes down.

Under this bill, those employers, those small mom-and-pop employers especially—all employers for that matter—will suddenly find themselves being sued for medical issues.

A person who runs a restaurant with 30 employees is probably saying: I don't mind being sued if I put out a bad meal and somebody gets sick. That is my responsibility. But if one of my employees to whom I have given health insurance, which I think is important to them, goes to the local doctor and the doctor doesn't treat them correctly or they get bad advice from their insurance company on the way they should have been treated or their options, why should I, as the owner of the little restaurant, end up being drawn into that lawsuit? But I will be under this law, under this proposal as it is structured.

I find it consistently ironic that the Senator from North Carolina, who has his name on this bill, continues to say employers are not subject to suits when the bill specifically says employers are subject to suits. It says it in two places that are very significant.

He suggested I read his bill. I did read his bill. I might suggest he also take a look at his bill because it does not appear he has, if he continues to conclude employers are not subject to liability. No. 1, the language is, as we mentioned earlier on page 144, very specific. Granted, the headlines for the language are ''exclusion of employers and other plan sponsors.'' But when it gets to part (B), it says, ''notwithstanding [anything] in subparagraph (A), a cause of action may arise against an employer or other plan sponsor. . . .''

That is the term, ''employer.'' I define ''employer'' as employer, not insurance company. I think anybody else would, too. So right there, at the base of it, employers are sued under this bill, and for a significant amount of responsibility here, because the definition of what an employer is going to be sued for goes on to say, ''where the employer participated—had direct participation by the employer or other sponsors in the decision of the plan.''

Direct participation has become an extremely broad term, as I mentioned earlier today. Basically, if the employer says, as you are heading off to the hospital—you are working for the restaurant; there are 30 people at the restaurant and you get burned in the kitchen and the employer says, you have to get down to the hospital, let me make sure you get to this hospital versus that hospital, the employer is libel. The employer is libel for how you are treated at that hospital under this bill.

Then there is this new cause of action, which is a massive new expansion of the ability of people to be sued, employers specifically, under this bill. This new cause of action is created by subsection 302, subsection (A)(ii), I think it is the right cite, on page 141 of Senator MCCAIN's bill:

> . . . otherwise fail to exercise ordinary care in the performance of a duty under the terms or conditions of a plan with respect to a participant or beneficiary.

Then, the agent or the plan sponsor is subject to be sued. Plan sponsors are, by definition of ERISA, employers. That is very clear, unequivocal in ERISA. So we are talking about the fact that there is now a new Federal cause of action for what amounts to the failure of a plan, the insurer, to give information which traditionally had been managed through regulatory activity—the failure of that plan to do a whole series of things.

I put up a list earlier of potentially 200 different places, between COBRA, HIPAA, and ERISA, that you would have a cause of action that could be

brought on an activity of the insurer or people who are involved in the plan in a ministerial way as employers. They would now be subject to lawsuits in a Federal action. There would now be a Federal action against them on that in over 200 different places—not quite 200, somewhere around 200 different places where employers could be sued.

I understand—I was not here but it was represented to me by people who were here—that, once again, the Senator from North Carolina said that is not true; that only counts if it is a medically reviewable event. Then that brings in the employer.

I don't know. I think I can read language. The language is abundantly clear, and I don't think you can reach that conclusion because the language is clear. The language the Senator quoted in support of that position, which actually is a 180 degree exact opposite conclusion of what the Senator from North Carolina said, the point he was making, if it was correctly represented to me.

Under clause (2), again of 302, it says:

IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in clause (i) or the failure described in clause (ii) does not [''not''] include a medically reviewable decision.

Just the opposite. It is not because there is a medically reviewable decision that you get brought into this. It is because there was no medically reviewable decision, which means all these ministerial events, which have unlimited liability attached to them, can create the lawsuits against employers.

So employers are going to be hit with a plethora of new lawsuits from attorneys across this country. This is a whole new industry. We will have to probably build another 20 or 30 law schools across this country just to take care of all the new lawyers who are going to join the trade in order to make money suing people under this McCain-Kennedy bill. We are going to have to expand law schools radically, which may be good for law schools but I am not sure it is good for our society as a whole.

I want to go into a little more depth here, if I have a minute—I understand somebody else is coming to speak—on the specifics so I get it right, especially on this whole issue of the Federal tort claim, this new Federal action. This is a huge event which should not be underestimated. It is technical but it is huge and the implications are radical. We are going to get a chart put up just to make it a little easier for people to understand.

Basically what this bill does is it creates two new types of lawsuits in Federal court. Under the first type of action, participants can sue over a failure to exercise ordinary care in making nonmedically reviewable claims determinations. The second Federal cause of action broadly allows suits for failure to perform a duty under the terms and conditions of the plan. Remedies available under the two new claims, these two new ERISA claims, include unlimited economic and noneconomic damages and up to $5 million in what this new euphemism is, ''civil penalties,'' otherwise known as punitive damages. I guess that was too punitive a word to put into this bill so they used the words ''civil penalties.''

They have created these claims. They have taken the tops off the liability and basically said, OK, go find an employer and shoot him dead with unlimited economic damages, unlimited noneconomic damages, and $5 million in punitive damages.

The second new ERISA claim, the terms and conditions in the one I just talked about, is extremely broad, covering virtually any administrative action that does not involve a claim for benefits, including the S. 1052 McCain bill new patient protection requirements under COBRA and HIPAA.

The McCain bill establishes a complicated scheme which attempts to limit Federal and State suits against employers provided the employer does not directly participate in the decision in question. It is a very complicated scheme, but what is the effect of it? The effect of this direct participation at this time will mean that employer protections are essentially meaningless for suits alleging a failure under the terms and conditions of the plan.

Further, the McCain-Kennedy bill continues to allow unfettered class action suits—including suits against employers—where no limits on damages would apply under the current law provisions of ERISA or other Federal statutes, including the RICO statute.

So you have, first, a whole new set of Federal claims created against employers, unlimited economic damages, unlimited noneconomic damages and $5 million of punitive damages, which essentially have a figleaf entry level that any good lawyer is going to be able to punch through called directed participation. Then you have the continuation of class action suits giving lawyers another forum with things such as the RICO statute.

Because employers inherently carry out their duties under the ERISA's statutory scheme, the McCain-Kennedy bill will leave employers wide open to new Federal personal injury suits. Employers will be sued based on alleged errors in:

Offering continuation coverage and providing notices under COBRA;

Providing certification of prior credible coverage under HIPAA's portability rules;

Distributing summary plan descriptions; describing the plan's claim procedures under the plan; and describing the plan's medical necessity or experimental care benefit exclusions.

Here are some of the others:

Also, providing notices of material reduction in group health plan benefits as required by ERISA.

These are all areas where they can be sued.

Also, responding to requests for additional group health plan documents under ERISA; and, finally, group health plan reports under the Department of Labor.

In all of these areas they can be sued. The list goes on and on. Employers cannot be sued on this today. All of this is new. This is a brand new litigation area.

As I said, we will need to add many new law schools in order to absorb all the new lawyers we will need in order to bring all of these lawsuits.

The McCain-Kennedy bill proposes up to $5 million for punitive damages for COBRA, HIPAA reporting, and disclosure violations despite the fact that all of these requirements have their own specific ERISA enforcement provisions.

In other words, under present law, there are already enforcement provisions for this activity and the ones I just listed. But they don't run to the employer to benefit the patient. The patient doesn't have an individual cause of action in this area. Rather, these are strong administrative procedures which keep the employer from violating the purposes of ERISA. But now we have punitive damages up to $5 million, unlimited economic damages, and unlimited noneconomic damages.

Some of the things that occur today in order to enforce these laws but which do not involve private cause of action as created under the bill are as follows:

There is a $100 per day excise tax penalty under Code section 4980B(b) violations of the COBRA requirements—tax penalties are up to $500,000 for employers and $2 million for insurers. There is an additional $100 per day civil penalty under ERISA section 502(c) for failing to satisfy the COBRA notice requirements. Plan participants may sue employers and insurers—for benefits and injunctive relief under ERISA section 502.

There is a $100 per day excise tax penalty under Code section 4980D(b) and a $100 per day penalty under section 2722(b)(2) of the Public Health Service Act for violations of the HIPAA preexisting conditions limitations provisions. In addition, plan participants may sue for benefits and injunctive relief under ERISA section 502.

Willful violations of ERISA's reporting and disclosure rules, including the requirements relating to the provision of SPD and documents upon request, are subject to criminal fines and imprisonment under ERISA section 501.

Failure to provide documents upon request is subject to civil penalties under ERISA section 502(c).

So you already have a very extensive administrative and legal liability situation for employers and insurers that do not meet the conditions of COBRA, HIPAA, and ERISA. But what you are now layering on top of that is a brand new concept where you have a private right of action, where individuals can go out and allege these violations as

part of the injury they claim they received and have a whole new cause of action against the employer.

What small-time employer—what employer, period—is going to want to keep a health plan if they have that level of liability facing them?

McCain-Kennedy would impose potentially huge new compensatory and punitive damages remedies for violations of COBRA, HIPAA, and ERISA's disclosure requirements. Moreover, under the statute's own requirements, the employer is specifically required to carry out COBRA and disclosure requirements—the employer is almost always the administrator. Thus, McCain-Kennedy imposes a huge new liability on employers that employers cannot avoid; despite the fact that when Congress adopted COBRA and HIPAA with large bipartisan majorities no discussion was given to the need for punitive damages to enforce the new requirements.

Practically what you have here is a decision by the drafters of this bill to say we are not really so much interested in delivering better health care and in giving patients better health care; we are really interested in creating a massive new opportunity for lawsuits.

In doing that, I think they are accomplishing one of the goals—which I believe is a subliminal goal and maybe a more formal goal in truism—which is to create more people who are not ensured because that can be the only conclusion from their lawsuit structure. The only thing that can come from all of these lawsuits, from all of these new causes of action, and from all of the new pressures it will put on employers is that fewer employers will insure their employees, especially small employers.

Inevitably, there will be more uninsured. Why would anybody be for more uninsured? If you are around here and you want to pass a national health care plan, the biggest argument you have in your favor is that there are too many uninsured in our country, that the only way to handle the uninsured is to nationalize the system and put everybody into a national plan so everybody is covered.

We heard that argument interminably in 1993 when there were only 23 million uninsured. After 8 years of the Clinton administration, there are now something like 42 million uninsured. We have increased the number of uninsured people by 19 million over this approximately 8-year period when we were supposed to be improving our health care delivery system. And the call for a national plan will grow and grow as the number of uninsured grow.

If you pass this proposal, because of the costs it will create on employers and because of the increased cost in the insurance premiums, which the Congressional Budget Office scored at 4.2 for every 1 percent of increased cost, CBO estimates that 300,000 people will drop insurance. So 1.2 million people are going to drop their health care insurance.

Couple with that this huge, newly built, unintended consequence—intended consequence; it is not unintended at all—which will be that employers, and especially small employers, will simply say, I am not going to run the risk of being put out of business by these lawsuits which bring me personally into the fray.

Then you have the result that more and more people will become uninsured. Thus, more and more pressure is created in the marketplace of politics for a nationalized plan.

You have to remember, if you are a small businessperson and you are employing 20, 30, or 50, or even 100 people, and you are confronted with one of these law lawsuits—which you suddenly find you are confronted with because the Federal law has the ability of making you personally liable because you happen to be the employer or the health plan sponsor—what is your alternative? What are your alternatives as a small businessperson? You have to go out and hire an attorney. How much is that going to cost you? It will cost literally tens of thousands of dollars probably to defend yourself in court or you have to settle the suit. Even though you don't believe you owe anything, you have to settle the suit rather than pay the attorneys or you decide to pay the person who brought the suit. That is going to cost you a lot of money.

Either way, as a small employer, if you are running a mom-and-pop restaurant, it will probably wipe out your profit because you suddenly find that you are subject to lawsuits to which you were never subject before simply because you gave health insurance to your employees. It is absolutely the wrong result. We have heard a lot from the other side of the aisle about individuals who had serious problems with HMOs. We are all sympathetic to those individuals. Photographs that have been brought to this Chamber—and brought to this Chamber last time—by Members from different States are very moving photographs. But you have to remember, that is not the issue here because the proposal put forward by Senator NICKLES last time, the proposal put forward by Senators FRIST, BREAUX, and JEFFORDS, and the proposal from Senators KENNEDY and MCCAIN, all take care of those individuals' concerns. Those are straw men. None of those folks, I suspect—or the vast majority of them; I suspect none of them—would have the problems they had with their HMO if any one of those three bills passed because all those bills had a very aggressive procedure for redress for the person who believes they are not getting fair treatment from their HMO—very aggressive.

All of those bills had very extensive proposals for coverage of different types of services which people believe they have a right to, and should be able to get, and should not have to have their HMO telling them what it is they should have and what it is they should not have—whether it is their OB/GYN or specialists or a primary care provider. All of them have that language or rely on State law which has that language and which is equal to the language in the bill that is being proposed.

So those issues, as compelling as they are, truly are not relevant to the debate in this Chamber because under anything that passes this Chamber, you have a 100-percent vote to take care of those issues.

The question before this Chamber is whether or not we are going to drive up the costs of health care by creating new liability for employers, forcing employers to drop health care, and whether or not we are going to usurp the authority of States to set out their ideas as to how to address this issue, where many States have already done an extraordinarily good job and really do not need a Federal law in order to protect their citizenry because the protections have already occurred.

There are a lot of other issues in here, too—lesser issues. But those are the two big ones. That is what this debate is about. It is not about the folks who have not been treated well because those folks are going to be treated well under whatever bill passes. And it is not about people not being able to go to their health care provider and get the type of specialists or the type of treatment they want in a context which everyone would describe as reasonable because that is in every one of these bills.

It is about the cost of health care, the liability of employers, and the usurpation of States rights with States having the opportunity to legislate in the area of insurance which for years is something that has been a tradition in this country.

So as we go down the road—and hopefully we will get a final form of a bill to debate from—I believe that is the proper framing of this debate. I look forward to it.

I yield the remainder of our time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I thank our dear ranking member for yielding to me.

I wanted to come over today in the 15 minutes we have left to talk about this version of the Patients' Bill of Rights. Lest this stack of legislation on my desk fall over and kill me, let me make the point that it seeks to make. This stack on my desk demonstrates our big problem in trying to bring up one of the most important bills we are going to consider in this Congress; a bill that, by the definition used by its principal authors, will cause net pay of American workers to decline by $55 billion over the next 10 years. Senator KENNEDY talks about the bill costing a Big Mac. It really is 25 billion Big Macs. It is a lot of hamburgers and a lot of dollars.

Looking toward the debate on one of the most important bills that we will consider, after having spent several weeks trying to analyze and understand the old version of the bill, S. 872, we now have a new version, S. 1052, and we understand that there is yet another version which is coming.

Why is this important? It is important because if we are going to debate an issue that will have a profound effect on every working American and every user of health care—which is everybody alive—it is vitally important that we know what the proposal is that we are going to debate. A perfect example of why that is important is the Clinton health care debate that we had in 1993 and in 1994. We kept hearing a debate from the White House about their bill, and what it did; but in reality, as that debate was in the process of beginning, we had one, two, three, four, five, six, seven, eight, then nine different versions of the bill.

Why was it changing so much? It was changing so much because it was indefensible. The problem is—at least the problem I had—is that every time I studied a new version, by the time we got to the floor of the Senate to debate it, the version had changed dramatically. It was not an insurmountable problem because each and every one of these versions wanted the government to take over and run the health care system. When the American people knew what they were trying to do, they were not for it.

But I think we can expedite this debate if we simply know what is being proposed. So I would like to propose to our colleagues a solution to our problem; and that is, if there is about to be a new version, and if the authors of the bill would give us their final version, then I believe that we could, with a couple of days' study, be in a position to debate the bill. And we could get on with it.

Why is this issue so important? You are going to hear a lot of debate about what this could mean to health care in America, what it could mean to the availability of health insurance. Why is that so important? First of all, it is important because I think people need to realize that when we debated the Clinton health care bill in 1993 and in 1994, the argument that was made throughout that debate was: Don't worry about the right to have choices. Don't worry about a point-of-service option. Don't worry about the right to sue. Worry about access to health care because the figure that was used in that debate was the latest number we had, as a good number, which was that 33 million people did not have health insurance. Today, 42.6 million people do not have health insurance.

What was the solution to that problem that Senator KENNEDY proposed in presenting the Clinton health care bill? The solution was to have the Government, through health care purchasing collectives—which would be these giant HMOs run by the government that everybody would be forced to be a member of—that the government was going to set standards for health care, and they were going to give these 33 million people access to health insurance.

The price we were going to pay was that you did not have any choice about joining this government-run HMO. You are going to hear Senator KENNEDY and others talk about forcing these private HMOs to have a point-of-service option. But he is not going to point out that in the original Clinton bill, the point-of-service option was that if the health care purchasing collective in your area did not approve a treatment, and the doctor provided that treatment, he was fined $10,000. And if you paid him separately for the treatment, he was sent to prison for 5 years.

You are going to hear a lot of debate about the right to sue HMOs, but you are not going to hear that 7 years ago, Senator KENNEDY, on behalf of Bill Clinton, proposed a bill that severely limited the right of anybody to sue a doctor or any health care provider or any faceless bureaucrat running a health care purchasing collective.

The argument 7 years ago was, forget about freedom. Instead, worry about the fact that 33 million people don't have health insurance and give up your freedom and let the government run the system, and we will solve that problem. That was the argument 7 years ago.

When people understood it meant that when your mama got sick she was going to talk to a bureaucrat instead of a doctor, the American people killed that proposal. But notice the 180 that has occurred in those 7 years. Today 42.6 million people do not have health insurance, almost 40 percent more than in 1989. But now we have a proposal before us that simply assumes that every employer absorbs part of the cost of increased health care that will come from the bill before us, however, we know that the increased costs will guarantee at a minimum that 1.2 million people will lose their health insurance.

Why, if we were willing to let the government take over the health care system 7 years ago because people didn't have health insurance, do we now, in the name of giving them the very rights we would have taken away from everybody 7 years ago, make it so that 1.2 million people, at a minimum, don't have health insurance who have it today?

I will explain the answer. I am deeply worried about people losing health insurance and I want to preserve private medicine in America. But if 7 years ago you wanted the government to take over the health care system, then if you destroy the health care system we have today, if more people lose their health insurance 2 or 3 years from now, you can come back and say: let's allow the government take it over to solve a problem which, in fact, you have created with a bill like the bill before us that vastly expands lawsuits and expands cost.

Now, why is this such a big deal? Why is there so much passion about this? Let me explain why. This simple chart explains why. This simple chart tells us how unique America is in all the world, and how different we are than any other developed country in the world. We have all heard of the G–7 nations. Those are the seven richest countries in the world.

What I have done in this simple chart is to take the G–7 nations and ask a simple question: What percent of the population in the seven most developed countries in the world get their health care through the government and what percentage get it through private choice, private health insurance and decisions that they actually control that relate to their family and their children? If this chart does not scare you, then I think there is something wrong.

What does this chart show? It shows that of the seven most developed and richest countries in the world, the United States is profoundly different in health care. Sixty-seven percent of Americans buy health care as a private purchaser through private health insurance and through individual choice; 33 percent of Americans get their health care through a government program.

When you look at the next freest country in terms of private decision-making regarding health care in the developed world, next to America, which has 67 percent of its people buying health care through their choice, through private health insurance, and individual decision-making, the next freest country is Germany, where 92 percent of health care is purchased through government programs and government decision-making.

As we go into this debate, why am I so concerned about driving up health care costs and forcing people to give up their private health insurance and forcing companies to cancel insurance? I can tell you why I am concerned. I don't want, 10 years from now, the United States to be up to 92 percent of its health care run by government or 99 percent of its health care run by government or 100 percent of its health care run by government. If you want America to be at the top of this list, then you don't care if the bill before us produces a situation where companies cancel health insurance because you have the answer already. The answer is government.

This is a big issue. This is one I believe deserves thoughtful deliberation.

Finally, I will pick three issues. I will use the old bill because that is the one I know. I have checked out the new bill and, with one exception, there is not a change. There has been one word dropped. I will explain why it is so important that we have a copy of the final bill so we know what is in it. Let me take three issues that will make my point.

The first issue is the one that there was a lot of talk about on the weekend talk shows. In fact, one of our Democrat colleagues was asked about suing employers. He responded: under our bill, you can't sue employers. Sure enough, if you open their bill up to page 144, right in bold headlines, it says that you can't sue employers. In fact, in a super-bold headline it says: Exclusion of employers and other plan sponsors. And then a subhead line called paragraph (A), it says: Causes of action against employers and plan sponsors precluded. Gosh, it sure looks like it precludes suing employers.

Then it says: Subject to subparagraph (B), paragraph (A) does not authorize a cause of action against an employer. But guess what. When you get down to paragraph (B), it says: Certain causes of actions permitted. Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor or against an employee of such an employer or sponsor acting within the scope of employment.

Why are we so concerned about getting to see the final bill before we debate it? Because the bill is full of these bait-and-switch provisions. Here in one paragraph it says you can't sue an employer, and then in another paragraph it says you can.

Let me give two more examples. One is, can you force an insurance company to pay for a benefit that is specifically excluded in the policy? Let's say the policy says that the plan does not provide coverage for heart and lung transplants and, as a result, the plan is cheaper. And so my small little company I work for buys the plan, and I know in advance it does not cover that. So the question is, are you bound by the contract? If you look at the bill on page 35, it sure looks like you are. In fact it says no coverage for excluded benefits. And then it has a paragraph that tells you if they are specifically excluded, they are excluded. Until you turn over to the next page and it says: Except to the extent that the application or interpretation of the exclusion or limitation involves a determination under paragraph 2.

Then you turn back two pages and you see that anything that is medically reviewable or has to do with necessity or appropriateness can be mandated, even if the contract specifically excludes it. In other words, another bait and switch.

The PRESIDING OFFICER. Under the previous order, the time controlled by the minority has expired.

Mr. GRAMM. Let me say, we will have plenty of time to debate this and I will continue my examples later. However, the point I wanted to make now was that we need to see the final version of the bill so we can prepare to debate it.

Maybe if we can take some of these inconsistencies out, we could be closer to having an agreement than we think we are. I thank the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I only caught the tail end of the remarks by the Senator from Texas. But I will just point out that this bill, which we are hoping to consider today, has been in the works for years. It has gone through a number of drafts; it has been voted on in previous incarnations. It is not a new issue. It is ready for the full debate and disposition in the Senate. It is not like a budget bill that is presented without any debate and without any adequate preparation, as we experienced a few months ago. This is an issue that is more than ripe for the consideration of this body.

I thank Senator DASCHLE for making the McCain-Edwards-Kennedy Patients' Bill of Rights the first bill he has brought to the floor as our Senate majority leader.

I really rise today on behalf of the countless New Yorkers, and really millions of Americans across our country, who have been waiting for this day for a very long time. I heard some remarks by the Senator from Texas about the efforts that were made, I guess, 6, 7 years ago now, to try to provide health care coverage to every single American. I was deeply involved in those efforts, and although we were not successful, the goal was one that I think we should still keep at the forefront of our minds and hearts because when we began our work in 1993, there were approximately 33 million Americans without insurance; today we are up to 42 million. This is after the so-called managed care/HMO revolution occurred, where people have been finding it harder to afford coverage, afford the deductibles, afford the copayments, with the result that we have more people uninsured today than when many of us tried to address this problem some years ago.

There are many urgent health care issues before us as a nation such as sky high prescription drugs for our seniors, too many without adequate coverage, and once they have Medicare they can't afford the additional coverage that is required in order to give them the kind of health care they should have. There are gaps in our health safety net, a shortage of nurses in our hospitals and nursing homes, and the very difficult conditions under which so many of our nurses now labor. And, of course, there is the growing crisis of the uninsured. So we have our work cut out for us in order to deliver on the promise of quality, affordable, accessible health care for all Americans.

That is why I am urging we proceed without further delay or obfuscation and pass a Patients' Bill of Rights—the bipartisan Patients' Bill of Rights that Senators MCCAIN, EDWARDS, and KENNEDY have worked so hard to present, which has bipartisan support in the House.

We have to finish this job. We have been laboring over it since 1996, in earnest with the efforts within both Houses of Congress since 1997. We have now been waiting and waiting for the Congress to act. Now is the time.

I believe we should act not because it has been on the agenda for a long time, although it has, and not because it is one of those issues to which finally the stars seemed aligned and with the Democratic majority now in charge of the Senate we can actually get it to the floor but because of the patients and their families who are out there waiting and literally praying for us to act.

Each of the patients I have met and heard from, and each of the families whom all of us have heard from, tell a story that describes an urgent situation needing timely and responsive care. That is why this bill is so important.

It is about getting the care you need when you need it. It is about getting care in a timely manner from doctors you trust and choose. It is about having doctors and nurses in charge of your health care, not accountants and bookkeepers.

My colleague, TOM HARKIN from Iowa, had a memorable phrase today at the press conference. He said, ''The American people don't want their doctors doing their taxes and they don't want their accountants providing their health care.''

Each of us should be able to look to our doctors, our nurses, our health care professionals for the care that we trust and need. This is about access to an emergency room when we need it.

I recall being in Ithaca, NY, about 2 years ago and meeting a young woman who came to see me with a stack of medical records, literally a foot high, just desperate. She had been in a very dangerous, nearly fatal accident on one of those winding roads that go through that beautiful part of New York. Some of you may have traveled through Ithaca or may have gone to Cornell. You know what beautiful country it is, but it has also a lot of winding roads. She was in a devastating accident, lying unconscious on the side of the road. Luckily, someone came upon her and called for aid and they were able to medivac her out with a helicopter, save her life, and she was in hospital care and rehab for nearly a year. She gets out and what does she find? She gets a bill from her HMO for the helicopter medivac emergency service because—get this—she didn't call for permission first. She is unconscious on the side of the road and they want to charge her $10,000 because she didn't call for permission.

So this is about getting the emergency care you need when you need it. It is about seeing a specialist when you need it, when your doctor says: I have gone as far as I can go; you need to go see a specialist. It is about women being able to designate their OB/GYN as their specialist, and about mothers and fathers being able to designate their pediatrician as their child's general practitioner as well. It is about all

of these and more—the kinds of issues that are not just written somewhere in a headline but are lived with day in and day out, which are talked about around the kitchen table, around the water cooler—the life-and-death issues that really make a vital difference to families all over New York and America—families such as that of Susan Nealy, from the Bronx, whose husband had a serious heart condition but whose referral to a cardiologist was delayed a month. The day before the appointment was finally scheduled, Mr. Nealy died of a massive heart attack, leaving behind his widow and two young children, ages 5 and 3.

It is like the family of the 15-year-old boy from New York who developed complications from heart disease, but his health plan refused to allow him to see an out-of-network specialist familiar with the case and instead sent the teenager to a network provider who did not see him for 4 months, and then the boy's lungs were filling with blood, and 2 days later he collapsed in the street and died.

These are just two of the stories I could pick from my innumerable conversations and letters that I have received. There are so many more we could tell.

For every one of these stories, there are untold stories of families whose struggles for the care they needed were denied or delayed. According to patient reports, health plans delay needed care for 35,000 patients every day. In fact, delayed care and payment is a business practice that health plans have perfected.

I have heard from many doctors who tell me that each day a health plan withholds payments represents literally thousands of dollars in interest that a health plan could earn. The practice of delay is so widespread that there is a term for it. It is called ''living off the float.'' Unfortunately, not everyone who is subject to it actually ends up living.

Look, I don't blame the accountants and the bookkeepers. They are trying to maximize their shareholders' return, their profits. That is the business they are in. But this cannot go on. There have to be rules that say you must, regardless of your being in business and regardless of having to make quarterly returns, put patients, doctors, and nurses first.

The physicians and nurses I speak with are so frustrated about this. They are caught between the sharp conflict, between business practices that I personally think are unscrupulous, but nevertheless they are engaged in, and the principles of the oaths that they take to do no harm, to get the health care to the patient when the patient needs it when it can do some good. Life-or-death situations rarely wait for prior authorization.

Last summer, I met Dr. Thomas Lee, a neurosurgeon at the Northern Westchester Hospital Center, just up the road from where we live in Chappaqua. Dr. Lee was called to the emergency room one day about a year ago because a patient—not his patient; it was someone he had never seen before—a young woman in her early thirties collapsed at work. She was brought to the emergency room.

Dr. Lee did his neurosurgical analysis, did the tests that were necessary, and discovered this young woman had a very serious tumor that was pressing on vital parts of her brain and needed to be operated on.

They found her husband, thankfully, and they called the HMO that insured the family and asked for permission to perform the surgery right then. Dr. Lee said it was, if not a matter of life and death, a matter of paralysis and normal life, and they were denied. They were told that because Dr. Lee was not one of their network physicians, because the Northern Westchester Hospital Center was not the hospital center they preferred to use, he could not do the surgery.

For 3 hours, Dr. Lee, his nurse, and the hospital staff were engaged in an argument with the HMO instead of performing the lifesaving surgery. It breaks one's heart to think about this neurosurgeon who could be saving lives getting on the phone trying to get permission to do what he is trained to do.

Finally, he was so fed up, he said: Look, this young woman's life is at stake. I will perform the surgery free of charge so long as you will cover the hospitalization. With that deal struck, the HMO let him proceed.

I am very proud Dr. Lee is practicing medicine in my neck of the woods, but I do not expect doctors and neurosurgeons to perform lifesaving heroic surgery for free. That is not the way the system is supposed to work. These are people who go to school for decades to do this work, and they deserve the respect and compensation we should be putting into our health care system, not to satisfy HMOs but to pay for the services of trained physicians and health care professionals.

For the past 5 years patient advocates have worked on this bill, and we have seen every delaying tactic one can imagine. I had a front seat to this when I was down at the other end of Pennsylvania Avenue. We were working very hard to get this bill through the Congress. Every excuse one can come up with was thrown in the way. It became so frustrating to all of us who knew that lives were at stake, care was being denied and delayed; that passage of needed protections was being derailed.

We come to this day. Luckily for us, we are here not only because it is the right thing to do but because States and courts have realized they just cannot wait any longer. They have seen firsthand what is going on in our country.

New York passed a State managed care protection bill in 1996; they even passed a law in 1998 to strengthen the protections—all before the Congress chose to act. Many more States have passed such protections, including Texas, specifically aimed to permit injured patients to hold their health plans accountable for their injuries.

President Clinton signed an Executive order giving 85 million Americans with federally sponsored health care, such as Medicare and Medicaid, protections similar to what we are trying to give to all Americans through a 1998 act.

Even Federal courts, notably in the case of Andrews-Clarke v. Travelers Insurance, have urged the Congress to act. In that case, Judge William Young states:

> Although the alleged conduct of Travelers and Greenspring in this case is extraordinarily troubling, even more disturbing to the Court is the failure of Congress to amend a statute . . . that has come conspicuously awry from its original intent.

Yet because of our failure to enact such a statute, at least 43 percent of all Americans with employer-sponsored private coverage are still left out in the cold. These Americans cannot afford to wait any longer. Forty percent of Americans know that passing a law today is even more urgent than it was 2 years ago, and a majority of them thought it was urgent then.

Let's work in a bipartisan way. This bill is bipartisan. Senator MCCAIN, Senator EDWARDS, and Senator KENNEDY have all worked to get to this point. They have all made compromises. Their bill is the only bill before the Senate that applies to all 190 million Americans with private health coverage. It is the only bill before the Senate that has all the protections of Medicare and Medicaid. It is the only bill that has the support of over 500 consumer and provider advocates.

Anybody who knows anything about some of these provider groups, such as the American Medical Association, knows that Congress is not their preferred venue. They are not keen on having the Congress tell them to do or not do anything, but doctors are so frustrated that even the American Medical Association has come time and again asking that this bill be passed.

It is the only bill that guarantees coverage for the routine costs of FDA-approved clinical trials which are so important to patients with cancer and so important particularly to children with cancer.

This is the only bill that guarantees an internal and external review as soon as it is medically necessary.

In sum, this is the only bill before the Senate that protects patients, not HMOs.

Just as delaying tactics by managed care organizations have injured and even killed millions of Americans over time, delaying tactics by the opponents of this bill have taken their toll.

I want my colleagues to look at this patient survey that is behind me. Each day, 35,000 patients have a specialty referral delayed or denied; 18,000 every day are forced to change medications as a result of their health plan's determinations—not their doctors but their health plans.

When I say ''health plans,'' I mean somebody sitting in an office, usually hundreds of miles from where the patient or doctor is, second-guessing the doctor, saying; I am sorry, your doctor may have 30, 40 years of practice and experience, but I am going to sit in this office without ever having seen you and decide that I can second-guess what kind of prescription medication you should have.

Forty-one thousand patients a day experience a worsening of their condition because of actions by their HMOs.

One can go through this list and see what patients are saying. Then one can look at another list that comes from surveys of doctors, those who are on the front lines. They are saying they believe their patients are confronting serious declines in their health from plan abuse. This is the kind of information that concerns me because when I go to the doctor, I expect my doctor to take care of me. He or she has sworn an oath, they have been well trained, and I have checked them out. I feel like I am putting myself in someone's hands whom I can trust, and doctors are saying they are not being permitted to practice medicine. They are being told they have to subject their decisions to people they have never met nor seen.

It is because of the desire of HMOs to slow down payment, to deny payment, to keep that float I talked about going, basically to use the money they should be paying to doctors and hospitals for taking care of us for their own purposes, for their own profits, for their bottom lines.

In my office I keep a picture of a young, beautiful woman named Donna Munnings. This is Donna. This is a young woman who reminds me every single day when I look up at her picture in my office of what can happen when the system does not respond until it is too late. Donna's mother Mary is a school bus driver from Scottsville, NY. She has been lobbying and advocating for this bill for years. Her daughter Donna died February 8, 1997, after having visited her primary care physician repeatedly, only to be told that she had an upper respiratory infection and suffered from panic attacks and that no diagnostic tests were necessary. Had the doctors performed a $750 lung scan in time, they would have seen not an upper respiratory infection but a football-sized blood clot in her lung.

Her mother Mary said:

> In my subsequent research I found that HMOs can and do penalize doctors for ordering tests which HMOs feel are unnecessary. But all for the sake of money [all for the sake of a $750 test] we lost a vital, beautiful young lady who had only begun her life.

We are going to hear a lot of debate. In fact, we are debating whether we can even proceed with this bill: Yet more delaying tactics, yet more efforts to obstruct the kind of care that every one of us needs. I can guarantee the people out in that lobby and the people in the offices they represent, they would not stand for not getting the care their child needs. If they had a daughter who was suffering day after day after day, and the doctors could not tell her what was wrong and they kept sending her home, I can guarantee that those executives and those lobbyists would get some other source of care for their daughter.

But Mary is a school bus driver. She didn't know where else to turn. Having insurance was a pretty big deal. They didn't know what else to do, other than just keep going back, as Donna's condition got worse and worse and worse.

Patients buy health insurance in order to feel assured that when they seek care under the benefits for which they have paid, that care will be available and it will be available in time to be effective. Yet we know that that does not happen. In one State, the State of New York, according to Department of Insurance statistics, of the nearly 18,000 HMO decisions challenged on appeal, over 10,000 were reversed. This means that when patients can test their HMO's decision to deny needed care, over half the time the patients are right.

Yet, through a loophole in Federal law, there are too many consumers in New York—over 2.25 million—who still are not protected against these incorrect and dangerous decisions. They have no recourse. There is nothing they can do because we have not given them a Patients' Bill of Rights. They need a Federal law to give them the parity and protection their neighbors and coworkers have.

Mr. DURBIN. Will the Senator yield for a question?

Mrs. CLINTON. I am happy to yield.

Mr. DURBIN. I believe the Senator from New York was at a briefing this morning where we discussed the experience in the State of Texas. In 1997, a certain Governor of Texas, who has now moved to Washington, had a Patients' Bill of Rights established in Texas. Maybe the Senator from New York can help me with these numbers, but I believe in the 4-year period of time that the State Patients' Bill of Rights has been in effect in Texas, there have been 1,300 appeals of decisions by insurance companies and only 17 lawsuits filed in 4 years.

So the argument that giving the people the right to go to court will mean a flood of cases brought in court has been disproven in the home State of the President. Does the Senator from New York recall that?

Mrs. CLINTON. Indeed, the Senator from New York does recall that. I appreciate the Senator from Illinois raising that because that, of course, is one of the objections the opponents are trying to throw up, that this bill will open the floodgates for lawsuits. In Texas that has not happened. It has not happened anywhere in the country where these protections have been afforded under State law.

People are not rushing to the courthouse. They want the care that they need. They don't want a lawyer; they want a doctor; and they want the doctor to take care of them according to the doctor's best judgment. That is what doctors are telling us. They are not being permitted to do that.

I appreciate my friend from Illinois raising that point because, as this debate proceeds, you are going to hear a lot of arguments about why we just cannot do this. You know, we just cannot take care of Donna and her mother Mary and all the other Donnas and Marys in our country. There will be all sorts of red herrings and all kinds of arguments made that just do not hold water. There is no basis in fact for them, but they sound good. Maybe they will scare some people. But we are tired of being scared and intimidated. This is no longer just a political issue, this goes to the very heart of who we are as Americans.

Are we going to take care of each other? Are we going to let doctors and nurses practice their professions? Or are we going to turn our lives over to HMO accountants and bookkeepers and the like?

I am hoping we will not only proceed to this bill, which deserves a full hearing, deserves a full debate, and deserves a unanimous vote in this Chamber. I hope when we pass this, we will be sending a very clear message to all the mothers and fathers and family members that this will never happen again. This beautiful young woman whose life was cut short tragically would still be with us today if that HMO had just said: maybe we should let you go ahead and have that test.

I look forward to working with my colleagues. This has been 5 years in the making. Let's end the politics of delay and move forward with the motion to proceed.

The PRESIDING OFFICER. The Senator from Nevada.

(Disturbance in the visitors' gallery.)

The PRESIDING OFFICER. The galleries will cease making a display. Any expressions of approval or disapproval are not permitted in the Senate gallery. The Sergeant at Arms will enforce it.

Mr. REID. Mr. President, I propounded a unanimous consent request some time ago that the Senator from New York was to be recognized until 4:15, the Senator from New Jersey from 4:15 to 4:30. There is no one here on the other side. The Senator will proceed until Republicans show up.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TORRICELLI. Mr. President, this debate is symbolic in many ways. It holds the prospect of ending a five-year effort to pass meaningful HMO reform.

A Patients' Bill of Rights that recognizes, that while the move to HMO based health care may have started with the best of intentions, the results have been less than spectacular.

Beyond the prospect of finally enacting HMO reform, this debate marks the

beginning of the tenure of TOM DASCHLE as majority leader. It is a testament to the priority that he and our caucus have given to this issue, that it is the first legislation we have brought to the floor. For too long this debate has been one-sided and bottled-up by partisanship.

I was hopeful that Majority Leader DASCHLE's earlier commitment to a full and fair debate on amendments would begin this debate on a positive note. However, I am disappointed that my colleagues on the other side have objected to the motion to proceed and that it potentially will be days before we can begin the debate on amendments.

The Senate HELP Committee has done a study and found that each day of delay on this issue has very real consequences. Every day 41,000 patients experience a worsening of their condition, 35,000 patients have needed care delayed, 10,000 patients are denied a diagnostic test or treatment, and 7,000 patients are denied a referral to specialist.

As important as the education debate over the past month has been, no issue will touch more families than what we do on HMO reform.

Today, more than 90 percent of working Americans receive insurance from their employer. Most do not have a choice about the type of coverage. This means that many working families are stuck with an HMO despite any concerns they may have with the quality of care they receive. There are over 160 million Americans with HMO insurance.

Mr. President, 33 percent of the residents of my state—2.3 million—are in an HMO. A vast majority of these Americans are in favor of and are demanding fundamental change in the way HMOs provide care.

A poll by the Kaiser Family Foundation conducted just 60 days ago found that 85 percent of Americans want comprehensive HMO reform. These Americans believe, as I do, that doctors, not HMO accountants should be in control of medical decisions.

The reality is that HMOs are a product of the runaway health care inflation of the 1970's and 1980's that drove the ranks of the uninsured.

It was hoped that by providing a predetermined list of doctors and medical coverage, the costs of medical care could be contained and coverage provided to more people. But after three decades of cutting costs and services to keep costs low, it is clear that HMOs have failed to strike the necessary balance.

Today, we are faced with a situation where medical decisionmaking is disproportionately in the hands of insurance company bureaucrats. That is why, from patients to doctors, there is unanimity in making some common sense reforms.

While Washington has been paralyzed by partisan gridlock, state legislatures have been debating and acting on this issue for years.

For example, my state of New Jersey became a national health care reform leader with the passage of the Health Care Quality Act in 1997.

The law now prohibits gag clauses, provides an independent health care appeals program and requires that insurers provide clear information on covered services and limitations. These reforms, long sought by Democrats and consumers, were passed by a Republican legislature and signed by a Republican governor.

But no matter how many individual states act, the reality is that an overwhelming number of Americans won't be protected because their state laws are exempt under ERISA.

Mr. President, 83 percent—124 million—of Americans who get their health care from their employer are not covered by state laws, and 50 percent of people enrolled in an HMO in New Jersey are exempt from State protections.

Originally designed to protect employees from losing pension benefits due to fraud, the Employee Retirement Security Act of 1974 has provided HMOs with immunity from state regulations for their negligent behavior. So despite the progress in states like New Jersey, complaints about the quality of care by HMOs continue to rise.

A survey by Rutgers University and the state Department of Health found overall that one in four New Jerseyans enrolled in an HMO was dissatisfied with their health plan. Last October a state report card found that patients in NJ were less satisfied with their HMO care than the previous year.

The bipartisan legislation being brought to the floor this week, is supported by more than 500 doctor and patient rights groups, and will finally extend patient protections to all Americans in an HMO.

This promises to be a long debate and while I look forward to dealing with many of the important details, I want to outline the fundamental principles we must address.

Under current practices, many HMOs force a patient with a chronic condition like heart disease to be treated by only the family doctor. The Kennedy-Edwards bill will guarantee access to a cardiologist or other needed specialist, even one outside his or her network.

Currently, if your sick or suffer an injury while traveling or on vacation you must get prior approval from your HMO before going to the emergency room. Our plan will ensure that a patient could go to the nearest emergency room without having to first get permission from the HMO.

Under current HMO policies, many women must obtain a referral from their primary care doctor before seeing an OB/GYN. This bill will guarantee access to an OB/GYN without a referral.

HMOs often force a child with a chronic, life threatening condition to seek approval from a primary care doctor before seeing a specialist. The Kennedy-Edwards plan would ensure a child with cancer, for example, would have the right to see a pediatric oncologist whenever the care is needed.

Today, many HMOs restrict physicians from discussing all treatment options with their patients and cut reimbursement rates for doctors who advocate with the HMO on behalf of their patients. This bill will prohibit HMOs from financially penalizing doctors who provide the best quality care for their patients.

HMOs typically have the last word when they decide to deny a needed test, procedure or treatment. We will guarantee medical decisions by HMO bureaucrats will be subject to a swift internal review and a fair external review process.

And when reckless medical decisions made by HMOs injure or kill, they are shielded from any responsibility. Now we will finally ensure that all Americans will have the right to hold HMOs accountable in court.

These protections will provide a new sense of health care security but undoubtedly over the next weeks we will hear arguments that the price for these protections will be higher cost and increases in the uninsured. But the CBO report on this legislation states that it would increase premiums by only 4.2 percent over 10 years, this will mean a little over $1 per month for the average employee.

There will be arguments that this is unnecessary because HMO's have responded to criticisms and already provide these protections. If this were truly the case, then costs should not rise at all.

They will also argue that with every one percent increase in premiums, approximately 300,000 Americans lose their health insurance coverage. But in 2000, when overall health insurance premiums increased 10 percent, the number of uninsured actually dropped.

Mr. President, we will debate many issues in this Congress but none with more impact on more people than this.

I want to thank our new majority leader, Senator DASCHLE, for bringing this to the floor so quickly and I look forward to its debate.

The PRESIDING OFFICER. Under the previous order, the time controlled by the majority has expired.

Mr. TORRICELLI. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to address the issue of a Patients' Bill of Rights. As a physician, and as one who has participated very directly in this debate over the past several years, I am one who welcomes the opportunity to have discussion on this important issue over the coming hours and days and over, I assume, the next couple of weeks.

We do have a unique opportunity, I believe, to pass a strong bill of rights for patients, an enforceable bill of rights for patients, under the leadership of President George Bush as he

outlined in his principles last February.

As the American people listen to us discuss this legislation this afternoon, tonight, and over the coming days, I hope they will understand broadly that we, as a body, whether it is Democrat or Republican, will come together in this session and pass a bill that I am very hopeful will be signed by the President of the United States. I am confident that he will sign it if it is consistent with the principles that he outlined.

The bill that is going to be brought to the floor, the McCain-Edwards-Kennedy bill, is a starting place. We can't end there because, yes, it has the patients' protections and appeals process, external and internal, but at the same time it opens floodgates to a new, massive, repetitive wave of frivolous lawsuits which very quickly translate down into increased costs and increased charges.

Much of that money that is taken out of the health care system goes into the pockets of trial lawyers. Increased costs translate very directly down to loss of insurance, as we talked about the uninsured that are increasing 900,000 to 1 million every year.

We absolutely must, as we address gag clauses, access to specialists, admission to emergency rooms, and clinical trials, and as we look at patient protection, bring some sort of balance to the system to make sure that if there is harm or injury—after exhaustion of internal and external appeals processes—that compensation to that patient is full, if there has been injury or if there has been damage. But we can't allow exorbitant, out-of-control lawsuits because they drain money out of the system itself. It drives premiums up and punishes the working poor. They are the ones right now who are having a hard time struggling to even buy that insurance, even when it is in part covered by their employer. That is why when we drive these premiums up—whether it is 1, 2, 3 or 4 percent for every 1 percent—the increased cost drives those premiums up, and about 300,000 people lose their health insurance.

When we get into the business of mandating patient protection, those rights cost money. Somebody has to pay that money in some way. It is the people. It is distributed throughout the premiums. When those premiums go up, some people can't afford to buy them anymore, and they forego that insurance.

That is the sort of balance that we need to at least be aware of as we are on this floor debating.

I look forward very much to participating in that debate as we go forward on having this strong, enforcement patient bill of rights, which has strong access to emergency room, access to clinical trials, access to specialists, and elimination of gag rules. If there is any sort of concern about whether or not benefit is given when there is harm or injury—with strong internal and external appeals with an independent physician making that final decision, and then, yes, at the end of the day, if there has been harm or injury—the external review system of the physician says the plan made a mistake, sue the HMO, but do not sue the employer. Sue the HMO and not the employer.

I see my colleague from Wyoming is with us today. I am going to yield my time and look forward to participating either later tonight or tomorrow in this debate.

Just as an aside, I enjoyed very much working with the Senator from Wyoming over the last several years as we have addressed this issue. Everybody has been so entrenched. At the same time, we have been studying this issue and working hard. He is one of our colleagues who has invested a tremendous amount of time putting together a Patients' Bill of Rights that really meets the balance of getting health care to people when they need it rather than focusing on these frivolous lawsuits which might potentially hurt the patient.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Thank you, Mr. President. I thank the Senator from Tennessee for his comments. I thank him for the tremendous job he has done. He is the only doctor in the Senate. He has done a tremendous job of educating us in all of the areas of a Patients' Bill of Rights and medical care and has saved quite a few people along the way. We really appreciate that. I particularly thank him for the education he has given me.

Mr. President. I rise today to join all of my colleagues in calling for a Patients' Bill of Rights. The President has clearly stated his desire to sign a bill into law, but has also been very clear on what he won't sign. I support his goal of protecting Americans that have been mistreated by their HMO, and I also support his goal of only enacting a bill that will preserve access to insurance for those that already have it, and increase access for those Americans that are uninsured. The legislative and political history on this matter stretches back a ways. In fact, in three of the four-and-a-half years I have been in the Senate, we have passed a Patients' Bill of Rights. I hope to keep that streak going this year, only I hope what we pass finally gets signed into law to the benefit, not the detriment, of consumers.

While there is a lot of consensus between all parties on the need for a number of patient protections, a strong internal and external appeals process, a right to hold health plans accountable in certain instances, and an assurance that all Americans be afforded such protections, there remains some disagreement on key issues.

First, the appeals process should be meaningful and required because it gets people the right care, right away.

Second, limitless lawsuits help lawyers, not patients.

Third, turning state regulation of health care on its head is a losing prospect for consumers whose needs have historically been better served by their own state insurance commissioner. While I would like to spend my time today making a general statement about the need for a Patients' Bill of Rights, I plan to revisit in detail the issues I just mentioned as the debate moves ahead.

During both the Floor debate and earlier in the Health, Education, Labor, and Pensions Committee consideration of the Patients' Bill of Rights, I asserted strong positions on several key components of the managed care reform debate. I wish, once again, to reiterate my support for adoption of a bill that protects consumers, improves the system of health care delivery and shrinks the rolls of the uninsured. I will do everything I can to prevent increasing the number of uninsured.

I believe that as we consider a bill as important as the Patients' Bill of Rights, we must never lose sight of our shared goal of having a strong bill. The politics should be left at the door in our effort to emerge with the best policy for patients. That was the commitment the principals in the conference made to the public more than a year ago.

I really cannot go further without commenting on that conference. I have been told by my more senior colleagues that Members have never logged as many hours in trying to thoroughly understand and work a bill as we did last year. The effort was not in vain. We learned a tremendous amount about the value of enacting a good Patients' Bill of Rights. We also learned that preserving access to quality health care is the most important patient protection we can provide to consumers.

Together, Senators GREGG, FRIST, GRAMM, JEFFORDS, and HUTCHINSON, Chairman NICKLES, and I demonstrated every day our commitment to doing the right thing for patients. I offer a special thanks to Senator NICKLES for being a patient gentleman as he led us through this negotiation process.

I do think, as that process went on, some saw the possibility that we would complete it. Most of us thought it would be completed. Some thought it was better as an issue than a solution and jumped out of the processes and started bringing votes back here in this Chamber. We could have had this done last year.

All of the bills we have ever considered, including the bill before us today, have offered a series of patient protections to consumers—direct access to OB/GYN and pediatric providers, a ban on gag clauses, a prudent layperson standard for emergency services, a point-of-service option, continuity of care, and access to specialists—that would provide all consumers many of

the same protections already being offered to State-regulated health plan participants.

This is a bill for managed care. There are already State protections for State-regulated health plan participants.

Additionally, health plans would be required to disclose extensive comparative information about coverage of services and treatment options, networks of participating physicians and other providers, and any cost-sharing responsibilities of the consumer.

All of these new protections are crowned by the establishment of a new, binding, independent external appeals process, the linchpin of any successful consumer protection effort.

While I still do not believe that suing health plans is the biggest concern of consumers, holding health plans accountable for making medical decisions is a key component of a Patients' Bill of Rights.

For the record, I believe the biggest concern of patients is getting the best health care they can get, right when they need it most, not the ability to sue. Most people I know value their health over all else. Money does not buy happiness, but good health can make a nice downpayment.

Our success will absolutely be measured by whether we get patients the medical treatment they need right away. Everyone agrees that the essential mechanism is an independent, external appeals process. The last thing we should do is establish a system that would require patients to earn their care through a lawsuit. It is for this very reason that the bill I will support securely places the responsibility for medical decisions in the hands of independent medical reviewers whose standard of review is based on the best available medical evidence and consensus conclusions reached by medical experts. These decisions would be binding on health plans.

One of the specific concerns that will be directly addressed by the independent review process is that of the ''medical necessity or appropriateness'' of the care requested by the patient and their physician. Consumers and health care providers have repeatedly requested that there be a prohibition on health plans manipulating the definition of ''medical necessity'' to deny patient care. I think all of the bills have attempted to address this concern. I do have concerns, however, about how the bill before us goes beyond addressing this concern and obviates the health care contract altogether, eliminates the contract altogether. Imagine trying to price the contract if you do not know what the contract contains. That provision will have to be fixed in the final bill.

The issue of ensuring that patients receive medically necessary and appropriate care they have been promised in their contract has been addressed by a number of States already through the appeals processes they have established. Many employers and health plans already voluntarily refer disputed claims to an independent medical review. But when it comes to formal Federal action pertaining to the employer plans regulated solely by the Department of Labor, we are just now examining how to proceed. In other words, it works at the State level; it has not worked at the Federal level. Now we are considering a Federal solution.

Since its inception in 1974, this is the first major reform effort of ERISA, the Employee Retirement Income Security Act, as it pertains to the regulation of group health plans. The focus of the mission—regardless of politics—should be to protect patients. Protecting patients means not only improving the quality of care but expanding access to care and allowing consumers and purchasers the flexibility to acquire the care that best fits their needs.

This leads me to another concern I have with the bill before us. It requires States to forsake laws they have already passed dealing with patient protections included in the bill if they are not the same as the new Federal standards. The technical language in the bill reads ''substantially equivalent,'' ''does not prevent the application of,'' and under the process of certifying these facts with the Secretary of Health and Human Services, the State will have to prove that their laws are ''substantially equivalent and effective patient protections.''

The proponents of this language say it will not undo any existing State laws that are essentially comparable. But that is not what their bill requires. Instead, when I see the requirement of ''substantially equivalent,'' I read that if there is any difference, then they are obviously not equivalent and do not meet the test. What does ''substantial'' mean? And how does it modify ''equivalent'' at the end of the day? These questions are not being answered.

Is it that the proponents aren't overly concerned with the implementation of the law versus being able to say that their bill meets the political test of covering all Americans, regardless of existing meaningful protections that State legislatures have enacted? If the laws just have to be comparable, then why don't we use that phrase?

I am very leery of one-size-fits-all legislation. Every State has differences, geographical differences, differences in the mix of people, differences in distance, differences in climate, and, more particularly, differences that affect medical care.

In Wyoming we have few doctors, we have few people, and we have lots of miles. We do not have competing hospitals anywhere in the State. And we have a need for doctors—I love this—we have a need for doctors, including veterinarians, in every single county.

I will get into this issue in more detail as the debate proceeds. I do believe we can strike a compromise on the matter of scope, but I cannot state strongly enough my objection to wrenching from States their authority to regulate on these matters.

The only hard proof we have right now is that States are, by and large, good regulators, while the Federal Government has done a lousy job regulating on behalf of its health care consumers. The General Accounting Office has been reporting that to us since we passed the Health Insurance Portability and Accountability Act, HIPAA, in 1996. And that is the consumer enforcement protection mechanism around which the bill is written.

I know I am on the verge of sounding like a broken record, but I would like to sketch out the effect of the bill's scope, as it is currently drafted. It is done best with a story about Wyoming. Wyoming, as I mentioned, has its own unique set of health care needs and concerns. Every State does. For example, despite our elevation, we do not need the mandate regarding skin cancer that Florida has on the books.

My favorite illustration of just how crazy a nationalized system of health care mandates would be comes from my own time in the Wyoming Legislature. It is about a mandate for which I voted and still support today. You see, unlike in Massachusetts or California, in Wyoming we have few health care providers, and their numbers virtually dry up as you head out of town. We can see every single town by driving outside of it. They do not run together anywhere.

So we passed an ''any willing provider'' law that requires health plans to contract with any provider in Wyoming that is willing to do so. While that idea may sound strange to my ears in any other context, it was the right thing to do for Wyoming. I know it is not the right thing to do for Massachusetts or California. I wouldn't dream of asking them to shoulder that kind of a mandate for our sake, when we can simply responsibly apply it within our borders.

What is even more alarming to me is that Wyoming has opted not to enact health care laws that specifically relate to HMOs because there are no HMOs in the State, with one exception, which is very small and is operated by a group of doctors who live in town. They are not a nameless, faceless insurance company. Yet under the proposal the Democrats insist is best for everybody, the State of Wyoming would have to enact and actively enforce at least 15 new laws to regulate a style of health insurance that doesn't exist in the State.

What Wyoming does currently require is that plans provide information to patients about coverage, copays, and so on, much as we would in this bill; a ban on gag clauses between doctors and patients; and an internal appeals process to dispute denied claims. I am hopeful the State will soon enact an external appeals process, too.

This is a list of patient protections that a person in any kind of health

plan needs, which is why the State has acted. But requiring Wyoming to enact a series of additional laws that don't have any bearing on consumers in our State is an unbelievable waste of a citizen legislature's time and resources.

Let me explain a citizen legislature. In Wyoming, they meet for 20 days one year and 40 days the next year. They do no special sessions. If you are only employed as a legislator—and I use that term loosely on being employed because they hardly get paid anything—for 20 days one year and 40 days the next year, you have to have a bona fide job. You have to have real work in the real world. And they do. So they meet for 20 days one year—and incidentally, the 20 days is the year that they do the budget work, and they make it balance every time—20 days one year and 40 days the next. You have to live the rest of the year under the laws that you passed, which gives you a different perspective on laws than perhaps in States where the legislature meets for longer periods of time and definitely a different perspective than we have in this body. That is a citizen legislature.

Speaking of limited resources, I would be remiss if I didn't touch once more on our most important charge in the debate; that is, to preserve Americans' access to health insurance. If we make it too difficult for employers to voluntarily provide health care to their employees, then it should come as no surprise to any of us that they will simply stop volunteering to do so. Insurance for most businesses is a volunteer effort. I won't support a bill that denies people access to health care. If my colleagues don't believe me now, they can bet their constituents will come calling when they lose their insurance or have it priced forever beyond their reach.

Sometimes changes we make in the Senate drive up the cost, as the Senator from Tennessee was explaining earlier. For every 1 percent that costs go up, 300,000 people in this country lose their insurance.

I will make a promise to my own constituents right now that I will work hard to enact a Patients' Bill of Rights. I will fight any measure that threatens their access to health care. I will reserve further remarks until we delve into the process of considering the different provisions of the bill.

I, again, extend the hand of compromise and the offer to all of my colleagues that we rally around our common position on many of the patient protections and forge ahead on the rest of the bill towards an end that has an eye on what is best for the patients. This bill is about them. If someone else is benefiting from a provision, then I would suggest that our drafting is not quite done. There are some of those provisions.

I look forward to my continued role in the process. I thank the Chair and reserve the remainder of any time we have.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I see no others on the side of the minority so I will proceed.

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

Mr. REID. Mr. President, Las Vegas has two daily newspapers. One is the Las Vegas Daily Journal; The other is the Las Vegas Sun. I was very impressed with the editorial in the Las Vegas Sun newspaper yesterday. The newspaper is a relatively new newspaper by American standards. It is 40, 50 years old. It was started by an entrepreneur by the name of Hank Greenspun who was a real pioneer in Las Vegas. He developed a newspaper that was feisty. It was a newspaper that took on Senator McCarthy before it was fashionable to do so. He took on the gaming interests when it was a very small newspaper and won an antitrust suit against them for their failing to advertise and they, in fact, boycotted his newspaper.

So I give this background to indicate it is a great newspaper. It was. It still is.

The editorial they wrote yesterday can be paraphrased but not very well. It is a short editorial. I will read the editorial into the RECORD. It is entitled ''Patient rights get some life.''

The subtitles say:

The Senate is expected to take up this week a patient's bill of rights.

They have under that:

Our take: It is unfortunate that so far President Bush opposes the Democratic plan, which also is favored by some Republicans, that finally would make HMOs accountable.

The editorial begins as follows:

[From the Las Vegas Daily Journal, June 18, 2001]

President Bush's campaign pledge to be ''a uniter, not a divider'' has been a bust in the early going of this administration. The White House's embracing of extraordinarily conservative views, which are far removed from the mainstream, have given the president some real problems in living up to his conciliatory vow, especially on environmental issues. Now Bush will soon face another test of his ability to bring warring sides together on another divisive matter: a patient's bill of rights.

The Senate, which recently came under Democratic control, plans this week to take up a patient's bill of rights, which for years has been stymied by Senate Republican leaders. It's not just Democrats supporting the plan, notable Republicans such as John McCain also back the bill. It also is important that last week Rep. Charlie Norwood, R–Ga., signed on to a similar Democratic measure in the House. Norwood for years had championed a patient's bill of rights, but he had held off his support this year in deference to the White House, which said it wanted to work out a compromise. But even Norwood's loyalty wore thin, finally causing him to break company with Bush on this issue. The president, who has threatened to veto a patient's bill of rights that allows lawsuits in state courts against HMOs, just wouldn't budget on this key provision.

The patient's bill of rights isn't that complicated: It's all about accountability. Currently, health insurance companies are the only businesses in the nation that are immune to lawsuits if they harm someone. No one else gets such special treatment. In light of how HMOs have wrongly denied care to patients in the past, this is an industry that needs some accountability. While the lawsuit provision is essential if a patient's bill of rights is to carry any weight, few patients would ever want to pursue this option. What they want is immediate care. The Democratic plan tries to ward off people from heading to court, requiring patients to first go to an independent review panel before seeking relief through the courts.

If there is a glimmer of hope it is that Bush has softened some of his earlier hardline positions on the environment after hearing quite a bit of criticism. In the same vein, the president should listen to reason and endorse a patient's bill of rights that requires HMOs to finally be held accountable for their actions.

Mr. President, that is an editorial from a Las Vegas newspaper. It is simple. It is direct. It is to the point. It is what this debate is all about. If, as I have heard today, the minority thinks the bill has some things that they don't like, don't understand, wish weren't there, let's debate this bill. Let's not hide behind some procedural gimmick that prevents us from bringing this matter to the fore for the American people.

The people of Minnesota, the State the Presiding Officer represents, the people of New Jersey, the junior Senator from New Jersey being on the floor, the people of the State of Nevada and the rest of the country need this legislation. This is about patient protection. It is about having a doctor take care of a patient, something we used to take for granted—that if a doctor thought a patient needed something, the doctor ordered it for the patient. They can't do that anymore. That is too bad.

Patient care has been hindered, harmed, and damaged. What we want to do with the Patients' Bill of Rights is reestablish the ability of a doctor and a nurse to take care of my daughter, my sons, my wife, my children, my neighbors. Anyone who needs a doctor's care should be able to have the doctor's care. I don't want a doctor doing my taxes. I also don't want an accountant doing my medical care. That is what we have in America, in many instances, and it is wrong. This legislation that we are trying to bring up—and we will get to it; it is just a question of when—is supported by many organizations. I will soon read into the RECORD the entities that support this legislation. Virtually every health care entity in America, every consumer group, every doctor group, including the American Medical Association and, surprisingly, because I have never known them to agree on anything, the AMA and the American Trial Lawyers agree this legislation is necessary.

Who opposes it? The people providing the care, the managed care entities do not support this legislation. They are the ones paying for the millions of dollars worth of ads on television trying to confuse and frighten the American people—just as they did with the health care plan in 1993. They spent

$100 million or more in advertising to frighten and confuse the American people. I have to hand it to them; they did a great job. They did frighten the American people. We are not going to let them do that.

We are going to complete this legislation. We are going to complete this legislation very soon. What is very soon? By next Thursday, a week from this Thursday, and then if we finish it by that date, we are going to do our Fourth of July recess. If we do not complete our legislation by a week from Thursday, we are going to work here, according to the majority leader, TOM DASCHLE, until we finish it. We are going to work Friday, Saturday, and we are going to work Sunday; the only day we are going to take off is July 4.

Mr. President, this legislation is overdue. It is important, and we are going to pass this legislation before we go back to be in parades for the Fourth of July.

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

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

Mr. REID. Mr. President, we have heard utterances in this Chamber today about the Patients' Bill of Rights by Senator JOHN MCCAIN that we have a lot of groups that support this legislation. I don't have a total because it is growing every day. I am going to read into the RECORD a partial list of those entities and organizations that support the Patients' Bill of Rights, the legislation before this body:

Abbott House of Irvington, NY; Abbott House, Inc. in SD; AIDS Action; Alliance for Children and Families; Alliance for Families & Children; Alpha 1 Association; Alternative Services, Inc.; American Academy of Child and Adolescent Psychiatry; American Academy of Dermatology; American Academy of Emergency Medicine; American Academy of Facial Plastic and Reconstructive Surgery; American Academy of Family Physicians.

American Academy of Neurology; American Academy of Ophthalmology; American Academy of Otolaryngology; American Academy of Pain Medicine; American Academy of Pediatrics; American Academy of Physical Medicine and Rehabilitation; American Association for Geriatric Psychiatry; American Association for Marriage and Family Therapy; American Association for Psychosocial Rehabilitation; American Association for the Study of Liver Diseases; American Association of Children's Residential Centers; American Association of Neurological Surgeons.

American Association of Nurse Anesthetists; American Association of Pastoral Counselors; American Association of People with Disabilities; American Association of Private Practice Psychiatrists; American Association of University Affiliated Programs for Person with Developmental Disabilities; American Association of University Women; American Association on Health and Disability; American Association on Mental Retardation; American Board of Examiners in Clinical Social Work; American Board of Examiners in Social Work; American Cancer Society; American Children's Home in Lexington, NC.

American Chiropractic Association; American College of Cardiology; American College of Gastroenterology; American College of Legal medicine; American College of Nurse Midwives; American College of Obstetricians and Gynecologists; American College of Osteopathic Emergency Physicians; American College of Osteopathic Family Physicians; American College of Osteopathic Pediatricians; American College of Osteopathic Surgeons; American of Physicians—American Society of Internal Medicine; American College of Surgeons.

American Congress of Community Supports and Employment Services; American Council on the Blind; American Counseling Association; American Dental Association; American Family Foundation; American Federation of Teachers; American Foundation for the Blind; American Gastroenterological Association; American Group Psychotherapy Association; American Headache Society; American Health Quality Association; American Heart Association.

American Lung Association; American Medical Association; American Medical Rehabilitation Providers Association; American Medical Student Association; American Medical Women's Association, Inc.; American Mental Health Counselors Association; American Music Therapy Association; American Network of Community Options and Resources; American Nurses Association; American Occupational Therapy Association; American Optometric Association; American Orthopsychiatric Association.

American Osteopathic Association; American Pain Society; American Pharmaceutical Association; American Physical Therapy Association; American Podiatric Medical Association; American Psychiatric Association; American Psychiatric Nurses Association; American Psychoanalytic Association; American Psychological Association; American Public Health Association; American Small Business Association; American Society of Cataract & Refractory Surgery.

American Society of Clinical Pathologists; American Society of Gastrointestinal Endoscopy; American Society of General Surgeons; American Society of Internal Medicine; American Society of Nuclear Cardiology; American Speech-Language-Hearing Association; American Therapeutic Recreation Association; American Urogynecologic Association; American Urological Association; American Urological Society; Americans for Democratic Action; Anxiety Disorders Association of America.

Association for Ambulatory Behavioral Healthcare; Association for Education and Rehabilitation of the Blind and Visually Impaired; Association for the Advancement of Psychology; Association of Academic Psychiatrists; Association of Academy Physiatrists; Association of Community Cancer Centers; Association of Persons in Supported Employment; Association of Women's Health, Obstetric and Neonatal Nurses; Assurance Home in Roswell, NM; and Auberle of McKeesport, PA.

Those are the A's. I have completed the groups beginning with the letter A. I will come back later and start with the B's and go through the hundreds of groups that support this legislation. The overwhelming number of American people support this legislation, as referenced by those organizations that begin with the letter A.

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

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

Mr. CORZINE. Mr. President, I am honored to rise today, particularly with the Presiding Officer who is in the Chair, to support a motion to proceed to S. 1052, the Bipartisan Patients' Bill of Rights.

I commend Senators MCCAIN, EDWARDS, and KENNEDY for the tremendous effort they put in to develop a strong, enforceable, and bipartisan bill with the support of over 500 consumer provider and health care groups, as the Presiding Officer just demonstrated to us with the A's.

More importantly, I commend the American people because the American people know what makes common sense with regard to the need to provide everyone quality health care that puts the relationship between the doctor, the nurse, and the patient first.

Over the last 30 years, managed care organizations have come to dominate our health care system. These organizations both pay for and make decisions about medical care, often preempting the fundamental relationship in the health care equation between doctor and patient.

However, unlike doctors, nurses, or almost anybody in our society, HMOs, managed care institutions, are not held accountable for their medical decisions and treatment decisions.

We just spent 8 weeks in the Senate talking about education and accountability. We need to talk about accountability within the context of the patient-doctor relationship, and that is what this debate will be all about if we can ever get to the bill.

Unfortunately, in the case of some HMOs, they have sometimes skimped on care that undermines the health of our patients, the health of the American people for the preemption and benefit of the bottom line, and, in fact, it is all about protecting the bottom line.

That is why this legislation is absolutely critical. The McCain-Edwards-Kennedy bill will ensure at long last that managed care companies are held accountable for their actions. Just as in all of industry—every doctor and, frankly, every individual in America—everyone is held accountable.

We cannot afford to wait any longer before passing legislation to curb insurance company, managed care abuses. According to physician reports, every single day we delay passage of

this legislation, 14,000 doctors see patients whose health has seriously declined because an insurance plan refused to provide coverage for a prescription drug; 10,000 physicians see patients whose health has seriously declined because an insurance plan did not approve a diagnostic test or procedure; 7,000 physicians see patients whose health has seriously declined because an insurance plan did not approve a referral to a medical specialist; 6,000 physicians see patients whose health has seriously declined because an insurance plan did not approve an overnight hospital stay. Think about that. That is 35,000 folks a day who are left with diminished and substandard care because we do not have the right relationship between doctors and patients in place with the interference of bureaucrats at insurance companies and HMOs.

This legislation has all the key components that Americans have demanded to respond to these problems. It contains strong, comprehensive patient protections.

It creates a uniform floor of protections for all Americans with private health insurance, regardless of whether something has been done in the States.

It provides a right to a speedy and genuinely independent external review process when care is denied. It is not guaranteeing a lawsuit, it is guaranteeing a speedy independent external review.

Finally, it provides consumers with the ability to hold managed care plans accountable when plan decisions to withhold or limit care result in injury or death, harm and pain to the patient.

I wish to speak briefly about a few of the most important provisions in this bill, but this is all about common sense.

First, this bill protects all Americans in all health plans. If we are serious about providing consumers with protections, we must be serious about covering all Americans. The McCain-Edwards-Kennedy bill does just that. No person is left without rights because they live in a State with weaker protections.

Second, the legislation ensures a swift, internal review process is followed and a fair and independent external appeals process if it is necessary. This will guarantee that health care providers, not health plans, will control basic medical decisions. It does not guarantee a lawsuit; it provides a process for a legitimate review of a patient's claims.

Third, the legislation guarantees access to necessary care. Patients should not have to fight their health plan at the same time they are fighting an illness. That is why the legislation guarantees access to necessary specialists, even if it means going out of a plan's provider network. It seems pretty simple we ought to get to the right doctor for the disease that is diagnosed.

Chronically ill patients will receive the speciality care they need with this bill.

Patients will have access to an emergency room, any emergency room, when and where they need it.

Women will have easy access to OB/GYN services without unnecessary barriers.

Children will have direct access to pediatricians and, most importantly, pediatric specialists.

Patients can participate in potentially lifesaving clinical trials. This is a critical protection for patients with Alzheimer's, cancers, or other diseases for which there are no sure cures.

Fourth, the legislation protects the crucial provider-patient relationship—doctor-patient, nurse-patient.

It contains antigag rule protections ensuring health plans cannot prevent doctors and nurses from discussing all treatment options with their patients. It sounds like common sense, and it limits improper incentive arrangements by the insurance industry.

Finally, this legislation makes sure that the rights we seek to guarantee are enforceable. Yes, this legislation allows individuals harmed by an HMO to sue their HMO. This is a critical provision because, let's face it, a right without a remedy is no right at all.

Again, that fundamental accountability issue we have been talking about, whether it is with regard to education, we also ought to be talking about it with health care.

No matter what health care treatment protections are passed into law, unless patients can enforce their rights, the HMO is free to ignore those requests. Health insurers must understand that unless they deliver high-quality health care that protects the rights of patients, they can and will be held accountable.

I wish to address for a moment the argument that this legislation will lead to more uninsured Americans.

There is perhaps no issue about which I am more passionate than the uninsured, about 44 million in America. I believe health care is a basic right, and neither the Government nor the private sector is doing enough to secure that right for everyone. I hope one day we will have that debate. But let me be clear; if I believed this bill would increase the number of uninsured—I believe a number of Senators believe the same—we would not support this.

Let me also point out the hundreds of health care and consumer groups that support this legislation are also the very groups that are working the hardest to expand coverage for the uninsured. They also would not support this legislation if they believed it would result in more uninsured. That issue is nothing but a diversion, a red herring, a scare tactic, because the CBO itself has said this legislation would only increase premiums by 4.2 percent over a 10-year period.

This legislation will not result in higher numbers of uninsured. It will result in better quality for patients. I heard Senator KENNEDY today saying, whether it was about family medical leave or minimum wage or a whole series of things, people are just trying to scare folks into believing that taking action that is going to help the people of America is somehow going to result in very negative results that ought to keep us from doing this and moving forward. It is just a bad argument. They are scare tactics at their worst.

In sum, I believe health decisions should be made based on what is best for the patient. We need to assure the American people that the practice of medicine is in the hands of the doctors. We trust them with our lives. We should trust them to decide what care we need. I urge my colleagues to agree to take up the bipartisan McCain-Edwards-Kennedy Patients' Bill of Rights. I see one of the authors now. I congratulate him and the other sponsors for moving an important part of what needs to be done to make America's health care more secure for everyone.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, let me first thank my colleague from New Jersey for his passionate support for this important piece of legislation, the Patients' Bill of Rights. I want to talk about several subjects briefly, if I may.

First, some people have argued, in the press, the media, and on the floor of the Senate during this debate today, that the only difference between the McCain-Edwards-Kennedy Patients' Bill of Rights, the Patients Protection Act, and the bill that has been proposed by Senator FRIST and others, is on the issue of accountability, taking HMOs to court.

There are multiple differences between these bills. There are differences in how you determine whether a State can opt out of the protections covered by the Patient Protection Act, i.e., how much coverage there is, how many people are covered by the bill.

There are differences in access to specialists outside the plan. Our bill specifically provides you can have access to a specialist. If a child needs to see a pediatric oncologist, a child with cancer, the child has a right to do that. Under their bill, the HMO is in charge of that decision. Under our bill, there is a true independent review by the independent review panel. If a claim has been denied by an HMO, that question has been appealed within the HMO, and then if that was unsatisfactory, the next appeal is to an independent review panel. Our bill specifically provides that panel must in fact be independent. The HMO can't have anything to do with choosing them. Neither can the patient or the physician involved in the care.

Unfortunately, the Frist bill does not provide the HMO cannot have control over that panel, which means the HMO essentially can have control. It is like picking their own judge and jury in a case involving somebody's health, health care that could affect the family.

The bottom line is, from start to finish, whether it is coverage, access to specialists, access to a true independent review, if, as a matter of last resort a case has to go to court, having that resolved quickly and efficiently or having it dragged out over years and years and years in a Federal court—on every single issue of difference, there is a simple thing. Our bill protects patients. Our bill is on the side of families and doctors. Their bill is slanted to the HMOs.

So it is not an accident that the American Medical Association and over 300 health care groups—virtually every health care group in America—support our bill. It is not an accident that the majority of the Senate supports our bill. It is not an accident that the majority of the House of Representatives supports our bill. All these organizations that deal with these issues every day—I am not talking about Members of the Senate, I am talking about doctors who practice medicine every day, who deal with problems with HMOs, I am talking about patients groups who hear these horror stories regularly about HMOs, who have analyzed this legislation, looked at it word by word by word from start to finish and have come to a simple conclusion: Our bill is a true patient protection act. Their bill is an HMO protection act. Our bill protects patients, doctors and families. Their bill, instead of being a Patients' Bill of Rights, is a patient's bill of suggestions because the rights contained therein are not enforceable.

To the extent there is an argument made during the course of this debate that there are no differences, there are differences. There are important differences. From the beginning to the end of this bill, there are important differences. The best evidence of those differences is the fact that the American Medical Association and doctors and health care providers and nurses groups all over America support our bill. They know what the problems are. They want to be able, along with families, to make health care decisions. They want these decisions made by health care providers and families and not by some bureaucrat or clerk with no training and experience, sitting behind a desk somewhere, who has never seen the patient. That is the difference between these two pieces of legislation.

As to the issue of accountability, that means what happens if you have gone through the internal appeal at the HMO. The HMO denies care to a family. You go to the HMO and you attempt to appeal that. They deny it again. Then you go to a truly external independent appeal, under our bill, and that is not successful. As a matter of last resort, if, after all of that, the patient has been injured, the patient can go to court.

The whole purpose of that is to treat HMOs as every other health care provider, as every small business, as every large business in America, as every individual who is listening to this debate. All the rest of us are responsible for what we do. We are held accountable, and we are responsible. The HMOs are virtually the only entity in America that can deny care to a child and the family can do nothing about it. They cannot question it; they cannot challenge it; they cannot appeal it; and they cannot take the HMO to court because the HMOs are privileged citizens in this country.

I have to ask, if you were to send out a questionnaire to the American people and say: Here are 10 groups of Americans—physicians, doctors, patients—and on that list were HMOs, and you said, on this list, whom would you want to protect from any accountability, from ever being able to be taken to court, to be treated as privileged citizens, I suggest the likelihood that the HMOs would end up at the top of that list is almost nonexistent.

What we have is an anachronism. We have a law that was passed in 1974, before the advent of managed care, before HMOs were making health care decisions. Then after the passage of this law, with the passage of these protections that gave managed care companies privileged status, they started making health care decisions.

We have a situation that needs to be corrected. All this is about is treating HMOs as every other entity and individual in America. We want them to be like all the rest of us. It is just that simple. They are not entitled to be treated better than the rest of us. But, surprise, surprise; they don't like it. They are being dragged, kicking and screaming every step of the way, and they are spending millions and millions of dollars on television ads, on public relations campaigns to defeat our bill. Why? They like being privileged. They like being treated like nobody else in America is treated. They like the fact that they can decide something and nobody can do anything about it. Why wouldn't they like it? Why wouldn't they want to keep things exactly as they are?

That is what this debate is about. Ultimately, we are going to have to decide on the floor of the Senate and at the end of Pennsylvania Avenue, hopefully, if we can get this bill through the Senate and the House, whether we are on the side of the big HMOs or whether we are on the side of patients and doctors.

Earlier today I made reference to a story of a man in North Carolina named Steven Grissom. He was a young man who developed leukemia. He became sicker and sicker. He got to the point where his specialist at Duke University Medical Center had to put him on 24-hour-a-day oxygen.

This is Steve Grissom, the man I referred to earlier.

His wife's employer HMO covered Steve Grissom. Unfortunately, his wife's employer changed HMOs. Some clerk sitting behind a desk somewhere who had never seen Steven and had never met him and with no medical expertise said: We are not paying for this. We don't think he needs it. They literally cut off his oxygen.

What was Steve Grissom going to do? He was like every family, every child, and every patient in America with an HMO that makes a decision. He couldn't do anything about it. He couldn't challenge it. He couldn't appeal it. He couldn't take them to court. He was absolutely helpless.

That is what this legislation is about. It is about giving Steve Grissom—when the HMO says we are not giving you your oxygen that your specialist says you need—the ability to do something about it. It is about allowing him to go to an appeal, and most importantly to a truly independent review panel of doctors who, in every single case such as Steve's, will reverse the decision.

When his heart specialist at Duke University Medical Center says you need this oxygen 24 hours a day, and you put that question to a panel of three doctors, what do you think the result is going to be? They are going to order that the HMO pay for the oxygen that Steve needs.

That is what this debate is about.

There are real differences between our bill and the Frist bill.

For example, when Steve's care was denied, we go to a panel that the HMO can have no control over; that a truly independent patient can't have anything to do with; that Steve couldn't have any connection with; and that the HMO can't have any connection with. It is objective and fair.

Unfortunately, under the Frist bill the HMO could choose the people on the review panel. There is absolutely nothing to prohibit that. Steve will be making his case to a judge and jury picked by the HMO.

That is an important difference between our bill and this bill.

The bottom line is that what we are about is trying to empower patients and empower doctors to make health care decisions; have people who are trained and experienced to make those decisions and the people who are impacted by them. That is what this legislation is about.

To the extent that people suggest this is going to result, No. 1, in employers being sued, we will debate this issue going forward. But it is very clear in our legislation that we protect employers. It is equally clear that we abide completely by the President's principle on this issue. The President said only employers who retain responsibility for and make final medical decisions should be subject to suit.

That is exactly what our bill does. Our bill does exactly what the President's principle provides. On this issue of employers being protected from lawsuits, we are in complete agreement with the White House.

As to the cost issue, the difference in cost between our bill and Senator FRIST's bill—the bill that the White

House has endorsed—is 37 cents per employee per month. This is what they contend is going to result in a massive loss of insurance coverage, 37 cents a month. The difference between the bills on taking the HMO to court—the accountability provision—is 12 cents a month. Between 12 and 37 cents a month is not going to cause people not to be insured.

More importantly, we will give people a better price. We give them real quality health care. The reason that it is 37 cents a month more for employees is because they get better care. They get better access to clinical trials, better access to specialists, and better access to emergency rooms. When the HMO does something wrong, they can get that decision reversed by the independent review panel.

That is what this debate is about.

We have a decision to make over the course of the next few weeks. I hope for the sake of the Steve Grissoms all over this country—many of whose stories have been told today and will continue to be told on behalf of these families—that we will do what is necessary to make sure that HMOs and insurance companies in this country are treated just as everybody else, and that families and doctors can make health care decisions that affect their lives.

I yield the floor.

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

The PRESIDING OFFICER (Mr. CORZINE). The clerk will call the roll.

The bill 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. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I rise to speak on the issue of the Patients' Bill of Rights. I love the title. It is a great title. I hope we can pass a positive and good Patients' Bill of Rights—one that really provides patient protections but doesn't increase costs and doesn't scare employers away.

Unfortunately, I don't think that is the case with the bill we are considering today, S. 1052.

I haven't quite figured it out. Last week, we were on the McCain-Edwards-Kennedy bill, S. 871. That was last Wednesday. I was reviewing it and trying to become more familiar with the sections and what that bill meant to employers, to people providing health care, to Federal employees, and so on. Now we are considering a different bill, S. 1052. It is important for us to know as Senators because we are going to be voting on the legislation. This is one of a few bills. Every once in a while we consider legislation that will have a significant impact on everybody's lives. We did that when we passed the tax cut package recently. That will change everybody's taxes. People are going to see tax refunds coming in the mail in the next couple of months. I think that is very positive. People are going to see their rates reduced effective July 1. I think that is positive. That is a positive impact bill. This is a bill that will have a significant impact on everybody who has health care.

A lot of people have health insurance. Then some people have health care. There is a difference. A lot of people are uninsured.

When we wrestle with the problem of health care, we need to address the number of people who are uninsured, and we need to reduce that number. By all means, we shouldn't pass any legislation that is going to increase the number of uninsured.

Everybody realizes when we have 42,500,000 uninsured people, that is too many. I think Democrats and Republicans, conservatives and liberals, agree with that. We ought to be working to reduce the number of uninsured as much as we possibly can. We probably will never get it down to zero, but we ought to make some improvement. But for crying out loud, let's not pass legislation that will increase the number of uninsured.

Unfortunately, I believe that is what would happen if we passed this so-called McCain-Edwards-Kennedy bill.

I believe if we pass this bill in its present form, we are going to increase the number of uninsured, probably in the millions. I wish that were not the case. I hope by the time we finish the debate and amendment procedure in this Senate Chamber that will not be the case. I very much hope President Bush can join with us and sign a bill and we can be shaking hands. I have mentioned this to Senator KENNEDY—we have been adversaries on this issue for a couple years now—I hope we can be shaking hands and saying we have done a good job; we have protected patients, and we did it in a way that did not really increase costs very much, and maybe we did some things that would increase the number of insured in the process, so that we did not do any damage.

We should do no harm. Congress would be much better off not to pass any bill than to pass a bill that greatly increased the cost to people buying health care and/or increasing the number of uninsured.

Let's say we want to pass a Patients' Bill of Rights. Great. But let's do no harm. Let's not increase costs dramatically. Let's not increase the number of uninsured, especially if we are talking about millions. And that is what we are talking about in the bill before us today. I wish that were not the case.

Let's go through the bill. And I think we will have some time. We need some time since we have not had any hearings on this bill. This bill has never been through a Senate markup.

In the last Congress, we did mark up the Norwood-Dingell bill. We did not pass Norwood-Dingell in the Senate. We passed a substitute bill on which many of us worked. I thought it was a positive piece of legislation. I thought it had a lot of good things. It would have addressed the problem our friend, the Senator from North Carolina, just addressed.

He said an individual, Steve Grissom, was denied health care. That was unfortunate. The bill we passed last year had internal-external appeals. That external appeal would have been quick. That person would have had health care and would not have had to go to court and would not have had to choose between State court and Federal court, seen trial attorneys—would not have had to do any of that. They would have had health care. They would have had an appeals process, and that appeals process would have been binding.

Somebody said: We need accountability. We need enforceability.

We had it binding where, if the plan did not comply with the external appeal, they would be fined $10,000 a day.

So I think in that case—and that is a terrible case, where maybe somebody, unfortunately, was denied care—they would have gotten the care; and they would have gotten it quickly; and they would not have gone to court. They would not have received the care in the courtroom but would have received it by doctors. I agree. Let's solve that problem.

We were very close to an agreement on internal-external appeals to resolve 99 percent of these cases. That is not the case with the bill we have before us. In the bill we have before us, I would say, for the 128 million private-sector Americans who are in private health care, who receive their health care from their employer, look out, because there is legislation coming, with a very good name, that makes the employer liable in almost all cases, not just the HMOs, and it makes them liable to the extent that a lot of employers are going to be scared to offer their employees health care. Some may opt out.

In addition, it will increase costs so significantly that a whole lot of people are going to say: Wait a minute, these costs are so high, I can't afford it. My employees didn't appreciate how much money we were spending on health care. So I asked them, instead of me spending $5,000 or $6,000 a year per family on health care—up to $7,000 now—would you prefer the money and you can buy health care on your own? A lot of employees will say: Yes, count me; I would like to have that money. Maybe they will buy health care on their own, and maybe they won't.

Unfortunately, a lot of employees would not, so the number of uninsured would rise, and I believe rise dramatically. So employers would be scared from the cost standpoint, and they would also be frightened because there would be unlimited liability.

There has been some misrepresentation by some, saying: This bill has caps on liability. It does not have any caps on noneconomic damages. There are all kinds of damages. And this bill has new causes of action for Federal lawsuits. It has new causes of action for State lawsuits. It allows people to be able to

jury shop: Let's find a good jury in a good county. With one good jury, you can become a billionaire nowadays. Wow. A lot of employees would say: Thank you very much, but I can't afford that exposure; I can't afford that liability, the fact that one jury case, for something I had nothing to do with whatsoever, could put me into bankruptcy. So they might say: We are just going to opt out. We don't have to provide this benefit.

Some people would like to mandate that employers provide health care, but that is not going to pass, and they know that is not going to pass.

So the net effect is, a lot of employers will say: I don't have to provide this benefit. I want to, but I can't afford the exposure.

I just met somebody today who owns a restaurant. Actually, today, I met with two people who own a restaurant each. I heard people say: Hey, you are going to choose between the HMOs and the people. I met with two people today who each owns and operates a restaurant. One owns a small restaurant in Maryland. They said, if this bill passes, because of the liability provisions, they probably won't provide health care for their employees. They just started providing health care for their employees. Restaurants are the type of business where not everybody provides health care for their employees.

All the major automobile manufacturers provide health care for their employees. They will probably continue to do so because of collective bargaining agreements. Interestingly, there is a little section that exempts collective bargaining agreements. Whoops. I thought we were providing all these protections for everybody. But there is a protection for organized labor here that kind of exempts the organized labor contracts for the duration of their contracts. So they might be exempt for years.

We will get into some of the loopholes left in this provision. But this small restaurant owner said: I don't think I can afford the liability. I am afraid of doing that. And this person—female—operates her own business, which is family operated, I believe second generation, and they have had the business for 30-some-odd years, I believe. It is not all that large. About half her employees now have health care. She said today, she does not think she can continue providing health care if this bill passes.

I met with a restaurant owner who has a larger restaurant not too far from here in Northern Virginia. This person started providing health care for their employees and said: No way, not with this liability. You would make it impossible.

Wait a minute; employers are exempt. I heard that today. Oh, employers are exempt? Yes, there is a section in this bill exempting employers, on page 144: ''Causes of Action Against Employers and Plan Sponsors Precluded.'' Great. That will make DON NICKLES happy, and others happy. That sounds pretty good. That is paragraph (A).

Paragraph (B): ''Certain Causes of Action Permitted. Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor. . . .''

Look out, employers. You had better read paragraph (B). You are liable. Oh, there are a few little exemptions. If they do this, this, and this, they will not be liable. But it does not cover everybody. I promise you, as an employer, if they complete their fiduciary responsibilities, they are liable. And when employers find out they are liable, they are going to be scared of this bill and the results of this bill, and a lot of them will quit providing health care for their employees. In other words, if we take legislative action, maybe with very good intentions, there may be very adverse results.

They did that in the State of California on energy. They passed a bill that had a great title calling it a deregulation bill, but it had all kinds of regulations, and it had a lot of adverse results. This bill, I am afraid, if we passed it today, and it became law, would have a lot of adverse results.

President Bush has said he would veto this bill. And he is right in doing so. And we have the votes to sustain that veto.

Some people said: Why not pass this bill as it is, let the President veto it, you sustain his veto, and, hey, you have covered the subject? I do not think that is responsible legislating. Maybe it would be the easy way out. That way, we can just raise a few objections, vote no, and let him veto the bill. I do not think that is responsible.

I think we need to review this bill. I think every Senator should know what is in this bill. I will tell you, from the public comments I have heard, in some cases the sponsors of this bill may not know what is in this legislation.

So we need to consider what is in this bill. We need to talk about it. We need to see if we can improve it. Hopefully, we can improve it to the degree that we will have bipartisan support for a solution with perhaps 80 sponsors of the bill and have overwhelming support. I would love to see that happen. I will work to see that happen. I have invested a lot of time on this issue. I want to pass a good bill. This bill does not meet that definition.

I heard a couple people say this bill is consistent with the principles the President outlined. That is factually inaccurate. That is a gross misinterpretation of the President's principles. They were not written that fuzzily. I will outline in another speech what are the President's principles and where this bill falls fatally short—not short in a gray area but fatally short.

I am just concerned that maybe some people are a little loose in their statements, saying this is consistent with what the President wants, and so on, this is consistent with the Texas plan, and so on. I do not think that is factually correct. So I wanted to mention that.

I want to do a good bill. This does not fit the pattern.

What about a couple of other things? Should the Federal Government take over what the States are doing in the regulation of health care? Some people obviously think we should. As a matter of fact, I look at the scope sections of the bill, and I am almost amused. We are going to have a preemption: State flexibility. It says, on page 122, ''[nothing shall] be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health [insurers]. . . .''

Boy, that sounds good. I like that section. I don't know if there is a bait-and-switch section in here or what, but that sounds so good. That sounds like something I would put in there. But it doesn't stop there. It goes on.

Then it says, on the next couple pages: If the State law provides for at least substantially equivalent and effective patient protections to the patient protection requirements which the law relates. In other words, we are not going to mess with the States unless the States, of course, have to provide at least substantially equivalent and effective patient protections as this bill does.

Well, what does substantially equivalent and effective mean? It means, States, you need to do exactly what we tell you to do. We are going to preempt everything you have. If you have an ER provision, it has to match our ER provision, our emergency room provision. If you have access to OB/GYN, you have to match our access provision to OB/GYN. And there is a lot of difference.

If you have clinical trials in your State, you have to match these clinical trials, which are enormously expensive clinical trials, which are covered by anything that NIH would offer or anything by FDA or anything by DOD or anything by the VA. There are a lot of clinical trials. You have to pay for them. It may be the State of New Jersey did pay for them or did not.

Under this bill, there is not one State in the Union that meets the clinical trial provisions of this bill. Why? Because they are very expensive provisions; because they are unknown provisions; because no one knows how much they would cost. And so the States have been kind of cautious on putting in clinical trial provisions. They have done it rather cautiously. The State of Delaware is considering clinical trials today, legislation on a patients' bill of rights. They have a clinical trial provision, and it is not nearly as expensive as the one that is mandated in this bill.

The essence of this bill is, State, we don't care what you have negotiated. We don't care how many hearings you had. We don't care if the legislature worked on this for months and negotiated it with the Governors and the

providers in your State. We don't care because we know what is best. One size fits all. I guess two or three Senators decided they know what is best. They know better than every single State insurance commission. They know better than every State legislature. They know better than every Governor, every person who is in the buying business. We are going to mandate that these have to be in your contract, in your coverage.

I accidently said the word ''contract.'' Most of this is done by contract. There is a provision in here that says you don't have to abide by the contract. That is a heck of a deal. So when people try to have a contract, here is what we will cover, here is what we don't cover, so you can have some kind of limitation on cost.

There is a little provision in the bill that says the reviewer shall consider but ''not be bound by the definition used by the plan or issuer of medically necessary and appropriate.'' Not be bound—in other words, they can provide anything they want to provide. It doesn't make any difference what is in the contract. That is in this little bill.

How do you get a cost estimate of how much this bill is going to cost? Because no one knows. The contracts aren't binding. Wow. There are a lot of things in here.

Then I have heard people say: We are going to make sure the States have provisions that are substantially equivalent and as effective. Who is going to determine if something is as effective? We are going to have the Federal Government. HCFA is going to review the State standards. HCFA will determine whether or not you are substantially equivalent and as effective. The only way you are going to get there with any certainty is to have identical language. And then who is going to know whether or not it is as effective? That is as subjective as it could possibly be.

You have a standard that is higher than HCFA. You have a standard higher than anybody has ever imposed. It says: Here is everything we mandate. If you want Federal, nationally dictated health care, it is in this bill. Wow. I didn't know we were taking over for the State. I didn't know we had the people to do it.

Guess what. We don't. There is no way in the world the Federal Government has the resources in HCFA, the Health Care Finance Administration—which now has a new name which I can't remember and won't for the time being—there is no way in the world they could do this. Every State has insurance commissioners or regulators that are in charge of making sure the insurance companies in their State are adequately financed, meet their fiduciary responsibilities, that they meet their insurance responsibilities, that they uphold what they say they are going to do in the contracts, every State. I would imagine in New Jersey, it is hundreds of people—hundreds. I am sure it is in the hundreds. My State of Oklahoma is in the hundreds.

HCFA, the Health Care Finance Administration, couldn't enforce that. There is no way in the world. There is a list of patient protections that every State has done. In my State, it is 40 some; in most States it is 30, 40, 50 different State protections. We are going to say: We don't care what you have done. Those aren't good enough. We are going to basically say these protections are preeminent. These will supersede what your State has done. You must do as we tell you to do. If you don't, the Federal Government will take over enforceability of those provisions.

Then you will have the awkward situation of having the Federal Government enforce some provisions in your health care contract but not all the provisions. That is really going to make a lot of sense. Then there is going to be this little period of time where the State has been enforcing these State regulations. Now we have a new Federal regulation, and it is supposed to be prevailing. But the State regulation, we are used to enforcing it. Which one do we abide by? They are not familiar with the Federal enforceability. No one has ever enforced this one before. So should the State enforce the Federal regulation? They can't do it. The HCFA person hasn't signed off. Therefore, HCFA is going to take over, and they don't have anybody to enforce it.

Now what you have is language saying you have these protections, but you don't have anybody to enforce it because HCFA can't do it. They absolutely can't do it.

Somebody should ask the Secretary of Health and Human Services, do you have the capability to regulate State insurance to enforce these provisions that the McCain-Kennedy-Edwards bill would do? The answer is no. No, they couldn't do it. So we are going to have a long list of protections that we supposedly are telling everybody they have: look what we have done for you, but there is no enforceability because the Federal Government doesn't have the wherewithal to do it.

And we shouldn't do it. That is not our responsibility. Yet we are going to have that kind of takeover. I think that would be a serious mistake as well.

Then what about this comment: Under this bill, we insure all Americans. Wow, sounds really good. We are really going to provide protections for all Americans.

First, I should ask: Are we disabusing Federal employees? Are we disabusing our families, Senators' families who are under the Federal employees health care plans? Do they have such a crummy deal that we need to change their plans? The truth is, we don't change Federal employees. We change State employees. I hope everybody knows that we are going to go out and tell every Governor, every State insurance commissioner: we are going to change your public employees' health care plans. We are going to mandate you do all these things. We exempted Federal employees. Whoops.

You mean we are going to mandate all State employees, all teacher plans. We are going to mandate that all of those have to have what we have decided big government knows best. Yet for Federal employees, whoops, we exempted them. Organized labor, if they have a contract, we exempted them. Medicare, for we exempted them. Medicaid, low-income individuals, whoops, these don't apply to Medicaid. They don't apply to Medicare. They don't apply to Federal employees. They don't apply to union members, until their contract is renewed, maybe 5 years or so before that happens, if they have a long-term contract.

There are a lot of little gaps. If this is so good for the private sector, why don't we put it on the public sector? Why don't we put it on the Senate? A Senator or their family members, can they sue the Government? If they are aggrieved, can you sue the Government? The answer is no. You still can't. Even if this bill passes, you can't sue the Government. Everybody else can sue their employer. You can't sue yours.

I wonder if cost has anything to do with it. There are some things that just don't fit. It is fine for us to do this on all private sector plans, act as if that will only cost 37 cents a day. Maybe they said a week. The cost of health care right now for a family is about $7,000. At 4.2 percent of $7,000, figuring this up, you are talking about $300 a year. Some people say: That is just cents; that is a dollar a week or something. It is not a dollar a week. It is $300 a year. Maybe that is about a dollar a day. That is about the equivalent of the tax cut that a lot of Americans are going to receive this year. We are just going to take it away. So we give a tax cut with one hand and we take it away with higher health care costs in the next by this bill? We can sure do that.

Somebody said: I broke even for the year. What if you are one of the 1 or 2 million people who lost your health care because your employer dropped it? You came out on the real bad end of the deal.

This didn't cost you a dollar a day. This didn't cost you a Big Mac. This cost you your health care—probably to a person who needs health care the most. A lot of people who are in that low-income bracket, maybe working for a small restaurant in Montana, or someplace, and maybe their employer just started to provide health care, or wants to provide it, and they could not do it because they could not afford it, or because they are afraid of the liability.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. I ask unanimous consent for an additional 5 minutes.

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

Mr. NICKLES. My point is, let's be very careful not to do damage to the system, not to do damage to a quality health care system that is far from perfect. Let's do some things to make sure that we increase the number of people who have insurance. Let's not do anything that would increase the number of uninsured. That is doing a very serious harm. If anybody says, hey, this bill has so much momentum, so let's pass it regardless of what it costs or what the consequences are, I beg to differ. It is worth spending a little bit of time to try to be at least responsible in this area. Let's not do damage. Let's not supersede the States. Let's not act as if the Federal Government knows best: Sorry States, we are going to take over the regulation of your health care system because we know better.

Every person here who works in this system for very long knows that we do not know better. We do a crummy job. HCFA does a crummy job in administering Medicare. They are way behind even in enforcement and compliance with the Health Insurance Portability Act. Some States still aren't in compliance. HCFA is supposed to take over regulation of that act. If they haven't done that, how in the world can they do it for private care? They could not do it.

Let's pass a positive bill. I stand ready to work with my colleagues on both sides of the aisle to do that. I am willing to spend a lot of time to work out a real bipartisan bill, one that has support by a majority of the Members on both sides. To say that this is a bipartisan bill when you have 3 Republicans sponsoring it and 40-some odd vigorously opposed to it is stretching it. That is not bipartisan. Let's have a bipartisan bill where you have a majority of both Democrats and Republicans supporting the bill. That is real bipartisan bill. Let's get a bill that President Bush will sign and become law, not just have campaign rhetoric. Let's make something happen that we can say we have passed a positive bill. I hope we can do so. It remains to be seen.

There is going to have to be some willingness to compromise. Some people say we have compromised enough. This bill is not a compromise. This bill is to the left of the Norwood-Dingell bill that we had last year. It is more expensive than that bill. The liability provisions are more intrusive and expensive than the bill Congressmen NORWOOD and DINGELL and Senator KENNEDY were pushing last year. It is not a compromise. It is a move in the wrong direction.

Let's move toward the center. I have shown a willingness—maybe more than I should have—to compromise and try to come up with a positive bill. Let's work together as both Democrats and Republicans to come up with a bill that we can all be proud of, that President Bush can sign, and one that can become law.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I see my friend from Nevada on the floor. I wanted to make a few comments at the end of our first day of discussion.

Madam President, I just hope those who are watching this debate have some understanding about the history of this legislation and what it really is all about. This legislation was first introduced 5 years ago. So that is why we hear on the Senate floor that our colleagues are glad to consider the legislation. We should be eager to consider this legislation because every day that we let go by there are more than 50,000 people who are experiencing increased suffering and injury.

There are 35,000 people today who didn't get the specialist they need in order to help them mend and get better. There are 12,000 patients who, tonight, will be taking prescription drugs that were not what the doctor ordered, but what the HMO is giving them.

There are countless illustrations where the HMOs' decisions are being made by bureaucrats and bean counters in cities many miles away from the highly trained professional medical personnel who are trying to provide care. These health care professionals are making decisions that are being countered by accountants and bean counters who aim to enhance the bottom line of the HMOs.

The real issue, when it is all said and done, is whether we are going to put into law some rather minimum standards that are already effective in Medicare and Medicaid. These fundamental standards have been recommended by the insurance commissioners, and unanimously by a bipartisan panel.

I have listened carefully to a number of the statements that have been made out here recently. I did not detect any statements directly before the Senate that are critical of the proposal that has been advanced here. Yet there has been an objection made. I haven't heard them say: let us not have that protection for the people, or let's not give them the emergency care protection, let's not give them the specialty protection, let's not give them the clinical trials in there. Did anybody hear that during the course of the afternoon? I did not hear that.

That is what this is about. That is what this is about. As we all know, people try to make the best case they can in opposition. And at the end of this first day, I find I am very much encouraged by the range of speakers who have spoken in favor of this legislation. I think there is increasing understanding by the American people, as in the debate here in the Senate, about the importance of this legislation.

We know the HMOs are spending millions of dollars on distortion and misrepresentation. They ought to be spending that on patients' care, but they are not. We welcome the opportunity to get to the bill before us and then have a full debate on these matters. There are some who wonder whether this is a bipartisan bill. I was listening to my friend and colleague from Oklahoma say he really wonders whether this is a bipartisan bill. Well, Congressman NORWOOD, Congressman GANSKE, and 63 Republican Members of the House of Representatives certainly believe that it is a bipartisan bill. We are certainly proud of the Republicans who have supported this measure in the Senate. I think that gives us hope.

I see the Senator from Nevada.

Mr. REID. I want to ask the Senator a question when he has a minute.

Mr. KENNEDY. At the end of this discussion today, we ought to realize that virtually every single medical organization—the American Medical Association, children's health, women's health, disability organizations, senior health organizations, and patient organizations—is supporting this bipartisan proposal. There are but a handful of organizations that support our opponents' proposal, and virtually all of these organizations have also endorsed our bill. I put that out as a challenge. I hope those who are opposed to this bipartisan proposal are going to at least give us the credit for the very breadth of support that comes to this proposal. This comes from people who have studied this issue, worked this issue, and whose livelihood is affected by this issue in terms of the type of care they can provide for families all across this country.

So, Madam President, I look forward to the debate.

Mr. REID. Will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. REID. I have been interested in the debate from the other side. Isn't it interesting that they are so concerned about the uninsured now with the Patients' Bill of Rights? As the Senator from Massachusetts will recall, we tried to do something about the uninsured, and no one was too interested then.

Mr. KENNEDY. That is right.

Mr. REID. In fact, it has gone up since then.

I also ask the Senator if he recognizes that one of the things they are saying is HCFA is understaffed and would not be able to handle the new duties given to them by this legislation. Who has been cutting back their budget all these years, strangling these organizations so they cannot render appropriate care to the constituency they are delegated to serve?

Has the Senator heard them complaining about understaffing?

Mr. KENNEDY. The answer is yes, not only have I heard it, but I remember debating with my good friend from Oklahoma on the increase for HCFA, which was recommended by the General Accounting Office—that there would be an $11 million increase for HCFA to administer. He opposed that. He fought it tooth and nail. So they did not get the additional support. And

then they complain when they are inadequately staffed to do the job.

Thankfully, $2 million came out of the committee, even though we were unable to get anything on the floor. I said this to my friend, Senator NICKLES, so I do not mind mentioning it here in his absence because—he is here now. He remembers his battle against giving additional funding to HCFA to implement the Kassebaum-Kennedy bill, and he took great relish in that opposition. The Senator from Nevada has pointed that out.

I agree HCFA is a challenge because we have given them a great deal of additional responsibility in recent times. We have given them the CHIP program which is working in the States. They are doing a good job. They have Kassebaum-Kennedy, which is the portability legislation to help those who are disabled move around through jobs and not be discriminated against.

I am reminded by my staff that the latest GAO report shows HCFA is doing a good job, and virtually every State is effectively administering the Mothers and Infants Protection Act and the Women's Cancer Act, which have been additional responsibilities for HCFA. They are doing a good job with that as well.

I know it is easy to have whipping boys around here. HCFA is out there. We all can probably find instances in our own States where we wish they had made other decisions. That certainly should not be used as an excuse in opposition to this legislation.

Mr. NICKLES. Will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. NICKLES. Did I understand my friend and colleague to say the State of Massachusetts now complies with the Health Insurance Portability Act?

Mr. KENNEDY. Not completely. What the State of Massachusetts complies with is the CHIP program. Massachusetts is the No. 1 State in the Union with the lowest number of uninsured children. We have done an outstanding job with that. We still have work to do in other areas, such as HIPAA. Rather than take the spirit of the legislation that Senator Kassebaum believed to be the case—I had serious doubts about it—which was that there would not be a significant increase in premiums—we find a number of States, with the support of the insurance industry, have raised rates so high as to undermine the effectiveness of the program.

Mr. NICKLES. So the State of Massachusetts still does not comply with the Health Insurance Portability Act we passed several years ago?

Mr. KENNEDY. Parts of it they do; not all of it, I say to the Senator.

Mr. NICKLES. I was just wondering.

Mr. KENNEDY. That is fine. I am not going to get into whether the Republican Governors in my State were in opposition to enforcing it. That is not relevant here tonight.

The point is, Mr. President, this legislation we have before us tonight protects children, women, and families. It is about doctors, nurses, and families making decisions that will not be overridden by bureaucrats and HMOs. That is what this legislation is about.

We welcome the chance finally, finally, finally, to have it before the Senate. We look forward to the amendments to begin.

I suggest the absence of a quorum.

Mr. REID. Will the Senator withhold for a minute? While the Senator is here, I want to ask him another question. We talked about the uninsured, and we heard the other side talk about the shortage of staff. We have heard now a new one that has been going on all afternoon on the other side about States rights—how are the Governors going to put up with this terrible bill?

I say to my friend from Massachusetts, isn't it interesting that no matter what happens, there are always excuses that we cannot pass a Patients' Bill of Rights? This has been going on for 5 years. We now have a bipartisan piece of legislation. I acknowledge the first legislation that came out was partisan, just the Democrats authored it, even though some Republicans supported it. Now we have bipartisan legislation. Senators MCCAIN, KENNEDY, and EDWARDS have written this legislation. They are the chief sponsors of it. But now it is still not good enough.

Have we not heard in the 5 years we have already spent on this legislation about States rights? I ask the Senator from Massachusetts, do you not think we resolve these States rights problems with this legislation?

Mr. KENNEDY. The Senator is exactly correct. Under the proposal before us, if there is substantial compliance, then the State provisions will rule the responsibility and liability provisions. That is why I was so interested in what the Senator from Oklahoma said about not being able to decide this in Washington, DC, because it is one size does not fit all; we have all learned that.

That is not, of course, what this legislation does. It lets the States make the judgments about liability.

I am very interested in the fact there are a number of Senators on the other side who do not want to permit their States to make the judgments with regard to liability issues. That is where the liability and negligence issues have been decided for over 200 years. The States have the knowledge about these issues, and transferring responsibility into the Federal system does not make a lot of sense. There are long delays, more distance, and it is more costly to the patients.

We will have a full opportunity to debate those issues. I look forward to that debate.

The Senator is quite correct, we have in this legislation, in the liability provisions, shown very special deference, as has been stated during the course of the day. Effectively 90 percent of these cases will be tried in State courts. Only 10 percent will actually be tried in Federal courts, and those will be limited to contract cases.

The Senator is quite correct that we are relying upon the State system of justice, and that is the way it ought to be in this case. Senator MCCAIN, Senator EDWARDS, and others involved in the development of that proposal found a good solution to it.

Mr. REID. Our majority leader is in the Chamber now, and I want to make a brief statement and see if the Senator will agree with me.

We heard this harangue that this is legislation that deals with lawyers. The fact is, as to the two States where there is a Patients' Bill of Rights, in 1 State there has been no litigation whatsoever; in the State of Texas, where the President is from, in 4 years there have been 17 lawsuits filed. That is about four a year. That does not sound outrageous to me. Does it to the Senator from Massachusetts?

Mr. KENNEDY. The Senator is correct, and I will end with this note. We can speculate and theorize, but under these circumstances we ought to look at the record. We have 50 million Americans who have protections like what we are trying to provide for 170 million additional Americans in the liability provisions. Those who have protections are State and local employees and individuals who purchase insurance. They have the right to sue. There is absolutely no evidence that there has been a proliferation of lawsuits. There has not been any kind of abuse of the system, although those who are opposed to our legislation have alleged that.

Secondly, there is absolutely no evidence that the costs for these various policies are in any way more costly than those without the liability provisions.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, as I indicated earlier today, Senator LOTT and I and others have been discussing the manner under which we might be able to proceed to the bill. Earlier today, the unanimous consent request to proceed to the bill was not agreed to. We have been discussing the matter throughout the day. I think I am now prepared to propound a unanimous consent agreement that reflects an understanding about the way we might proceed later this week.

I ask unanimous consent that at 9:30 on Thursday, June 21, the Senate vote on a motion to proceed to S. 1052, the Patients' Bill of Rights, and that the time between the completion of that vote and 12 noon be equally divided between the two leaders or their designees for debate only, and that at 12 noon the Republican manager or his designee be recognized to offer an amendment.

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

Mr. DASCHLE. Madam President, it is my intention, then, to stay on the

motion to proceed until the 9:30 time that we have now just agreed to on Thursday. Should there be any interest in accelerating that, we would certainly entertain it. However, at least now we know we will have a vote at 9:30, and that our Republican colleagues will be recognized to offer their first amendment at noon on Thursday.

I appreciate very much the willingness of Senator NICKLES and certainly the Republican leader and others who have been discussing this matter with me for the last couple of hours.

Mr. REID. Could I ask the majority leader a question?

Mr. DASCHLE. Yes.

Mr. REID. In that we will start this debate this coming Thursday, is it still the intention of the leader to finish this bill before we take the Fourth of July recess.

Mr. DASCHLE. There are two matters I think it is imperative we finish. This is the first of the two, I answer my colleague, the assistant Democratic leader; and the other is the supplemental. I think 2 good weeks of debate on this issue is certainly warranted.

We have had a debate on this matter in previous Congresses. I think we should be prepared to work late into the night Thursday night. We will be here on Friday. We will be in session on Friday, with amendments and votes. We will stay on the bill throughout next week. As I say, we will hopefully set at least a desirable time for final consideration Thursday of next week. Should we need Friday, we can certainly accommodate that particular schedule, and if we need to go longer into the weekend to do it, my intention is to stay here until we complete our work.

So, yes, I emphasize, as I have the last couple of days, that the Senate will complete this work, and hopefully the supplemental prior to the time we leave for the July recess.

Mr. REID. We will work this Friday with votes, no votes on Monday, but we will work on Monday.

Mr. DASCHLE. Correct.

Mr. NICKLES. I heard the leader say we would be working on the legislation, considering amendments on Friday. Did the leader clarify whether or not there will be votes on Friday?

Mr. DASCHLE. There will probably be votes on Friday but no votes on Monday.

Mr. NICKLES. I thought I understood the majority leader to say we would hold votes ordered on Friday to Tuesday.

Mr. DASCHLE. If I misspoke, I apologize. I intended to say, if I didn't say, we would have votes and amendments offered on Friday but that there wouldn't be any votes on Monday, but there would be amendments considered and hopefully we can make some arrangement to consider these votes as early on Tuesday morning as possible.

Mr. NICKLES. Does the leader have any indication how late we will vote on Friday?

Mr. DASCHLE. We certainly wouldn't have any votes scheduled after around 1 o'clock on Friday.

Mr. NICKLES. To further clarify, I heard the intention that you would like to have this completed by the Fourth of July, but correct me if I am wrong. We spent a little over 2 weeks on the education bill just on the motion to proceed. I believe on the education bill in total we spent 6 or 7 weeks, and the education bill is a very important bill. Likewise, this is a very important bill. And this bill, like the education bill, in my opinion, needs to be amply reviewed.

I don't know the period of time, but at least it is this Senator's intention we thoroughly consider what is in the language and how it can be improved. Some Members want to have significant changes so the bill can be signed. I am not sure if that can be done or completed in the time anticipated or hoped for. I appreciate the dilemma the majority leader is in and his desire to conclude it a week from Thursday or Friday, but I am not sure that is obtainable. We will see where we are next week.

Mr. DASCHLE. I agree. I don't know whether it is attainable or not. But I do know this: We will continue to have votes into the recess period to accommodate the completion of this bill.

My concern is, very frankly, we will come back after the Fourth of July recess—and I have talked to Senator LOTT about this—with the realization we have 13 appropriations bills to do and a recognition that we have a very short period of time within which to do them. I know the administration wants to finish these appropriations bills and Senator LOTT has indicated he, too, is concerned about the degree to which we will be able to adequately address all of the many complexities of these bills as they are presented to the Senate.

I want to leave as much time as possible during that July block for the appropriations process to work its will, and it is for that reason, in particular, that I want to complete our work on this bill so we can accommodate that schedule.

Again, I appreciate the desire of the Senator from Oklahoma to vet this and to debate it. I hope we can find a way to resolve it prior to the time we reach the end of next week.

There will, therefore, be no votes today.

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. REID. 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.

PRESIDENT BUSH RECOGNIZES LT. COL. BILL HOLMBERG AS AN AMERICAN HERO

Mr. DASCHLE. Mr. President, I want to call my colleagues' attention to a specific passage in President Bush's commencement address at the U.S. Naval Academy last month that was particularly meaningful to me. In that reference, the President paid tribute to the heroism of a longtime friend of mine, retired Marine Corps Lt. Colonel William C. Holmberg, class of '51.

I would like to quote from the President's speech:

> But there are many others from the Class of '51 whose stories are lesser known, such as retired Lieutenant Colonel William C. Holmberg. One year and a handful of days after graduation, Second Lieutenant Holmberg found himself on the Korean peninsula, faced with a daunting task: to infiltrate his platoon deep behind enemy lines in an area swarming with patrol; to rout a tenacious enemy; to seize and hold their position. And that's what he did. And that's what his platoon did.
>
> Along the way, they came under heavy fire and engaged in fierce hand-to-hand combat. Despite severe wounds, Lieutenant Holmberg refused to be evacuated, and continued to deliver orders and direct the offensive until the mission was accomplished.
>
> And that's why he wears the Navy Cross. And today, his deeds, and the deeds of other heros from that class, echo down through the ages to you. You can't dictate the values that make you a hero. You can't buy them, but you can foster them.

I commend the President for his recognition of this very special American. I have known Bill Holmberg ever since I came to Washington as a freshman Congressman more than 20 years ago. I know Bill not as a war hero, but as an indefatigable champion of the environment and as a visionary who understood the potential of renewable fuels for improving air quality and reducing our dependence on imported oil long before they were accepted as a viable alternative to fossil fuels.

Bill is a true American hero who stands as a model for us all. His selfless commitment to making the world a better place to live has been demonstrated not only on distant battlefields, but also by his daily pursuit of a more secure, environmentally sustainable and just society.

I join with President Bush in saluting Lt. Colonel William C. Holmberg, a sustainable American hero.

THE EXECUTION OF JUAN RAUL GARZA

Mr. FEINGOLD. Mr. President, I rise to speak on the Federal Government's execution today of Juan Raul Garza.

This is a sad day for our Federal criminal justice system. The principle of equal justice under law was dealt a severe blow. The American people's reason for confidence in our Federal criminal justice system was diminished. And the credibility and integrity of the U.S. Department of Justice was depreciated.

President Bush and Attorney General Ashcroft failed to heed the calls for

fairness. Instead, the Government put Juan Garza to death.

Now, no one questions that Juan Garza is guilty of three drug-related murders. And no one questions that the Government should have punished him severely for those crimes.

But serious geographic and racial disparities exist in the Federal Government's system of deciding who lives and who dies. The government has failed to address those disparities. And President Bush and Attorney General Ashcroft failed to recognize the fundamental unfairness of proceeding with executions when the Government has not yet answered those questions. No, the government put Juan Garza to death.

Today, most of those who wait on the Federal Government's death row come from just three States: Texas, Missouri, and Virginia. And 89 percent of those who wait on the Federal Government's death row are people of color. But President Bush and Attorney General Ashcroft failed to recognize the fundamental unfairness of executing Juan Garza, a Hispanic man from Texas, before the Government had answered why those disparities exist.

On December 7, President Clinton stayed the execution of Juan Garza ''to allow the Justice Department time to gather and properly analyze more information about racial and geographic disparities in the federal death penalty system.'' That day, President Clinton said, ''I have . . . concluded that the examination of possible racial and regional bias should be completed before the United States goes forward with an execution in a case that may implicate the very questions raised by the Justice Department's continuing study. In this area there is no room for error.''

But today, the thorough study that President Clinton and Attorney General Reno ordered is nowhere near completion. Even so, the Government put Juan Garza to death.

It now appears that, until recently, this administration's Justice Department had no plans to proceed with this thorough study. We now see that, on June 6, the Justice Department released a report that contained no new analysis but nonetheless reached the conclusions that they wanted to reach.

Yes, after I called for a hearing and demanded that the thorough study resume, the Justice Department did agree to renew its thorough examination of racial and geographic disparities in the Federal death penalty system. But even so, the Government put Juan Garza to death.

Experts at that hearing of the Judiciary Subcommittee on the Constitution testified that the facts did not support the conclusions that the Justice Department reached in its June 6 report. Experts testified that more information is needed before the Justice Department could credibly conclude that racial bias is absent from the Federal death penalty system. But even so, the Government put Juan Garza to death.

The Justice Department now acknowledges that it has not conducted a complete review and that more study is needed. Before the Department completes that thorough review, and before it finishes that study, the Federal Government should not execute one more person.

I once again call on the President to implement a moratorium on executions by the Federal Government. I call for it in the name of the credibility and integrity of the Department. I call for it in the name of justice. And I call for it in the name of equal justice under law.

Mr. THURMOND. Mr. President, I rise today to discuss the Federal execution that was carried out earlier today.

I believe that the Justice Department did what was right today when it carried out the death penalty against drug kingpin and murderer Juan Raul Garza.

Steadfast death penalty opponents have tried to use Mr. Garza's case to justify a moratorium on the death penalty. It is puzzling why they would because his case in no way supports their arguments about innocence and racial disparity in the administration of the death penalty.

First, Mr. Garza was clearly guilty. He was convicted of murdering three people, one of who he shot in the back of the head, and he was tied to five other killings. Even his lawyers are not claiming innocence.

Second, there was no evidence that his race had anything to do with him receiving the death penalty. The judge and the main prosecutor in his case were Hispanic, as were all of his victims except one. The majority of the jurors had hispanic surnames, and all the jurors certified that race was not involved in their decision.

Moreover, there were six death-eligible cases in this district, the Southern District of Texas, all involving Hispanic defendants. Yet, Mr. Garza's was the only case for which the local U.S. Attorney recommended the death penalty, and the only one for which it was sought.

Mr. Garza was convicted under a law that Congress passed in 1988, which reinstated the death penalty and directed it at ruthless drug kingpins like Mr. Garza who commit murder as part of their drug trafficking. By following through with the death penalty in appropriate cases such as this, the Attorney General is simply enforcing the laws he has a duty to uphold.

Mr. Garza was treated fairly and had full access to the extensive protections of the criminal justice system. This execution is not a case study in injustice. It is a case study in how the system works properly.

I agree that continued study of the death penalty is worthwhile, but studies should not be used as an excuse to place a moratorium on the death penalty while opponents endlessly search for flaws in the system.

THE TALIBAN IN AFGHANISTAN

Mr. SANTORUM. Mr. President, I rise to discuss the critical situation concerning the Taliban in Afghanistan. The seriousness of the Taliban's gross injustices is alarming. This movement continues to make outrageous demands on religious minorities, women, and the relief workers trying to alleviate the suffering of the Afghan people. With impunity, the Taliban has largely ignored international condemnation, becoming increasingly fanatical and strict.

I am cosponsoring a bill with Senators BROWNBACK and BOXER which condemns the Taliban for its harsh demands on Muslims, Hindus, women, and religious minorities. The legislation strongly urges the Taliban to reopen United Nations offices and hospitals so that the people of Afghanistan may receive necessary relief. I encourage my colleagues to consider cosponsoring this legislation.

Hindus and all other religious minorities have been ordered to distinguish themselves from Muslims by wearing yellow badges. This decree is reminiscent of the Nazis forcing the Jews to wear the yellow star of David. It is shocking that the Taliban would order this kind of religious branding. Furthermore, Muslims and non-Muslims are prohibited from living together, and religious minorities are not permitted to construct new places of worship. The fanatic Taliban religious police invoke terror on city streets, sometimes whipping those who are not attending mosques at designated times. This kind of religious intolerance is abominable and should not be allowed.

The Taliban's iron grip on Afghanistan not only affects religious practices, it is further devastating the suffering Afghan people by obstructing relief efforts by the United Nations and other humanitarian organizations. The United Nations World Food Program believes it may be forced to close around 130 bakeries in Afghanistan's capital city if the Taliban will not allow women to help address the needs of the hungry. Without the aid of both men and women, program leaders cannot maintain the bread distribution program. Also in the capital, a 40-bed surgical hospital was forced to close its doors. Sixteen international staff members escaped to Pakistan because there were genuine concerns about their safety. This is not the first time foreign staff have had to flee. Several U.N. workers have even been arrested, a gross violation of a previous agreement between the Taliban and the U.N. that relief workers would be protected. The Taliban is compromising both the safety of international relief workers and the well-being of the Afghan people with their harsh and unreasonable policies.

The injustice meted out by the Taliban is sobering and demands continued attention. That is why I am cosponsoring S. Con. Res. 42 with Senators BROWNBACK and Boxer, and it is

my fervent wish that the suffering endured by all the Afghan people and international workers be quickly relieved.

THE ADMINISTRATION'S DECISION OF VIEQUES BOMBING RUNS

Mrs. CLINTON. Mr. President, last week, the administration made headlines when it said it would stop the bombing in Vieques.

But is that really true? Let's look at the fine print.

First, the administration did not commit to stopping the bombing immediately and permanently, as so many of us have called for. In fact, the bombing runs continue this week.

Second, the administration said it would stop the bombing by May 1, 2003. But is that really something new? Let's look at the date by which the bombing would stop under the current agreement and existing law, which provides for an end to the bombing if the people vote for it. The current agreement and existing law call for an end to the bombing by May 1, 2003—the very same date.

In other words, the administration is saying nothing more than what current law mandates if the people of Vieques vote to stop the bombing.

If that is all the administration announced—that the bombing would stop by the same date provided for under current law—then this flurry of attention would be little more than an overblown story about this President's desire to abide by the letter and spirit of the agreement entered into between the Federal Government and the representatives of the people of Vieques and Puerto Rico.

But that is not all the administration announced. It also announced that it wanted to stop the November referendum. The devil is in the details, they say. Well, this is one powerful devil of an idea that has not received the scrutiny it deserves.

For what the administration is really attempting to do is to undermine the intent of the law and subvert the will of the people of Vieques.

The administration says that a referendum is unnecessary, because it already plans to end the bombing by 2003. I say a referendum is more important than ever, because without an electoral mandate to require an end to the bombing, any administration expression of intent is nothing more than that: an expression of intent. Not a legal requirement. And ''intentions'' can change at a moment's notice.

I wholeheartedly support all efforts to find a viable alternative site to train our naval forces. We need such training, to protect our national interest and to protect our troops. And we must work hard to find places and ways to provide such a vital element of our defense.

As I have said before, the people of Puerto Rico are great patriots; its sons and daughters volunteer for our Nation's armed forces at one of the highest rates in our country.

Thousands of Puerto Ricans have lost their lives in service of their country during all the wars of the 20th century. We need the good training to protect all our troops, many of whom are Puerto Rican.

So this is not a matter in which the people of Vieques or Puerto Rico should be pitted against the interests of national security. We are all Americans. We are all on the same team and we want the same thing: the best trained armed forces in the world.

And so, I agree with President Bush when he says the ''Navy will find another place to practice.'' I agree with Secretary Powell when he says, ''Let's find alternative ways of making sure that our troops are ready . . . using technology, using simulators and also finding a place to conduct live fire.''

But here's the bottom line: Under current law, if the people of Vieques vote in November to end the bombing by May 1, 2003, the bombing must end by that date. Pure and simple. However, under the administration's plan, there will be no referendum. And therefore, there will be no mandate and no requirement to end the bombing by 2003. Only a policy to do so. And that policy could be altered by the President anytime between now and 2003.

In fact, Secretary Rumsfeld has already said that the Navy might stay on Vieques for another, and I quote, ''two, three, four years'' until it can arrange ''the training that's needed in other ways.'' Defense Department officials were also quick to point out that while the President said that the Navy would find another place to practice within ''a reasonable period of time'' he never defined ''reasonable.''

Secretary England said he wanted to ''have us control our destiny,'' meaning the Navy, as opposed to allowing what he called ''this level of emotion'' distract ''our attention from the real issue.''

In other words, the will of the people of Vieques is an ''emotion'' that must be put aside, and the people of Vieques should not control their destiny—the Navy should.

I believe that is the wrong way to deal with this very important issue. I believe we should work toward a solution to this problem without circumventing the law of the land, without abrogating an agreement, without obviating the will of the American citizens of Vieques.

I will stand up against any effort to shut down the referendum in Vieques. Let the votes be cast. Let them be counted. And let the voice of the people be heard and respected.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 2, 1999 in West Palm Beach, FL. Two teenagers admitted they beat a homosexual man to death last year, alleging the attack was provoked when the 118-pound victim called one of the young men ''beautiful.''

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

THE DR. MARTIN LUTHER KING JR. COMMEMORATIVE COIN ACT OF 2001

Mr. CORZINE. Mr. President, I rise today in support of S. 355, a bill requiring the Secretary of the Treasury to mint coins in commemoration of the contributions to our nation of the Rev. Dr. Martin Luther King, Jr. The Dr. Martin Luther King Jr. Commemorative Coin Act of 2001, S. 355, was introduced by Senator MARY LANDRIEU on February 15.

As we approach the 40th anniversary of Dr. king's ''I have a dream'' speech, we remember that Dr. King was a man larger than life who had an extraordinary impact not only on the civil rights movement, but also on the history of America. He was living proof that non-violence can change the world.

In the last session of Congress, this measure was introduced in both the House and Senate, but no action was taken on the floor. My constituents, however, concerned themselves with the issues and the Borough Council of Fair Lawn, NJ, passed Resolution 315–2000 urging that the measure be adopted and the commemorative coins be authorized for the year 2003.

David L. Ganz, the Mayor of the Borough of Fair Lawn is a former member of the Citizens Commemorative Coin Advisory Committee, a long-time advocate of using commemorative coins properly, and an avid coin collector. In an article appearing in COINage magazine, a monthly trade publication, in the July 2001 issue, Mr. Ganz argues that ''the accomplishments of Dr. Martin Luther King, Jr. transcend the work of presidents and academicians and cut across cultural lines. His life's work ultimately affected the fabric of American society . . . worthy of the Nobel Peace Prize in 1904 . . . [and leading to] social justice for a whole class of citizens and a generation of Americans.''

This is a remarkable opportunity to honor a remarkable man, and I urge the Banking Committee, and ultimately this body, to promptly enact

this legislation into law and authorize this distinctive tribute to a distinctive American.

BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

Mr. VOINOVICH. Mr. President, if there is one thing that the Senate can agree on wholeheartedly, it is that we, as a Nation, need to invest in our children's educational future. There is no other issue that hits closer to home for America's families.

But, even as we recognize the importance of education, we must realize that close to home is where education works best in America, and simply spending more and more Federal dollars on more and more Federal ''one size fits all'' education directives will not, by itself, make our education system perform better.

S. 1, the Better Education for Students and Teachers Act, that the Senate passed last Thursday contains several provisions that I favor.

The bill contains a modest pilot ''Straight A's'' provision that will help us build on the Education Flexibility Partnership Act that I worked to help pass in the 106th Congress to allow States to consolidate Federal education programs to meet State and local needs.

It also contains an amendment that I sponsored, that will provide loan forgiveness to Head Start teachers in effort to encourage teachers to go into early childhood education.

Further, S. 1 expands local flexibility and control by block-granting funds, consolidating some programs, and includes another amendment that I sponsored to allow local districts to spend Title II funds, if they desire, on pupil services personnel.

However, taken as a whole, S. 1 is fiscally irresponsible and violates my deeply held principles of federalism.

Over the course of my 35 years of public service to the people of Ohio, I have developed a passion for the issue of federalism—that is, assigning the appropriate role of the Federal Government in relation to State and local government.

Our forefathers outlined this relationship in the 10th Amendment:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Education is one such responsibility, and it has only been in the last 35 years that the Federal government has had much of a role to play in education policy, albeit a small one.

As my colleagues know, the Federal Government currently provides approximately 7 percent of all money spent on education in America, while 93 percent of the money is provided at the state and local level.

In my view, S. 1 not only violates that principle of federalism and the proper role of the Federal Government in education, it violates a principle long-held in this country; and that is, local control of our schools. I am concerned that this bill will put us on a fast-track towards thoroughly federalizing education.

As it has been said before on the floor of the Senate, one size does not fit all when it comes to education. Different districts have different requirements, with the needs of rural areas differing from the needs of our cities. And that has been the guiding force in American education for over 200 years.

But some of my colleagues think the Congress is the national school board. Well, we are not the national school board here in this Congress!

With the expansion of education programs that the Federal Government would undertake in this bill, I have a genuine concern that in ten or fifteen years, Washington will be dictating what is happening in every schoolhouse across the nation.

Indeed, in spite of the limited expenditure of Federal funds for education, this bill stipulates that every school district in America will test their students from grades 3 through 8.

This testing will occur regardless of how well students are performing in their particular school districts, and despite the fact that most of our states have mechanisms already in place that test students' educational performances.

For instance, just last week in my state of Ohio, Governor Taft signed into law a bill to revamp the State's testing program.

Governors, legislators, school boards, parents and most of all, teachers, all understand how onerous additional federally mandated testing provisions truly are.

I can assure you that there are many teachers in Ohio who are going to be saying, ''here we go again.''

In addition, there are other provisions in this legislation that usurp the authority of states and local school districts in their ability to make decisions that will affect their students.

For example, S. 1 lays out specific steps that states and school districts must take to address failing schools.

Also under S. 1, the Federal Government would be able to tell States that its teachers in low-income schools must meet certain Federal qualification and certification requirements.

Further, the Federal Government would be able to continue to tell school districts how to spend funds in a number of areas including: reading; teacher development; technology; and programs for students with limited English language skills, instead of providing States and local school districts with full flexibility to spend funds on their own identified priorities.

Besides violating a long-held principle regarding State and local control over schools, the bill's fatal flaw is that it increases authorized and appropriated spending for education by more than 62 percent over last year's budget, and it demolishes the budget resolution that Congress recently passed.

According to the Senate Budget Committee, ESEA spending totaled $17.6 billion in fiscal year 2001. That same year, we spent over $6.3 billion on special education. That's a total of $23.9 billion of Federal funds for kindergarten through grade 12. It also represents a 21 percent increase over fiscal year 2000.

S. 1 as reported authorized $27.7 billion for ESEA alone for fiscal year 2002. Since the beginning of the debate on the floor of the Senate until its passage on June 14th, a period of some 7 weeks, the Senate added an additional $11.1 billion in education spending for fiscal year 2002.

That's a total of $38.8 billion and, as I said earlier, a 62 percent increase in just one year!

Over the life of the bill, these amendments add $211 billion to ESEA for a total of $416 billion. That is an increase of 101 percent over seven years.

When you consider that the House and Senate agreed to a budget resolution that included a modest increase in Federal spending over last year's budget of approximately 5 percent, it's obvious that if we are to fund ESEA with a 62 percent increase, many legitimate functions that are the true responsibility of the federal government will not be met. Otherwise, we will not be able to live within the parameters of the FY 2002 budget resolution.

I am concerned that a number of my colleagues may have voted for many of the amendments to S. 1, as well as the final version of the bill—even with its expensive price tag—believing that the Appropriations Committee will not fully-fund each and every authorized program.

In my view, we should only vote to authorize what we are actually willing to appropriate.

That's because, I am very sure that there will be tremendous pressure on the appropriators to fully-fund the programs included in this bill. And, at 62 percent over last year's level, the programs in S. 1 just cost too much money for this Congress to spend.

In fact, I am concerned that the level of spending in this bill will put us back on the path towards a repeat of last year's ''budget busting'' appropriations cycle; a cycle that saw the Congress spend 14.3 percent more in non-defense discretionary spending than the year before.

That is why over the last few weeks, I have been working with my friend from Kentucky, Senator BUNNING, to get the signatures of our Senate colleagues on a letter to President Bush to show him that we are willing to support him in his efforts to instill fiscal discipline in the appropriations process.

In addition, our letter is meant to put Congress on notice that excessive spending will not be tolerated.

Although President Bush has indicated that he will not hesitate to use his veto pen on spending bills, Senator BUNNING and I felt he needed a ''Backbone 34''—a contingent of at least 34

Senators who would agree to uphold the President's veto on bloated spending bills, should it be necessary.

I am pleased to say that Senator BUNNING and I collected the signatures of 35 Senators who have agreed to ''vote against any congressional effort to override [vetoes] to enforce fiscal discipline.''

What these 35 signatures do is send an important message to all of our colleagues regarding the need for the Senate to stay within the budget resolution guidelines.

Simply put, the President will have the support he needs in Congress to sustain his veto of spending bills that are not fiscally responsible.

As far as I am concerned, the ''easy'' vote would have been to vote in favor of S. 1. However, I was not elected to the Senate to take the easy votes and hide from my responsibilities to the taxpayers of Ohio and this nation.

It is high-time for us to stand-up and show that we have the courage to be fiscally responsible, to prioritize our spending on the basis of those responsibilities that are truly Federal in nature, and to make the tough choices.

If Congress won't do it, I hope the President will, because the American people deserve to know that their government is serving in their best interest.

In my view, the funding expectations that are established in S. 1 are just too unrealistic, and if the President does not insist on a final bill that is more fiscally responsible, I do not doubt that my friends across the aisle will demand that he fund ESEA to the fully authorized level in his next budget.

That's why I urge President Bush to insist that the Members of the conference committee to S. 1 eliminate the enormous excess in spending that this bill contains before it is sent back to each of the respective Houses of Congress for a final vote.

By so doing, it will show the citizens of this nation that their President truly is not only the Education President, but that he cares about putting an end to Congress' spendthrift ways as well.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, June 18, 2001, the Federal debt stood at $5,634,686,176,609.17, five trillion, six hundred thirty-four billion, six hundred eighty-six million, one hundred seventy-six thousand, six hundred nine dollars and seventeen cents.

Five years ago, June 18, 1996, the Federal debt stood at $5,118,201,000,000, five trillion, one hundred eighteen billion, two hundred one million.

Ten years ago, June 18, 1991, the Federal debt stood at $3,496,571,000,000, three trillion, four hundred ninety-six billion, five hundred seventy-one million.

Fifteen years ago, June 18, 1986, the Federal debt stood at $2,044,497,000,000, two trillion, forty-four billion, four hundred ninety-seven million.

Twenty-five years ago, June 18, 1976, the Federal debt stood at $610,653,000,000, six hundred ten billion, six hundred fifty-three million, which reflects a debt increase of more than $5 trillion, $5,024,033,176,609.17, five trillion, twenty-four billion, thirty-three million, one hundred seventy-six thousand, six hundred nine dollars and seventeen cents during the past 25 years.

ADDITIONAL STATEMENTS

WEST VIRGINIA DAY

• Mr ROCKEFELLER. Mr. President, I am enormously proud to reflect upon West Virginia's years of accomplishment and good works on this, its 138th anniversary as a State. Among West Virginia's greatest achievements are its outstanding citizens who have had an influence, not only on their home State, but also on the Nation as a whole. West Virginia is home of some of the country's greatest educators, authors, and scientists. Like all great Americans, these luminaries worked for the advancement of others. Like all great West Virginians, they pursued their goals while remembering their roots.

I am reminded of Anna Jarvis, a teacher who longed to heal the rift between brothers during the Civil War. Miss Jarvis strove to provide a common bond between all Americans, northern and southern, that could serve as a stepping-stone toward a more lasting peace. To this end, she founded ''Mother's Friendship Day,'' now known as Mother's Day, which honors the sacrifices of all mothers. Indeed, Anna achieved her goal; and, she created a tradition that endures today.

Another West Virginian, author Pearl S. Buck, sought much the same goal. Ms. Buck's revolutionary novel, ''The Good Earth'', highlighted the plight of poor women and children in early-20 century China. In addition, Pearl worked tirelessly to advance the civil rights movement, as well as the women's rights movement. Her efforts brought increased understanding and tolerance for the underprivileged. Pearl S. Buck was inspired by the tolerance and charity of her fellow West Virginians and instilled these ideals in a new generation of Americans.

Like Anna and Pearl, Reverend Leon Sullivan recognized his ability to change the lives of others through example. A Baptist minister, educator, and civil rights activist, Leon also served on the board of directors of the General Motors Corporation. There, he promoted the idea of corporate responsibility abroad. His desire for racial egalitarianism worldwide forged the path for the Sullivan principles; these beliefs were instrumental in the abolition of apartheid in South Africa. Though he recently passed away, Reverend Sullivan leaves a lasting legacy of fairness and equality both at home and abroad.

Finally, I think of Homer Hickam, an aerospace engineer who, in spite of his humble background, attended college and achieved great professional success. Today, Homer attributes his accomplishments to the early influence of an outstanding teacher. His story demonstrates that educators inspire students and open doors. Most importantly, it reminds us of why we should collectively invest in education.

Today, I commend all of West Virginia's heroes, those that are well known and those who remain anonymous. I hope all Americans are inspired by the generosity, integrity, and devotion displayed by the people of this great State.•

TRIBUTE TO TIM BEAULAC

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Tim Beaulac of Gorham, NH, for being named as the Pharmacist of the Year for the Northeast Region, which includes Maine, New Hampshire and a portion of Vermont.

He achieved the award with the assistance of other members of the pharmacy staff at the Gorham WalMart Store including: assistant pharmacist, Kellie Lapointe, department manager, Sandy Trottier, and pharmacy technicians Mona Garneau and Karen Taylor.

Tim is a graduate of the Massachusetts College of Pharmacy and began his career at Berlin City Drug as a pharmacist for ten years. He also was employed at the former City Drugs in Gorham for several years.

Tim and his wife, Marylou, have one daughter, Holly, who is a sixth grader at Gorham Middle School.

I commend Tim on this exemplary achievement and recognition in the pharmaceutical industry. He has served the citizens of Gorham with dedication and care for many years. The people of Gorham and our entire state have benefitted from his contributions. It is truly an honor and a privilege to represent him in the U.S. Senate.•

TRIBUTE TO COLONEL WILLIAM J. GRAHAM

• Mr. CLELAND. Mr. President, it is with great pleasure that I rise today to pay special tribute to an outstanding soldier who has dedicated his life to the service of our Nation. Colonel William J. Graham will take off his uniform for the last time this month as he retires from the U.S. Army following 21 years of active duty commissioned service.

Colonel Graham began his military career with an appointment to the U.S. Military Academy at West Point. He completed the rigorous course of study at the academy and graduated with a Bachelor of Science degree, having focused his studies in the areas of general engineering and national security. He was commissioned a second lieutenant in 1980.

During Colonel Graham's career as an Army aviator, he was selected to

command at every level from platoon through brigade. He reorganized, built, and fine-tuned several record-setting organizations, and enjoyed making things happen. His leadership, management, problem-solving and team-building skills have been proven during combat, peacekeeping operations, and peacetime, and he is a proven expert in crisis management, organizational planning, and training.

Colonel Graham's aviation units were among the most frequently deployed to challenging international security environments. During his career he served in and deployed to many of the world's ''hotspots,'' including Korea, Germany, Bosnia, Macedonia, Hungary, Croatia, Panama, Honduras, and Grenada. Colonel's Graham's career culminated with duty as the Deputy Legislative Assistant to the Chairman of the Joint Chiefs of Staff where he served as liaison between the Nation's most senior military officer and the U.S. Senate.

Colonel Graham's retirement represents a loss to both the Joint Forces and the U.S. Army. Throughout a career of distinguished service, he has made innumerable long-term and positive contributions to both the military and our Nation. As Colonel Graham transitions to tackle new challenges in the business community, we will certainly miss him and wish continued success for both him and his family.●

THE GROWING ALLIANCE BETWEEN RUSSIA AND CHINA

● Mr. HELMS. Mr. President, Dr. Constantine Menges has a distinguished career in the field of national security. He has written a timely piece on the growing alliance between Russia and China. I hope my colleagues will read this article and heed his expert advice. I ask that the article be printed in the RECORD.

The article follows:

[From the Washington Times, June 14, 2001]

CHINA-RUSSIA: PREVENTING A MILITARY ALLIANCE

(By Constantine Menges)

An important item on the agenda of President Bush as he meets President Putin of Russia should be the new 30-year treaty of cooperation which the leaders of Russia and China are scheduled to sign in July 2001.

This treaty will formalize the ever-increasing Chinese-Russian strategic coordination of recent years, which is intended to counter the United States around the globe.

Why would the leadership of China and Russia believe they need to join for this purpose? At their summit meeting in July 2000, Mr. Putin endorsed China's view as expressed in their joint statement that the U.S. ''is seeking unilateral military and security advantages'' in the world. Mr. Putin also criticized the ''economic and power domination of the United States'' and agreed with China on the need to establish a still undefined ''new political and economic order.''

The new China-Russia treaty will not only mean a significantly increased political-strategic challenge to the U.S., it will also pose additional military risks. These are illustrated by Russia's sale of advanced weapons systems to China which it is aiming at U.S. forces and by the February 2001 Russian military exercises that included mock nuclear attacks against U.S. military units viewed as opposing a Chinese invasion of Taiwan.

The relationship between Russia and China went from alliance in the 1950s to deep hostility from 1960 to 1985 followed by gradual normalization during the Gorbachev years. After 1991, Boris Yeltsin continued negotiations to demarcate the disputed border but kept a political distance because China remained communist and had publicly welcomed the 1991 coup attempt by Soviet communist hard-liners and also opposed Mr. Yeltsin's democratic aspirations.

Mr. Yeltsin and the first President Bush had three summit meetings in 1992 and 1993, and Russia declared its intention to move toward a ''strategic partnership and in the future, toward alliance'' with the U.S. The mutually positive and hopeful initial relationship with the new, post-Soviet Russia, also included a signed agreement on reductions in offensive nuclear weapons and a joint decision on modifying ''existing agreements'' (including the ABM treaty) to permit global missile defense which both Presidents Yeltsin and Bush acknowledged were needed. Unfortunately the Clinton administration did not pursue the opportunity for Russian-U.S. agreement on missile defense.

In April 1996, Mr. Yeltsin decided to agree with China on a ''strategic partnership'' and increased Russian weapons sales. Through a series of regular summit meetings, China moved the ''partnership'' with Russia toward strategic alignment marked by an ever-larger component of shared anti-U.S. political objectives (e.g. support for Iraq, opposition to missile defense) along with increased Russian military sales and military cooperation. This was ignored by the previous administration.

As a result, for the first time in 40 years the U.S. faces coordinated international actions by China and Russia. This could have six principal negative implications starting, first, with the fact that Russia has accepted and repeats most of communist China's views about the U.S., for example that the U.S. seeks to dominate the world.

Second, the Chinese view of the coming July 2001 treaty emphasizes that, when one of the parties to the treaty ''experiences military aggression,'' the other signatory state should when requested ''provide political, economic, and military support and launch joint attacks against the invading forces.''

As the American public has learned from the April 2001 reconnaissance aircraft event, China defines not only Taiwan but also most of the international South China Sea and all its islands as its sovereign territory. If the United States should threaten or take any type of counteraction (political, economic or military) against China to uphold the rights of US aircraft or ships in that international air and sea space or to help allies or other countries defend themselves against coercion by China, which has territorial disputes with 11 neighboring countries including Japan and India, China could define this as ''blackmail'' and a violation of its ''sovereignty''. It would then hope to draw Russia in militarily, if only as a potential counter-threat as suggested by the February 2001 Russian military exercise.

A third negative consequence is ever-increasing Russian military sales and other support for the buildup of Chinese advanced weapons systems specifically targeted at U.S. air, sea and electronic military capabilities and vulnerabilities in the Pacific. For example the Russian anti-ship missiles that accompany the two Russian destroyers already delivered (and the four more to come) skim the ocean at twice the speed of sound, can carry nuclear warheads and were designed to sink U.S. aircraft carriers. In the 1990s, Russia sold China about $9 billion to $20 billion in advanced weapons systems aimed at U.S. forces (jet fighters, submarines, destroyers, anti-air/missile systems) with another $20 billion to $40 billion in weapons and high-technology sales planned through 2004. The income from these sales also helps Russia further modernize its strategic nuclear forces that currently have 4,000 warheads on about 1,000 ICBMs.

A fourth negative result is that Russia and China are working together and in parallel to oppose any U.S. decision to deploy national or Asian regional missile defenses; they are seeking to persuade U.S. allies to oppose this and refuse cooperation. At the same time Russia has sold China one of its most advanced weapons (S–300), originally designed to shoot down the Pershing medium range missile as well as aircraft and cruise missiles, along with a similar medium-range system (Tor-M1) in such quantity that China is now in effect already deploying its own missile/air defense system on the coast.

Fifth, Russia and China have been providing weapons of mass destruction components, technology and expertise to a number of dictatorships such as North Korea, Iraq, Iran and Libya which are hostile to the United States and its allies. Russia and China have also established military supply links with Cuba and the pro-Castro Chavez regime in Venezuela. The risk of conflict increases as all these dangerous regimes become militarily stronger and also believe they are backed by both China and Russia.

The sixth negative result is that the ever-closer relationship with China strengthens the authoritarian tendencies with Russia, thereby increasing the risk it will become more aggressive internationally. While the Chinese government develops relations with the Putin government and military, the Chinese Communist Party has revived direct relations with the Communist Party in Russia.

At their June 16, 2001, meeting in Slovenia, it is urgent that President Bush seek to persuade President Putin that Russia should assure the U.S. and the world that there is no open or secret military component to the July 2001 China-Russia treaty. Mr. Bush should remind Mr. Putin that the U.S. has no territorial or other claims of any kind on Russia. In contrast, communist China has on numerous occasions during the 1950s and through 1992 formally demanded that Russia ''return'' virtually all of the Russian Far East that China alleges was stolen by an ''illegal'' 1860 treaty. Russia is arming a potentially very dangerous country, perhaps making the same mistake Josef Stalin did in selling weapons to arm Germany which then attacked the Soviet Union in 1941.

Unless Russia excludes such a military component in the new treaty, Mr. Bush should indicate that the U.S. will view this as a China-Russia military alliance and a potentially grave threat to be met by the significant reductions in U.S. economic support for Russia directly, through debt restructuring, international institutions and trade access. Further the U.S. would see the need to immediately accelerate movement toward missile defense.

The U.S. and its allies need to give the China-Russia strategic alignment effective attention. With skill and foresight it is still possible to turn back the momentum by hard-liners in both Russia and China toward more confrontation while adopting realistic U.S. policies that maintain deterrence and peaceful relations.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2478. A communication from the Clerk of the United States Court of Federal Claims, transmitting, pursuant to law, a report relative to S. 1456; to the Committee on the Judiciary.

EC–2479. A communication from the Regulations Coordinator of the Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''National Research Service Awards'' (RIN0925–AA16) received on June 18, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2480. A communication from the Acting Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Water and Waste Disposal Programs Guaranteed Loans'' (RIN0572–AB57) received on June 18, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2481. A communication from the Executive Resources and Special Programs Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Administrator, received on June 14, 2001; to the Committee on Environment and Public Works.

EC–2482. A communication from the Counsel to the Inspector General, United States General Services Administration, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Inspector General, received on June 8, 2001; to the Committee on Governmental Affairs.

EC–2483. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the Federal Financial Assistance Management Improvement Act of 1999; to the Committee on Governmental Affairs.

EC–2484. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–67, ''Arena Fee Rate Adjustment and Elimination Act of 2001''; to the Committee on Governmental Affairs.

EC–2485. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–69, ''Advisory Neighborhood Commission Temporary Amendment Act of 2001''; to the Committee on Governmental Affairs.

EC–2486. A communication from the Chairman of the Counsel of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–68, ''Child Fatality Review Committee Establishment Temporary Act of 2001''; to the Committee on Governmental Affairs.

EC–2487. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–70, ''Earned Income Tax Credit Act of 2001''; to the Committee on Governmental Affairs.

EC–2488. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–71, ''Real Property Tax Assessment Transition Temporary Act of 2001''; to the Committee on Governmental Affairs.

EC–2489. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–74, ''51 Percent District Residents New Hires Amendment Act of 2001''; to the Committee on Governmental Affairs.

EC–2490. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–72, ''Department of Mental Health Establishment Temporary Amendment Act of 2001''; to the Committee on Governmental Affairs.

EC–2491. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Panama City, FL'' (Doc. No. 01–57) received on June 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2492. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Great Falls, MT'' (Doc. No. 00–114) received on June 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2493. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Oklahoma City, OK'' (Doc. No. 99–297) received on June 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2494. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Monticello, Maine'' (Doc. No. 01–64) received on June 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2495. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Lima, OH'' (Doc. No. 01–51) received on June 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2496. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Butte, MT'' (Doc. No. 01–29) received on June 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2497. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Galesburg, IL'' (Doc. No. 01–53) received on June 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2498. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Atlantic City, NJ'' (Doc. No. 01–49) received on June 14, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2499. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries; Regulatory Adjustment; Deadline for Atlantic Tunas Permit Category extended until May 31 for 2001 only'' (RIN0648–AP29) received on June 18, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2500. A communication from the Acting Deputy Director of the Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extension of a Grant of Conditional Exception'' received on June 13, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2501. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Chile; to the Committee on Banking, Housing, and Urban Affairs.

EC–2502. A communication from the Deputy Secretary of the Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Application of the Electronic Signatures in Global and National Commerce Act to Record Retention Requirements Pertaining to Issuers under the Securities Act of 1933, Securities Exchange Act of 1934 and Regulation S–T'' (RIN3235–AI14) received on June 14, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2503. A communication from the Under Secretary for Export Administration, transmitting, pursuant to law, a report relative to the export of ammonium nitrate; to the Committee on Banking, Housing, and Urban Affairs.

EC–2504. A communication from the Acting Chair of the Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2001–2002 Subsistence Taking of Fish and Wildlife Regulations'' (RIN1018–AG55) received on June 13, 2001; to the Committee on Energy and Natural Resources.

EC–2505. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Kentucky Regulatory Program'' (KY–230–FOR) received on June 18, 2001; to the Committee on Energy and Natural Resources.

EC–2506. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule

entitled ''Minimum Cost Requirement Permitting the Transfer of Excess Assets of a Defined Benefit Pension Plan to a Retiree Health Account'' (RIN1545–AY43) received on June 18, 2001; to the Committee on Finance.

EC–2507. A communication from the Regulations Coordinator of the Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''State Child Health; Implementing Regulations for the State Children's Health Insurance Program: Further Delay of Effective Date'' (RIN0938–AI28) received on June 18, 2001; to the Committee on Finance.

EC–2508. A communication from the Regulations Coordinator of the Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Provisions of the Benefits Improvement and Protection Act of 2001; Inpatient Payments and Rates and Costs of Graduate Medicaid Education'' (RIN0938–AK78) received on June 18, 2001; to the Committee on Finance.

EC–2509. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, a report entitled ''The Year in Trade 2000''; to the Committee on Finance.

EC–2510. A communication from the Assistant Director for Executive and Political Personnel, Department of the Navy, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Secretary of the Navy; to the Committee on Armed Services.

EC–2511. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Under Secretary of Defense (Acquisition, Technology and Logistics); to the Committee on Armed Services.

EC–2512. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Under Secretary of Defense (Personnel and Readiness); to the Committee on Armed Services.

EC–2513. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Department of Defense General Counsel; to the Committee on Armed Services.

EC–2514. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Navy (Manpower and Reserve Affairs); to the Committee on Armed Services.

EC–2515. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of General Counsel of the Department of the Army; to the Committee on Armed Services.

EC–2516. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistance Secretary of Defense (Force Management Policy); to the Committee on Armed Services.

EC–2517. A communication from the Deputy Director, Selective Service System, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Director, Selective Service System; to the Committee on Armed Services.

EC–2518. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Secretary of the Air Force; to the Committee on Armed Services.

EC–2519. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the identification of the Requirements to Reduce the Backlog of Maintenance and Repair of Defense Facilities for 2001; to the Committee on Armed Services.

EC–2520. A communication from the Assistant Secretary of Defense, Force Management Policy, transmitting, pursuant to law, a report relative to Army Communications-Electronic Command Research, Development, and Engineering Community; to the Committee on Armed Services.

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–107. A resolution adopted by the City Council of North Olmsted, Ohio relative to national health care insurance plan; to the Committee on Health, Education, Labor, and Pensions.

POM–108. A resolution adopted by the House of the Legislature of the State of Colorado relative to federal regulation governing mining on public lands; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION 01–1015

Whereas, The regulations at 43 C.F.R. Part 3809 (3809 regulations) governing the management of mining operations for hardrock minerals on federal lands that were published by the Bureau of Land Management (BLM) on November 21, 2000, 65 Federal Register 69998, and which became effective January 20, 2001, will have substantial adverse impacts on the mining industry in Colorado and throughout the United States; and

Whereas, The BLM has forecast that the implementation of the regulations will result in the loss of up to 6,000 jobs, costing American workers almost $400 million in personal income, and the agency also projects that mine production from public lands under the regulations could also decline by as much as 30% or $484 million; and

Whereas, The regulations would also impose massive additional obligations on state regulators charged with the responsibility of regulating mining on public lands through cooperative agreements with the BLM; and

Whereas, Congress commissioned the National Research Council (NRC) of the National Academy of Sciences to conduct a comprehensive analysis of mining regulations; and

Whereas, Congress prohibited the BLM from promulgating final 3809 regulations, except for revisions that are ''not inconsistent with'' the recommendations contained within the NRC report, Hardrock Mining on Federal Lands, published in 1999; and

Whereas, The NRC report concluded that the existing array of federal and state laws regulating mining is ''generally effective'' in protecting the environment, and that ''improvements in the implementation of existing regulations present the greatest opportunity for improving environmental protections''; and

Whereas, Notwithstanding the unequivocal findings of the NRC report, the BLM published amendments to the 3809 regulations that go far beyond the seven ''regulatory gaps'' identified in the report; and

Whereas, The BLM inserted several additional provisions that ignored the findings of the NRC report, including a ''mine veto'' provision that was never subject to public review and comment, as required by the federal'' Administrative Procedures Act'' and the United States Constitution; and

Whereas, The BLM further ignored the advice and recommendations of the Western Governors Association, which specifically advised the BLM to adhere to the findings of the NRC report; and

Whereas, The State of Nevada and two industry organizations have filed suit asking that the regulations which became effective on the last day of the former presidential administration be set aside; and

Whereas, The litigation calls into substantial question the validity of the 3809 regulations; and

Whereas, The BLM has conducted a preliminary review of the regulations, has concerns about ''substantial policy and legal issues'' raised in these lawsuits, and wants to resolve such concerns before implementing a new regulatory program; and

Whereas, The BLM published a proposal on March 23, 2001, 66 Federal Register 16162, to suspend all or some parts of the regulations that took effect on January 20, 2001, pending a complete review of the issues; and

Whereas, If such regulations were suspended, mining activities would be subject to the state and federal laws and regulations that the NRC found to be effective in protecting the environment and that were in place prior to the adoption of the current scheme; and

Whereas, The BLM's and the new presidential administration's actions once again demonstrate the willingness to provide a balance between important goals of environmental protection and responsible development of our nation's mineral resources; now, therefore, be it

Resolved by the House of Representatives of the Sixty-third General Assembly of the State of Colorado;

That the Colorado House of Representatives hereby expresses its support for the action of the Department of the Interior and the Bureau of Land Management in reviewing and proposing to suspend the 3809 regulations that took effect on January 20, 2001.

That the Colorado House of Representatives urges the Bureau of Land Management to promulgate new 3809 regulations that adhere to the specific recommendations of the report of the National Research Council of the National Academy of Sciences entitled Hardrock Mining on Federal Lands, as the United States Congress has mandated. Be it further

Resovled, That copies of this resolution be transmitted to the President of the United States; to the United States Department of the Interior, Bureau of Land Management, Washington, D.C.; to the Honorable Gale Norton, Secretary of the Interior, Washington, D.C.; and to the United States House of Representatives and the United States Senate.

POM–109. A joint resolution adopted by the Legislature of the State of Colorado relative to the Railroad Retirement and Survivors Improvement Act; to the Committee on Finance.

HOUSE JOINT RESOLUTION 01–1012

Whereas, The Railroad Retirement and Survivors Improvement Act of 2000 was approved in a bipartisan effort by 391 members of the United States House of Representatives in the 106th Congress, including Representatives Diana DeGette, Scott McInnis, Thomas Tancredo, and Mark Udall; and

Whereas, More than 80 United States Senators, including Senator Ben Nighthorse Campbell, signed letters of support for this legislation; and

Whereas, The bill now before the 107th Congress modernizes the railroad retirement system for its 748,000 beneficiaries nationwide, including over 9,000 Colorado citizens; and

Whereas, Railroad management, labor, and retiree organizations have agreed to support this legislation; and

Whereas, This legislation provides tax relief to freight railroads, Amtrak, and commuter lines; and

Whereas, This legislation provides benefit improvements for surviving spouses of rail workers who currently suffer deep cuts in income when the rail worker retiree dies; and

Whereas, No outside contributions from taxpayers are needed to implement the changes called for in this legislation; and

Whereas, All changes will be paid for from within the railroad industry, including a full share to be paid by active employees; now, therefore, be it

Resolved by the House of Representatives of the Sixth-third General Assembly of the State of Colorado, the Senate concurring herein:

That the Colorado General Assembly urges the United States Congress to enact the Railroad Retirement and Survivors Improvement Act in the 107th Congress. Be it further

Resolved, That copies of this Joint Resolution be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Colorado Congressional delegation.

POM–110. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to increasing funding for agricultural conservation programs; to the Committee on Appropriations.

SENATE CONCURRENT RESOLUTION NO. 134

Whereas, since the adoption of the 1985 Farm Bill and subsequent iterations of federal farm legislation in 1990 and 1996, U.S. agriculture policy has included major voluntary conservation incentive programs such as the Conservation Reserve Program (CRP) and Wetlands Reserve Program (WRP); and

Whereas, the most popular of the federal agricultural conservation programs in Louisiana have been the WRP with 368 approved easements on 137,632 acres, the Environmental Quality Incentives Program (EQIP) with 4,803 approved contracts on 494,006 acres, the Wildlife Habitat Incentives Program (WHIP) with 168 contracts on 12,900 acres, and the Forestry Incentives Program (FIP) with all available funds having been allocated; and

Whereas, Louisiana has the most easement acres enrolled in the WRP of all participating states, 407 pending applications on over 102,000 acres, and a potential WRP enrollment demand of up to 474,000 acres; and

Whereas, Louisiana is second only to Texas in the number of EQIP contracts with an estimated potential demand of three to four times the allocation currently available and only one out of every four applications for assistance able to be funded; and

Whereas, the demand for participation in WHIP and FIP also exceeds available funds; and

Whereas, CRP, which benefits Louisiana primarily through improving upstream water quality and providing nesting habitats for waterfowl and other migratory birds, and these other agricultural programs have profound beneficial impacts on wildlife habitat and water quality in our state, including ameliorating the nutrient loading of rivers and streams that contribute to the annual occurrence of hypoxia in the Gulf of Mexico, while aiding rural communities and benefitting farmers; and

Whereas, agricultural conservation incentive programs are an efficient and effective use of tax dollars to restore habitats and prevent the degradation of soil, water, and habitat over a long term and, with WRP and CRP, overproduction of crops and direct subsidy payments are reduced; and

Whereas, the Lower Mississippi Valley Initiative (LMVI), a multi-state partnership to address agriculturally based environment stewardship consisting of producers, universities, natural resource agencies, and conservation organizations in Louisiana, Arkansas, Mississippi, Missouri, Kentucky, and Tennessee formed to inform the process of developing the conservation provisions of the next farm bill, has recognized the importance to the environment, the farming community, and the future of agriculture of strategically enlarging and enhancing farm bill conservation programs; and

Whereas, although agricultural conservation programs authorized by the 1996 farm bill have reached their acreage and funding caps, additional funding has not been included in the proposed FY 2002 budget; and

Whereas, legislation has been introduced in Congress to expand agricultural conservation programs to meet the needs of farmers and the environment until the next farm bill is enacted. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby urge and request the president of the United States and memorializes the Congress of the United States to expand and fund federal agricultural conservation programs, including the Conservation Reserve, Wetlands Reserve, Environmental Quality Incentives, Wildlife Habitat Improvement, and Forestry Incentives Programs. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the President of the United States, the Secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the Congress of the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HUTCHINSON (for himself and Mr. DAYTON):

S. 1058. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes; to the Committee on Finance.

By Mr. BAYH:

S. 1059. A bill to amend the Internal Revenue Code of 1986 to provide that certain postsecondary educational benefits provided by an employer to children of employees shall be excludable from gross income as a scholarship; to the Committee on Finance.

By Mr. BAYH:

S. 1060. A bill to amend the Internal Revenue Code of 1986 to provide that certain postsecondary educational benefits provided by an employer to children of employees shall be excludable from gross income as part of an educational assistance program; to the Committee on Finance.

By Mr. MCCONNELL:

S. 1061. A bill to authorize the Secretary of the Interior to acquire Fem Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historic Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself, Ms. COLLINS, Mr. BIDEN, Mrs. CLINTON, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. JOHNSON, and Mr. INOUYE):

S. 1062. A bill to amend the Public Health Service Act to promote organ donation and facilitate interstate linkage and 24-hour access to State donor registries, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (by request):

S. 1063. A bill to amend chapter 72 of title 38, United States Code, to improve the administration of the United States Court of Appeals for Veterans Claims; to the Committee on Veterans' Affairs.

By Mr. BOND (for himself, Mr. REID, Mr. SMITH of New Hampshire, Mr. KERRY, Mr. WARNER, Mr. CHAFEE, Mr. WYDEN, Mr. CLELAND, Mr. ENSIGN, and Ms. LANDRIEU):

S. 1064. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide certain relief from liability for small businesses; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (for acted upon), as indicated:

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Res. 113. A resolution congratulating the Los Angeles Lakers on their second consecutive National Basketball Association championship; considered and agreed to.

By Mr. BROWNBACK (for himself and Mr. LOTT):

S. Con. Res. 51. A concurrent resolution recognizing the historical significance of Juneteenth Independence Day and expressing the sense of Congress that history be regarded as a means of understanding the past and solving the challenges of the future; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 127

At the request of Mr. MCCAIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 170

At the request of Mr. REID, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 312

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 312, a bill to amend the Internal Revenue Code of 1986 to provide tax relief

for farmers and fishermen, and for other purposes.

S. 318

At the request of Mr. DASCHLE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 318, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance.

S. 321

At the request of Mr. GRASSLEY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 321, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 345

At the request of Mr. ALLARD, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from Wyoming (Mr. ENZI), and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 347

At the request of Mr. THOMAS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 347, a bill to amend the Endangered Species Act of 1973 to improve the processes for listing, recovery planning, and delisting, and for other purposes.

S. 392

At the request of Mr. SARBANES, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 392, a bill to grant a Federal Charter to Korean War Veterans Association, Incorporated, and for other purposes.

S. 454

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 530

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 530, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind. .

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 550

At the request of Mr. DASCHLE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 550, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 556

At the request of Mr. JEFFORDS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 556, a bill to amend the Clean Air Act to reduce emissions from electric powerplants, and for other purposes.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 651

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 651, a bill to provide for the establishment of an assistance program for health insurance consumers.

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 654, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 657

At the request of Mr. LUGAR, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 657, a bill to authorize funding for the National 4-H Program Centennial Initiative.

S. 688

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 688, a bill to amend title 49, United States Code, relating to the airport noise and access review program.

S. 697

At the request of Mr. BAUCUS, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 697, a bill to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

S. 718

At the request of Mr. MCCAIN, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 718, a bill to direct the National Institute of Standards and Technology to establish a program to support research and training in methods of detecting the use of performance-enhancing drugs by athletes, and for other purposes.

S. 721

At the request of Mr. HUTCHINSON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 721, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 805

At the request of Mr. WELLSTONE, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 805, a bill to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and emery-dreifuss muscular dystrophies.

S. 824

At the request of Mr. GRAHAM, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 824, a bill to establish an informatics grant program for hospitals and skilled nursing facilities.

S. 837

At the request of Mr. BOND, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 837, a bill to amend the Internal Revenue Code of 1986 to provide a safe harbor for determining that certain individuals are not employees.

S. 847

At the request of Mr. DAYTON, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 859

At the request of Mr. THOMAS, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 859, a bill to amend the Public Health Service Act to establish a mental health community education program, and for other purposes.

S. 860

At the request of Mr. GRASSLEY, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 871

At the request of Mr. CLELAND, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 871, a bill to amend chapter 83 of title 5, United States Code, to provide for the computation of annuities for air traffic controllers in a similar manner as the computation of annuities for law enforcement officers and firefighters.

S. 917

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 940

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 1014

At the request of Mr. BUNNING, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1014, a bill to amend the Social Security Act to enhance privacy protections for individuals, to prevent fraudulent misuse of the Social Security account number, and for other purposes.

S. 1030

At the request of Mr. CONRAD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1030, a bill to improve health care in rural areas by amending title XVIII of the Social Security Act and the Public Health Service Act, and for other purposes.

S. 1037

At the request of Mrs. HUTCHISON, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 1037, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

S. 1041

At the request of Ms. COLLINS, her name was added as a cosponsor of S. 1041, a bill to establish a program for an information clearinghouse to increase public access to defibrillation in schools.

S. 1050

At the request of Mr. SANTORUM, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1050, a bill to protect infants who are born alive.

S. CON. RES. 35

At the request of Mr. SCHUMER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Con. Res. 35, a concurrent resolution expressing the sense of Congress that Lebanon, Syria, and Iran should allow representatives of the International Committee of the Red Cross to visit the four Israelis, Adi Avitan, Binyamin Avraham, Omar Souad, and Elchanan Tannenbaum, presently held by Hezbollah forces in Lebanon.

S. CON. RES. 37

At the request of Mr. LIEBERMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Con. Res. 37, a concurrent resolution expressing the sense of Congress on the importance of promoting electronic commerce, and for other purposes.

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 45 , a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUTCHINSON (for himself and Mr. DAYTON):

S. 1058. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes; to the Committee on Finance.

Mr. HUTCHINSON. Mr. President, the debate over energy use in America has gripped our national attention for well over a year. A week doesn't go by that you don't pick up a newspaper or magazine and read at least one story about our Nation's domestic or foreign energy crisis. One issue in the energy debate that has caught my attention and that of farmers in my State is renewable fuels.

The technology to convert agricultural crops into combustible fuel, suitable for use in modern diesel and gasoline engines, has existed for more than 100 years. I believe this process continues to hold great potential for America. The production and use of biofuels offers our Nation a safe, renewable source of energy for travel and transport, not to mention the long-term economic benefits for farmers and consumers.

That is why I rise today to introduce the Biodiesel Renewable Fuels Act. I am pleased that Senator DAYTON has joined with me as my lead cosponsor. This bill encourages the use of biodiesel by establishing a tax credit for manufacturers who produce a blend of conventional diesel and soybean or oilseed additives. By reducing the diesel fuel excise tax, suppliers will receive a 3-cent-per-gallon credit for using a diesel blend that contains at least 2 percent biodiesel. This tax credit is very similar to the existing tax incentive for ethanol, a biofuel made from corn-based products. I believe a tax incentive for soy-based biodiesel will increase domestic production and capture the agricultural, environmental and economical benefits associated with using this renewable source of energy.

Most Americans don't realize that farm communities sit atop a vast and virtually untapped source of renewable fuels in the form of agriculture crops. Farmers in Arkansas are interested in developing new markets for soybean and oilseed products. In Arkansas for example, farmers grew 94 million bushels, or 2.5 million metric tons, of soybeans last year. Nationally, farmers produced 2.6 billion bushels of soybeans in 1999–2000, equal to 72 million metric tons. The oil derived from soybeans and other oilseed crops can be refined into a diesel additive or diesel alternative. According to a USDA study released in 1996, an annual market for biodiesel of 100 million gallons in the United States would raise the price of soybeans by up to seven cents per bushel. Given the recent U.S. soybean crop, that kind of annual market would result in more than $168 million directly related to the use of soy-based biodiesel.

Producing biodiesel domestically also means that more money stays in the U.S. Instead of purchasing more foreign petroleum, manufacturers can reduce their dependence on overseas oil by adding biodiesel blends for use in existing diesel engines. If domestic companies are encouraged to develop the infrastructure necessary to produce more biodiesel, the economic effect will be more U.S. jobs, lower prices for the consumer and larger markets for farmers.

Developing markets for agricultural commodities and reducing our dependence on foreign oil is good, but there are environmental benefits as well. It is well documented that the burning of biofuels in combustion engines reduces the emissions of harmful greenhouse gases and particulate matter. In fact, biodiesel passes some of the Environmental Protection Agency's most stringent emissions and health standards for fuel additives and fuel alternatives. This becomes important when you consider the EPA's recent announcement that California should continue to use ethanol as a fuel oxygenate to improve air quality. As more cities and States are faced with having to improve the quality of their air, I believe biofuels are a sensible alternative to existing oxygenates which are not as friendly to the environment or human health.

If using biodiesel improves air quality, reduces our dependence on foreign oil and provides a value-added market for soybean and oilseed crops, then we should support legislation to further development of this renewable source of fuel. My bill is good for farmers, it's good for consumers and it's good for

the environment. I ask unanimous consent that the text of the Biodiesel Renewable Fuels Act be printed in the RECORD.

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

S. 1058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Biodiesel Renewable Fuels Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. CREDIT FOR BIODIESEL USED AS FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each blend of qualified biodiesel mixture and the number of gallons of the blend of the taxpayer for the taxable year.

''(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate shall be—

''(i) the applicable amount for a B–1 blend,

''(ii) 3.0 cents for a B–2 blend, and

''(iii) 20.0 cents for a B–20 blend.

''(C) BLENDS.—For purposes of this paragraph—

''(i) B–1 BLEND.—The term 'B–1 blend' means a qualified biodiesel mixture if at least 0.5 percent but less than 2.0 percent of the mixture is biodiesel.

''(ii) B–2 BLEND.—The term 'B–2 blend' means a qualified biodiesel mixture if at least 2.0 percent but less than 20 percent of the mixture is biodiesel.

''(iii) B–20 BLEND.—The term 'B–20 blend' means a qualified biodiesel mixture if at least 20 percent of the mixture is biodiesel.

''(D) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means, in the case of a B–1 blend, the amount equal to 1.5 cents multiplied by a fraction the numerator of which is the percentage of biodiesel in the B–1 blend and the denominator of which is 1 percent.

''(2) QUALIFIED BIODIESEL MIXTURE.—

''(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel; or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer; and

''(ii) for the taxable year in which such sale or use occurs.

''(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 4041(n) or section 4081(f).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL DEFINED.—

''(A) IN GENERAL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, and mustard seeds.

''(B) REGISTRATION REQUIREMENTS.—Such term shall only include a biodiesel which meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

''(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

''(A) IMPOSITION OF TAX.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

''(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

''(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

''(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

''(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

''(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.''

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the biodiesel fuels credit determined under section 40A.''

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following:

''(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year beginning before January 1, 2003.''

(2) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following:

''(11) the biodiesel fuels credit determined under section 40A.''

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 3. REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL MIXTURES.

(a) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

''(f) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

''(2) TAX PRIOR TO MIXING.—

''(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate, reduced by the amount determined under subparagraph (B).

''(B) APPLICABLE REDUCTION.—For purposes of subparagraph (A), the amount determined under this subparagraph is an amount equal to the biodiesel mixture rate for the qualified biodiesel mixture to be produced from the diesel fuel, divided by a percentage equal to 100 percent minus the percentage of biodiesel which will be in the mixture.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041 is amended by adding at the end the following new subsection:

''(n) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40A(b)(2)), the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40A(b)(1)(B)).''.

(2) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) BIODIESEL MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40A(b)(2)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40A(b)(1)(B)) with respect to such fuel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 4. HIGHWAY TRUST FUND HELD HARMLESS.

There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts equivalent to the reductions that would occur (but for this section) in the receipts of the Highway Trust Fund by reason of the amendments made by this Act. Such transfers shall be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made to subsequent transfers to reflect any errors in the estimates.

Mr. DAYTON. Mr. President, I rise today to introduce, along with my distinguished colleague Senator HUTCHINSON from Arkansas, legislation that will increase the use of biodiesel fuel throughout our country.

Biodiesel is a natural additive to diesel fuel, much as ethanol is to regular gasoline. It is also a fuel in its own right. Biodiesel is made from soybeans and other vegetable oils. Its use as a 2-percent blend with diesel fuel, and in some instances as high as a 20-percent blend, will increase the demand for these commodities, boost their market price, and reduce the toxic carbon emissions from trucks and other vehicles across this Nation, all at no additional cost to American taxpayers.

Our legislation would provide a 3-cent-per-gallon credit to diesel fuel suppliers using 2-percent biodiesel and up to a 20-cent-per-gallon credit for blends containing 20-percent biodiesel.

As soybean prices rise then due to the increased usage, Federal spending on the U.S. Department of Agriculture Marketing Assistance Loan Program will be reduced accordingly, resulting in substantial savings for the American taxpayers.

A credit such as this would otherwise reduce the revenues that would be going into the highway trust fund. Given the deterioration of many of our Nation's highways, that would be unwise. Thus, this legislation provides for the Commodity Credit Corporation to reimburse the highway trust fund for its forgone revenues.

Our current energy crisis is also an opportunity for our country. I currently have a van driving around the State of Minnesota that uses 85-percent ethanol fuel with no difficulties whatsoever. These agricultural fuels are not just possible tomorrow, they are practical today. We just need to help them become financially competitive, until these industries can reach the volume of production necessary to compete with the giant oil industry.

In conclusion, this legislation is an important step in several right directions—toward less foreign oil dependency, toward higher agricultural commodity prices for American farmers, toward lower taxpayer costs for our struggling farm economy, and toward a cleaner air quality for us all. I respectfully urge my colleagues to support this important legislation.

By Mr. BAYH:

S. 1059. A bill to amend the Internal Revenue Code of 1986 to provide that certain postsecondary educational benefits provided by an employer to children of employees shall be excludable from gross income as a scholarship; to the Committee on Finance.

By Mr. BAYH:

S. 1060. A bill to amend the Internal Revenue Code of 1986 to provide that certain postsecondary educational benefits provided by an employer to children of employees shall be excludable from gross income as part of an educational assistance program; to the Committee on Finance.

Mr. BAYH. Mr. President, I am pleased to introduce legislation today that will help thousands of American workers with the financial burden associated with sending a daughter or son to college. In this climate of labor shortages, U.S. companies are looking for innovative ways to maintain and attract a dedicated and qualified workforce. Some companies have creatively turned to providing college scholarships for their employees' children. My legislation would allow employees to deduct these scholarships from their gross income. Under current law, an employee generally is not taxed on post-secondary education assistance provided by an employer for the benefit of the employee. My bill would extend this treatment to employer-provided education assistance for the employees' children, up to $2,000 per child.

As many of my colleagues know, employer-provided education assistance is considered an integral tool in keeping America's workforce well trained and equipped to deal with the changing face of the New Economy. Current law not only allows companies to keep an up-to-date labor pool, but also allows many workers to move from low-wage, entry level positions up the economic ladder of success. Extending tax-free treatment to the children of employees not only will help working families, but will contribute to our Nation's competitiveness in an increasingly dynamic global economy.

My legislation is very simple. It allows employees whose companies provide educational scholarships for employees' children to exclude up to $2000 from gross income per child. An employee may not exclude more than $5,250 from gross income for employer education assistance. This is the limit established under Section 127(a)(2) of the Internal Revenue Code for employer education assistance. In essence, there would be ''family cap.'' Workers could deduct a $2,000 scholarship for their child and could also exclude up to $3,250 of educational benefits for themselves, however, the combined amounts could not exceed $5,250.

In today's economy, American companies are no longer looking purely for a high-school diploma, but require that their workers have some sort of post-secondary education or training. Many working families struggle in providing this basic start which will help their children get well-paying jobs.

This piece of legislation is also a modest proposal. The Joint Committee on Taxation has scored this provision at $231 million over 10 years. I look forward to working to make sure that this provision is fully offset in a responsible manner. I hope my colleagues will join me to help ease the burden of American families with the soaring costs of higher education.

By Mr. MCCONNELL:

S. 1061. A bill to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historic Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MCCONNELL. Mr. President, last month the Bush Administration unveiled a new national energy strategy that strikes an important balance between the twin priorities of production and conservation. Today I am proud to introduce legislation with Congressman HAL ROGERS that takes a step toward fulfilling the conservation side of that energy equation in my home state of Kentucky.

Our bill, the Fern Lake Conservation and Recreation Act of 2001, will authorize the Cumberland Gap National Historical Park to purchase Fern Lake, a natural landmark on the Kentucky-Tennessee border that has served as the municipal water supply for Middlesboro, KY since the lake was constructed in 1893. This bill will protect the lake as a clean and safe source of rural water for Kentuckians, enhance the scenic and recreational value of Cumberland Gap National Historical Park, and increase tourism opportunities in the three states that border the Park—Kentucky, Tennessee, and Virginia.

For those who may be less familiar with this part of the country, Fern Lake is a beautiful and pristine body of water set against the backdrop of the Appalachian Mountains. The 150-acre lake presently sits adjacent to the Park and is part of the viewshed from Pinnacle Overlook, which is one of the Park's most popular attractions. It is said that the glassy surface of Fern Lake is so clear that you can see fish swimming 10 feet below the surface. Perhaps that is one of the reasons why Middlesboro Mayor Ben Hickman describes his town's water supply as one of the best in the United States.

With a lake of such natural beauty and exceptional water quality, it is no wonder that the citizens and community leaders want to protect it. Although Fern Lake has been privately owned for most of its existence, it has been for sale since July 2000, and there is concern in Middlesboro that a new owner may not share the same interests regarding the lake as those embraced by the community. That is why a growing chorus of community leaders and citizens have called for the Cumberland Gap National Historical Park to purchase Fern Lake. This solution would guarantee management of this

wonderful resource consistent with the needs of the community.

This legislation is needed because currently the Park is prohibited by law from expanding its boundaries by purchasing new land with appropriated funds. Our bill, therefore, authorizes the Park to use appropriated funds, if necessary, to purchase Fern Lake (and up to 4,500 acres of the surrounding watershed) and to manage the lake for public recreational uses. This bill also requires the Park to maintain Fern Lake as a source of clean drinking water, authorizes the Park to sell water to the city of Middlesboro, and permits the proceeds of the water sales to be spent by the Secretary of the Interior without further appropriation. And because the scenic and recreational values of Fern Lake will benefit the tourism industry in all three adjacent states—Kentucky, Tennessee, and Virginia—the legislation directs the Secretary of the Interior to consult with appropriate officials in these states to determine the best way to manage the municipal water supply and to promote the increased tourism opportunities associated with Park ownership of Fern Lake.

This bill is a small but important example of the type of targeted conservation measures that are essential to making a national energy policy work for all Americans. This is not the conservation of environmental extremism that seeks to divide communities, vilify opponents, or present unworkable approaches in the name of political opportunism. Rather, this is conservation that builds upon community consensus. It is common sense conservation that seeks environmental solutions that will enhance rather than disturb local industries such as tourism, which have been so vital to economically depressed areas such as southeastern Kentucky. And finally, this is conservation that is careful to consider, and where necessary, to protect, the property rights of affected landowners. This bill requires that the Park acquire land from willing sellers only, and the National Park Service has assured us that it has no authority to place land-use restrictions on private land until the land is actually acquired by the Park.

Targeted and consensus-driven conservation measures such as this one are not always easy to craft, but they are always worth the effort. This bill is proof that environmental protection and economic development need not be at odds, and that there are a number of responsible and practical conservation opportunities that can bring communities together rather than tear them apart. Indeed, if this simple formula for finding consensus conservation opportunities—broad community support, local employment, and private property protections—was replicated in all 50 States, we could make actual and noticeable strides as a nation toward protecting and promoting our natural treasures.

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. 1061

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 ''Fern Lake Conservation and Recreation Act of 2001''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Fern Lake and its surrounding watershed in Bell County, Kentucky, and Claiborne County, Tennessee, is within the potential boundaries of Cumberland Gap National Historical Park as originally authorized by the Act of June 11, 1940 (54 Stat 262; 16 U.S.C. 261 et seq.).

(2) The acquisition of Fern Lake and its surrounding watershed and its inclusion in Cumberland Gap National Historical Park would protect the vista from Pinnacle Overlook, which is one of the park's most valuable scenic resources and most popular attractions, and enhance recreational opportunities at the park.

(3) Fern Lake is the water supply source for the City of Middlesboro, Kentucky, and environs.

(4) The 4500-acre Fern Lake watershed is privately owned, and the 150-acre lake and part of the watershed are currently for sale, but the Secretary of the Interior is precluded by the first section of the Act of June 11, 1940 (16 U.S.C. 261), from using appropriated funds to acquire the lands.

(b) PURPOSES.—The purposes of the Act are—

(1) to authorize the Secretary of the Interior to use appropriated funds if necessary, in addition to other acquisition methods, to acquire from willing sellers Fern Lake and its surrounding watershed in order to protect scenic and natural resources and enhance recreational opportunities at Cumberland Gap National Historical Park; and

(2) to allow the continued supply of safe, clean, drinking water from Fern Lake to the City of Middlesboro, Kentucky, and environs.

SEC. 3. LAND ACQUISITION, FERN LAKE, CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) DEFINITIONS.—In this section:

(1) FERN LAKE.—The term ''Fern Lake'' means Fern Lake located in Bell County, Kentucky, and Claiborne County, Tennessee.

(2) LAND.—The term ''land'' means land, water, interests in land, and any improvements on the land.

(3) PARK.—The term ''park'' means Cumberland Gap National Historical Park, as authorized and established by the Act of June 11, 1940 (54 Stat 262; 16 U.S.C. 261 et seq.).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(b) ACQUISITION AUTHORIZED.—The Secretary may acquire for addition to the park lands consisting of approximately 4,500 acres and containing Fern Lake and its surrounding watershed, as generally depicted on the map entitled ''Fern Lake Watershed Boundary Addition, Cumberland Gap National Historical Park'', numbered 380/80,004, and dated May 2001. The map shall be on file in the appropriate offices of the National Park Service.

(c) AUTHORIZED ACQUISITION METHODS.—

(1) IN GENERAL.—Notwithstanding the Act of June 11, 1940 (16 U.S.C. 261 et seq.), the Secretary may acquire lands described in subsection (b) by donation, purchase with donated or appropriated funds, or exchange. However, the lands may be acquired only with the consent of the owner.

(2) EASEMENTS.—At the discretion of the Secretary, the Secretary may acquire land described in subsection (b) that is subject to an easement for the continued operation of providing the water supply for the City of Middlesboro, Kentucky, and environs.

(d) BOUNDARY ADJUSTMENT AND ADMINISTRATION.—Upon the acquisition of land under this section, the Secretary shall revise the boundaries of the park to include the land in the park. Subject to subsection (e), the Secretary shall administer the acquired lands as part of the park in accordance with the laws and regulations applicable to the park.

(e) SPECIAL ISSUES RELATED TO FERN LAKE.—

(1) PROTECTION OF WATER QUALITY.—The Secretary shall manage public recreational use of Fern Lake, if acquired by the Secretary, in a manner that is consistent with the protection of the lake as a source of safe, clean, drinking water.

(2) SALE OF WATER.—In the event the Secretary's acquisition of land includes the water supply of Fern Lake, the Secretary may enter into contracts to facilitate the sale and distribution of water from the lake for the municipal water supply for the City of Middlesboro, Kentucky, and environs. The Secretary shall ensure that the terms and conditions of any such contract is consistent with National Park Service policies for the protection of park resources. Proceeds from the sale of the water shall be available for expenditure by the Secretary at the park without further appropriation.

(3) CONSULTATION REQUIREMENTS.—In order to better manage Fern Lake and its surrounding watershed, if acquired by the Secretary, in a manner that will facilitate the provision of water for municipal needs as well as the establishment and promotion of new recreational opportunities made possible by the addition of Fern Lake to the park, the Secretary shall consult with—

(A) appropriate officials in the States of Kentucky, Tennessee, and Virginia and political subdivisions of these States;

(B) organizations involved in promoting tourism in these States; and

(C) other interested parties.

By Mr. DURBIN (for himself, Ms. COLLINS, Mr. BIDEN, Mrs. CLINTON, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. JOHNSON, and Mr. INOUYE):

S. 1062. A bill to amend the Public Health Service Act to promote organ donation and facilitate interstate linkage and 24-hour access to State donor registries, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, this year the waiting list for organ transplants among Americans stands at more than 75,000. I rise to urge all Senators, and all Americans to become organ donors. I rise to introduce legislation to make it easier for individuals to donate and make it simpler to identify the decedents's donation wishes. I am pleased that Senators COLLINS, BIDEN, CLINTON, FEINGOLD, FEINSTEIN, JOHNSON, and INOUYE join me in this effort.

Access to organ transplantation remains limited by the shortage of donated organs. Each day, an average of

17 people on the waiting list will die. And the waiting list is growing. In fact, since 1990 the number of men, women and children awaiting life-saving transplants has grown by at least 10 percent easy year. We need to move expeditiously to reduce these deaths due to the scarcity of willing organ donors. Every 14 minutes we do not act, another name is added to the national transplant waiting list.

Over the last several years, I have worked with many of my colleagues on a variety of initiatives to increase organ donation. In 1996, I authored legislation to include an organ donation card with every Federal income tax refund mailed. More than 70 million donor cards were mailed, the largest distribution in history. In 1997, I authored a provision in the Labor, Health and Human Services, and Education Appropriation bill that authorized a study of hospital best practices for increasing organ donation. More recently, I launched a campaign known as ''Give Thanks, Give Life'' with the National Football League and a large coalition of advocacy organizations to promote family discussions over Thanksgiving of family members' desire to become organ donors.

But we need to do more. Major barriers to donation still exist. A recent analysis by the Lewin Group, Inc., found low rates of family consent to donation. In addition, there are many missed opportunities in the process of identifying and referring all potential donors to procurement organizations so that families may be approached. A 1996 study of potential organ donors in hospitals found that in nearly a third of all cases, potential donors were not identified or no request was made to the family.

Today I am introducing a comprehensive proposal to address these obstacles, including a number of new initiatives. The DONATE Act: 1. Establishes a national organ and tissue donor registry resource center at the Department of Health and Human Services; 2. Authorizes grants to States to support the development, enhancement, expansion and evaluation of statewide organ and tissue donor registries; 3. Funds additional research to learn more about effective strategies that increase donation rates; 4. Provides financial assistance to donors for travel and subsistence expenses incurred toward making living donations of their organs; 5. Expands Federal efforts to educate the public about organ donation and improve outreach activities; 6. Provides grants to hospitals and organ procurement organizations to fund organ coordinators; and 7. Directs the Secretary of the Treasury to strike a bronze medal to commemorate organ donors and their families.

Organ and tissue donor registries have the potential to greatly improve donation rates. Registries provide medical and/or procurement personnel easy access to the donation wishes of brain-dead patients. By indicating the potential donors wishes to the family, a registry documentation can aid in securing next of kin consent. Despite the fact that 85 percent of Americans support organ donation for transplants, studies indicate that only about 50 percent of families consent to donation. Well-designed databases can improve coordination between hospitals, physicians, organ procurement organizations and families. Registries can also assist in evaluating education and outreach efforts by providing information about registrant demographics and audience-specific effectiveness of awareness campaigns. Yet currently only about a dozen States operate mature, centralized organ and tissue donor registries.

I am proud that the State of Illinois was one of the first and is currently the largest such system. In Illinois, individuals can indicate their willingness to donate by signing their drivers license. Drivers' license applicants are also asked if they wish to have their name listed on the confidential statewide registry. In addition to signing up at a driver services facility, persons can join the registry by calling an eight hundred number or electronically via the web. More than 3 million Illinoisans have already joined and 100,000 more sign up each month. Today, participation in the Illinois Donor Registry is 39 percent statewide, an increase of 77 percent since 1993. In addition, about one fifth of all facilities are reporting participation rates at or above 50 percent. Most importantly, organ donation has risen 40 percent since 1993 and the Regional Organ Bank of Illinois has led the nation in the number of organs recovered for transplantation since 1994.

But unfortunately Illinois is the exception and not the rule. Most States do not have programs and gaps in knowledge exist. In fact, no one kept track of which States operate organ donor registries until recently. We have little information about what works best when developing registries. Guidance for States about the basic components of effective systems such as the core functions and content, legal and ethical standards, privacy protections and data exchange protocols, is scarce.

And in addition to the fact that most States do not operate registries, among those who do, currently no mechanism exists to share information between these registries. So if a Illinoisan dies in Wisconsin, law enforcement or hospital officials in Wisconsin have no easy way of knowing of the victims intent to donate. To be effective, registries need to be accessible to the proper authorities around the clock without regard for State boundaries. To be effective, registries also need to function as an advance directive, ensuring that the donors wishes are honored.

The DONATE Act both funds State registry development and creates the technical expertise States need to do so. The bill establishes a National Organ and Tissue Donation Resource Center, informed by a task force of national experts, to develop registry guidelines for States based on best practices. The Center would maintain a donor registry clearinghouse, including a web site, to collect, synthesize, and distribute information about what works. The proposal also requires that a mechanism be established to link State registries and to provide around-the-clock access to information. To help ensure that registry development is based on evidence of effectiveness and best practices, and to help us understand better how to utilize the registry tool to increase donations, the DONATE Act asks an advisory task force to examine state registries and make recommendations to Congress about the states of such systems and ways to develop linkages between state registries.

Public education is equally as important as developing better technical tools and programs to increase donation if we are to do a better job of matching the number of donors to people in need of a transplant. The DONATE Act launches a national effort to raise public awareness about the importance of organ donation and funds research to find better ways to improve donation rates. The bill authorizes State grants for innovative organ donor awareness and outreach initiatives and programs aimed at increasing donation.

A number of additional innovative initiatives are included in this bill. The DONATE Act would directly assist living donors, providing financial assistance to offset travel, subsistence and other expenses incurred toward making living donations of their organs. Similar provisions recently cleared the House of Representatives by more than 400 votes. The DONATE Act includes the House passed bill, with a number of improvements. For example, the Act does not restrict such assistance to artificial residency requirements and it does not limit assistance only to those who donate organs to low income recipients.

The DONATE Act also provides grants to hospitals and organ procurement organizations to fund staff positions for organ coordinators. These in-house organ coordinators would be responsible for coordinating organ donation and recovery at a hospital or a group of hospitals. Research has shown that these types of initiatives can have dramatic results. A four-year retrospective study of a large public hospital in Houston that implemented a coordinator program resulted in a 64 percent increase in the consent rate along with a 94 percent increase in the number of organ donors.

Finally, the DONATE Act incorporates a valuable initiative developed by Senator BILL FRIST to present donors or the family of a donor with a Congressional medal recognizing their gift of life. The bronze medal is just

one small, meaningful way we can acknowledge the important act of donating to save another person's life.

A great deal of input from experts, and from my colleagues as well, contributed to this legislation. All of these important provisions come with the strong support and input of many groups whose mission it is to help save lives by increasing organ donation, including the American Liver Foundation, the American Society of Transplantation and the American Society of Transplant Surgeons. I strongly believe that this type of concrete investment and commitment from the Federal government is overdue and will make a real difference. And in this case a real difference is someone's life.

I urge my colleagues to join me in this effort to wipe out the waiting list for transplants. I urge you all to cosponsor the DONATE Act and move expeditiously to pass this legislation.

By Mr. BOND (for himself, Mr. REID, Mr. SMITH of New Hampshire, Mr. KERRY, Mr. WARNER, Mr. CHAFEE, Mr. WYDEN, Mr. CLELAND, Mr. ENSIGN, and Ms. LANDRIEU):

S. 1064. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide certain relief from liability for small businesses; to the Committee on Environment and Public Works.

Mr. BOND. Mr. President, it is a pleasure for me to introduce the Small Business Liability Protection Act of 2001. This bill will provide a lifeline for the thousands of small business owners threatened by lawsuits and litigation under the broken Superfund liability system. Joining me in introducing this legislation are Senators REID, SMITH, KERRY, WARNER, CHAFEE, CLELAND, LANDRIEU, ENSIGN, and WYDEN.

The bill is simple. All this bill does is protect those who contributed very small amounts of waste, or waste no different than common household garbage, to a Superfund site. The bill will also speed up the process for handling those little fish with a limited ability to pay towards a Superfund site's cleanup.

The exact same version of this bill passed the House unanimously in May and I am proud to have similar bipartisan support for this Senate version. We have members from both the Environment Committee and the Small Business Committee supporting this bill at introduction and I encourage all my colleagues to join our effort.

My bill will not let polluters off the hook. This common-sense proposal will make the Superfund program a little more reasonable and workable. With this legislation, we can begin to provide some relief to small business owners who are held hostage by potential Superfund liability.

For years now, members from both sides of the aisle have said that the Superfund program is broken, it doesn't work, it must be reformed. Unfortunately we haven't gotten past the rhetoric to fix the problem. Instead of making changes that will produce results that are better for the taxpayers, better for the environment, and more efficient for everyone involved—government agencies, Federal bureaucrats, and Congress have protected this troubled and inefficient program from meaning reform.

As Washington has played politics with the Superfund program, innocent Main Street small business owners across the nation, the engine of our economy, continue to be unfairly pulled into Superfund's legal quagmire. We now have the opportunity to put all of that behind us and move forward with bipartisan, common-sense reform.

Let's put a human face on this: recently, just across the Missouri border—in Quincy, Illinois—160 small business owners were asked to pay the EPA more than $3 million for garbage legally hauled to a dump more than 20 years ago. The situation in Quincy is just one example of the very real, ongoing Superfund legal threat to small business owners across the nation.

We all know that Superfund was created to clean up the Nation's most-hazardous waste sites. Superfund was not created to have small business owners sued for simply throwing out their trash! These small business owners are faced with so many challenges already, that the thousands of dollars in penalties and lawsuits leave them with no choice but to mortgage their businesses, their employees and their future to pay for the bills of a broken government program.

How many times will we tell ourselves that this unacceptable situation must be fixed before we act? Small business owners literally cannot afford to wait around while we delay action on the common-sense fixes required to protect them and our environment.

Is this legislation everything I would like to see. No. But this bill does move us in the direction we need to go to ensure cleanup, fairness, and progress in reforming the Superfund program.

In recognition of our small businesses around the country, I introduce this bill and look forward to ensuring speedy adoption of this long overdue legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 113—CONGRATULATIONS TO THE LOS ANGELES LAKERS ON THEIR SECOND CONSECUTIVE NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 113

Whereas the Los Angeles Lakers are the undisputed 2001 National Basketball Association champions and thus champions of the world;

Whereas this is the second consecutive season that the Los Angeles Lakers have won the National Basketball Association championship;

Whereas the Los Angeles Lakers are one of America's preeminent sports franchises and have won their 13th NBA Championship.

Whereas the Los Angeles Lakers sealed their second consecutive championship with the best playoff record in the history of the National Basketball Association, and became the first team to go through the playoffs undefeated on the road;

Whereas this exceptionally gifted team is guided by Phil Jackson, one of the most successful coaches in the history of professional basketball, who led the Lakers to victory in 23 of their last 24 games;

Whereas the Los Angeles Lakers' 2001 National Basketball Association championship was characterized by a remarkable team effort, led by the series Most Valuable Player Shaquille O'Neal; and

Whereas it is appropriate and fitting to now offer these athletes and their coach the attention and accolades they have earned: Now, therefore, be it

Resolved, That the Senate congratulates the entire 2001 Los Angeles team and its coach Phil Jackson for their remarkable achievement, and their drive, discipline, and dominance.

Mrs. BOXER. Mr. President, last Friday, as millions of Americans and basketball fans around the world watched on television and listened on the radio, the Los Angeles Lakers defeated the Philadelphia 76ers to become the 2001 National Basketball Association champions.

This is the second consecutive year that the Lakers have won the NBA championship.

No team has ever enjoyed a post-season quite like the Lakers. They clinched the championship in five games, finishing the playoffs with a record of 15–1—the best ever. They were also the first team to go through the playoffs without losing a single game on the road.

Throughout the playoffs and championship series, one player in particular came to symbolize the Lakers' march to victory: The Big Man—Shaquille O'Neal. Because of his sterling play and leadership, Shaquille O'Neal was named Most Valuable Player for the series. O'Neal, of course, benefitted from a sterling supporting cast that included Kobe Bryant, Rick Fox, Derek Fisher, Robert Horry and others.

Indeed, Mr. President, this year's championship was truly a team effort.

While the lion's share of the credit for their remarkable victory goes to the players themselves, I also want to acknowledge the outstanding coaching staff led by head coach Phil Jackson. This is Coach Jackson's eighth NBA title and his second with the Lakers.

I think it is safe to say that these Los Angeles Lakers are a basketball dynasty-in-the-making, and I am delighted to introduce this resolution acknowledging their efforts and congratulating the Lakers and their fans in California and around the world.

Mrs. FEINSTEIN. Mr. President, I rise today to congratulate the Los Angeles Lakers for winning the National

Basketball Association championship for a second year in a row.

The Lakers overcame internal conflict and numerous injuries to go on to a remarkable season.

They put together a remarkable string of victories at the end of the season to bring home another World Championship to the City of Los Angeles, winning 23 out of 24 of their final games and going 15 and 1 in the playoffs—the best playoff record ever.

This Lakers team demonstrated what it truly means to be a champion and represents the best of what the city of Los Angeles has to offer.

Led by the inspired play of Shaquille O'Neal and the coaching of Phil Jackson, the Lakers swept through the opening three rounds of the playoffs—easily defeating the talented Portland Trailblazers, Sacramento Kings, and San Antonio Spurs.

In the final round, the Lakers faced a gritty Philadelphia 76ers team led by the incomparable Allen Iverson. Iverson and the Sixers showed tremendous determination and heart, handing an overtime defeat to the Lakers in the first game of the series.

But as the series moved on, the Lakers outmatched the Sixers and proved, once again, that they were the best team in professional basketball.

This was truly a team effort: Shaquille O'Neal, the series Most Valuable Player, dominated the Sixers on both ends of the floor, averaging 33 points per game, 15.8 rebounds, 4.8 assists, and 3.4 blocks in the final series.

With his unselfish play, Kobe Bryant provided the spark for the offense—in game four, for instance, he scored 19 points, had 10 assists, and had 9 rebounds.

Derek Fisher, Rick Fox, Robert Horry and Brian Shaw made significant contributions to the championship—each cooly made three point shots at critical points in the series.

Horace Grant and Ron Harper provided the veteran experience that helped the Lakers push back the 4th quarter surges of the Sixers.

And finally, Tyronn Lue, deserves honorable mention for his dogged defense against Allen Iverson, especially in Game 1. Without his play, the Lakers would have been unable to contain the speedy Sixer guard.

Once again let me congratulate the Los Angeles Lakers for their victory. It was a great effort by a tremendous team.

I look forward to another winning season next year.

SENATE CONCURRENT RESOLUTION 51—RECOGNIZING THE HISTORICAL SIGNIFICANCE OF JUNETEENTH INDEPENDENCE DAY AND EXPRESSING THE SENSE OF CONGRESS THAT HISTORY BE REGARDED AS A MEANS OF UNDERSTANDING THE PAST AND SOLVING THE CHALLENGES OF THE FUTURE

Mr. BROWNBACK (for himself and Mr. LOTT) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 51

Whereas news of the end of slavery did not reach frontier areas of the Nation, especially in the southwestern United States, until long after the conclusion of the Civil War;

Whereas the African Americans who had been slaves in the Southwest thereafter celebrated June 19, known as Juneteenth Independence Day, as the anniversary of their emancipation;

Whereas those African Americans handed down that tradition from generation to generation as an inspiration and encouragement for future generations;

Whereas Juneteenth Independence Day celebrations have thus been held for 136 years to honor the memory of all those who endured slavery and especially those who moved from slavery to freedom; and

Whereas the faith and strength of character shown by those former slaves remains an example for all people of the United States, regardless of background, region, or race: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) Congress recognizes the historical significance of Juneteenth Independence Day, an important date in the Nation's history, and encourages the continued celebration of that day to provide an opportunity for all people of the United States to learn more about the past and to better understand the experiences that have shaped the Nation; and

(2) it is the sense of Congress that—

(A) history should be regarded as a means for understanding the past and solving the challenges of the future;

(B) the celebration of the end of slavery is an important and enriching part of the history and heritage of the United States; and

(C) the Secretary of the Senate should transmit a copy of this concurrent resolution to the National Association of Juneteenth Lineage as an expression of appreciation for the association's role in promoting the observance of the end of slavery.

AMENDMENTS SUBMITTED AND PROPOSED

SA 805. Mr. DURBIN (for Mr. TORRICELLI) proposed an amendment to the bill H.R. 1, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.

SA 806. Mr. REID (for Mr. HARKIN (for himself and Mr. LUGAR)) proposed an amendment to the bill S. 657, to authorize funding for the National 4-H Program Centennial initiative.

TEXT OF AMENDMENTS

SA 805. Mr. DURBIN (for Mr. TORRICELLI) proposed an amendment to the bill H.R. 1, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind; as follows:

At the appropriate place insert the following:

SEC. 9___. PEST MANAGEMENT IN SCHOOLS.

(a) SHORT TITLE.—This section may be cited as the ''School Environment Protection Act of 2001''.

(b) PEST MANAGEMENT.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating sections 33 and 34 (7 U.S.C. 136x, 136y) as sections 34 and 35, respectively; and

(2) by inserting after section 32 (7 U.S.C. 136w–7) the following:

''SEC. 33. PEST MANAGEMENT IN SCHOOLS.

''(a) DEFINITIONS.—In this section:

''(1) BAIT.—The term 'bait' means a pesticide that contains an ingredient that serves as a feeding stimulant, odor, pheromone, or other attractant for a target pest.

''(2) CONTACT PERSON.—The term 'contact person' means an individual who is—

''(A) knowledgeable about school pest management plans; and

''(B) designated by a local educational agency to carry out implementation of the school pest management plan of a school.

''(3) EMERGENCY.—The term 'emergency' means an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

''(4) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 3 of the Elementary and Secondary Education Act of 1965.

''(5) SCHOOL.—

''(A) IN GENERAL.—The term 'school' means a public—

''(i) elementary school (as defined in section 3 of the Elementary and Secondary Education Act of 1965);

''(ii) secondary school (as defined in section 3 of the Act);

''(iii) kindergarten or nursery school that is part of an elementary school or secondary school; or

''(iv) tribally-funded school.

''(B) INCLUSIONS.—The term 'school' includes any school building, and any area outside of a school building (including a lawn, playground, sports field, and any other property or facility), that is controlled, managed, or owned by the school or school district.

''(6) SCHOOL PEST MANAGEMENT PLAN.—The term 'school pest management plan' means a pest management plan developed under subsection (b).

''(7) STAFF MEMBER.—

''(A) IN GENERAL.—The term 'staff member' means a person employed at a school or local educational agency.

''(B) EXCLUSIONS.—The term 'staff member' does not include—

''(i) a person hired by a school, local educational agency, or State to apply a pesticide; or

''(ii) a person assisting in the application of a pesticide.

''(8) STATE AGENCY.—The term 'State agency' means the an agency of a State, or an agency of an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), that exercises primary jurisdiction over matters relating to pesticide regulation.

''(9) UNIVERSAL NOTIFICATION.—The term 'universal notification' means notice provided by a local educational agency or school to—

''(A) parents, legal guardians, or other persons with legal standing as parents of each child attending the school; and

''(B) staff members of the school.

''(b) SCHOOL PEST MANAGEMENT PLANS.—

''(1) STATE PLANS.—

''(A) GUIDANCE.—As soon as practicable (but not later than 180 days) after the date of enactment of the School Environment Protection Act of 2001, the Administrator shall develop, in accordance with this section—

''(i) guidance for a school pest management plan; and

''(ii) a sample school pest management plan.

''(B) PLAN.—As soon as practicable (but not later than 1 year) after the date of enactment of the School Environment Protection Act of 2001, each State agency shall develop

and submit to the Administrator for approval, as part of the State cooperative agreement under section 23, a school pest management plan for local educational agencies in the State.

''(C) COMPONENTS.—A school pest management plan developed under subparagraph (B) shall, at a minimum—

''(i) implement a system that—

''(I) eliminates or mitigates health risks, or economic or aesthetic damage, caused by pests;

''(II) employs—

''(aa) integrated methods;

''(bb) site or pest inspection;

''(cc) pest population monitoring; and

''(dd) an evaluation of the need for pest management; and

''(III) is developed taking into consideration pest management alternatives (including sanitation, structural repair, and mechanical, biological, cultural, and pesticide strategies) that minimize health and environmental risks;

''(ii) require, for pesticide applications at the school, universal notification to be provided—

''(I) at the beginning of the school year;

''(II) at the midpoint of the school year; and

''(III) at the beginning of any summer session, as determined by the school;

''(iii) establish a registry of staff members of a school, and of parents, legal guardians, or other persons with legal standing as parents of each child attending the school, that have requested to be notified in advance of any pesticide application at the school;

''(iv) establish guidelines that are consistent with the definition of a school pest management plan under subsection (a);

''(v) require that each local educational agency use a certified applicator or a person authorized by the State agency to implement the school pest management plans;

''(vi) be consistent with the State cooperative agreement under section 23; and

''(vii) require the posting of signs in accordance with paragraph (4)(G).

''(D) APPROVAL BY ADMINISTRATOR.—Not later than 90 days after receiving a school pest management plan submitted by a State agency under subparagraph (B), the Administrator shall—

''(i) determine whether the school pest management plan, at a minimum, meets the requirements of subparagraph (C); and

''(ii)(I) if the Administrator determines that the school pest management plan meets the requirements, approve the school pest management plan as part of the State cooperative agreement; or

''(II) if the Administrator determines that the school pest management plan does not meet the requirements—

''(aa) disapprove the school pest management plan;

''(bb) provide the State agency with recommendations for and assistance in revising the school pest management plan to meet the requirements; and

''(cc) provide a 90-day deadline by which the State agency shall resubmit the revised school pest management plan to obtain approval of the plan, in accordance with the State cooperative agreement.

''(E) DISTRIBUTION OF STATE PLAN TO SCHOOLS.—On approval of the school pest management plan of a State agency, the State agency shall make the school pest management plan available to each local educational agency in the State.

''(F) EXCEPTION FOR EXISTING STATE PLANS.—If, on the date of enactment of the School Environment Protection Act of 2001, a State has implemented a school pest management plan that, at a minimum, meets the requirements under subparagraph (C) (as determined by the Administrator), the State agency may maintain the school pest management plan and shall not be required to develop a new school pest management plan under subparagraph (B).

''(2) IMPLEMENTATION BY LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Not later than 1 year after the date on which a local educational agency receives a copy of a school pest management plan of a State agency under paragraph (1)(E), the local educational agency shall develop and implement in each of the schools under the jurisdiction of the local educational agency a school pest management plan that meets the standards and requirements under the school pest management plan of the State agency, as determined by the Administrator.

''(B) EXCEPTION FOR EXISTING PLANS.—If, on the date of enactment of the School Environment Protection Act of 2001, a State maintains a school pest management plan that, at a minimum, meets the standards and criteria established under this section (as determined by the Administrator), and a local educational agency in the State has implemented the State school pest management plan, the local educational agency may maintain the school pest management plan and shall not be required to develop and implement a new school pest management plan under subparagraph (A).

''(C) APPLICATION OF PESTICIDES AT SCHOOLS.—A school pest management plan shall prohibit—

''(i) the application of a pesticide to any area or room at a school while the area or room is occupied or in use by students or staff members (except students and staff participating in regular or vocational agricultural instruction involving the use of pesticides); and

''(ii) the use by students or staff members of an area or room treated with a pesticide by broadcast spraying, baseboard spraying, tenting, or fogging during—

''(I) the period specified on the label of the pesticide during which a treated area or room should remain unoccupied; or

''(II) if there is no period specified on the label, the 24-hour period beginning at the end of the treatment.

''(3) CONTACT PERSON.—

''(A) IN GENERAL.—Each local educational agency shall designate a contact person to carry out a school pest management plan in schools under the jurisdiction of the local educational agency.

''(B) DUTIES.—The contact person of a local educational agency shall—

''(i) maintain information about the scheduling of pesticide applications in each school under the jurisdiction of the local educational agency;

''(ii) act as a contact for inquiries, and disseminate information requested by parents or guardians, about the school pest management plan;

''(iii) maintain and make available to parents, legal guardians, or other persons with legal standing as parents of each child attending the school, before and during the notice period and after application—

''(I) copies of material safety data sheet for pesticides applied at the school, or copies of material safety data sheets for end-use dilutions of pesticides applied at the school, if data sheets are available;

''(II) labels and fact sheets approved by the Administrator for all pesticides that may be used by the local educational agency; and

''(III) any final official information related to the pesticide, as provided to the local educational agency by the State agency; and

''(iv) for each school, maintain all pesticide use data for each pesticide used at the school (other than antimicrobial pesticides (as defined in clauses (i) and (ii) of section 2(mm)(1)(A))) for at least 3 years after the date on which the pesticide is applied; and

''(v) make that data available for inspection on request by any person.

''(4) NOTIFICATION.—

''(A) UNIVERSAL NOTIFICATION.—At the beginning of each school year, at the midpoint of each school year, and at the beginning of any summer session (as determined by the school), a local educational agency or school shall provide to staff members of a school, and to parents, legal guardians, and other persons with legal standing as parents of students enrolled at the school, a notice describing the school pest management plan that includes—

''(i) a summary of the requirements and procedures under the school pest management plan;

''(ii) a description of any potential pest problems that the school may experience (including a description of the procedures that may be used to address those problems);

''(iii) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

''(iv) the following statement (including information to be supplied by the school as indicated in brackets):

'As part of a school pest management plan, [ ] may use pesticides to control pests. The Environmental Protection Agency (EPA) and [ ] registers pesticides for that use. EPA continues to examine registered pesticides to determine that use of the pesticides in accordance with instructions printed on the label does not pose unreasonable risks to human health and the environment. Nevertheless, EPA cannot guarantee that registered pesticides do not pose risks, and unnecessary exposure to pesticides should be avoided. Based in part on recommendations of a 1993 study by the National Academy of Sciences that reviewed registered pesticides and their potential to cause unreasonable adverse effects on human health, particularly on the health of pregnant women, infants, and children, Congress enacted the Food Quality Protection Act of 1996. That law requires EPA to reevaluate all registered pesticides and new pesticides to measure their safety, taking into account the unique exposures and sensitivity that pregnant women, infants, and children may have to pesticides. EPA review under that law is ongoing. You may request to be notified at least 24 hours in advance of pesticide applications to be made and receive information about the applications by registering with the school. Certain pesticides used by the school (including baits, pastes, and gels) are exempt from notification requirements. If you would like more information concerning any pesticide application or any product used at the school, contact [ ]'.

''(B) NOTIFICATION TO PERSONS ON REGISTRY.—

''(i) IN GENERAL.—Except as provided in clause (ii) and paragraph (5)—

''(I) notice of an upcoming pesticide application at a school shall be provided to each person on the registry of the school not later than 24 hours before the end of the last business day during which the school is in session that precedes the day on which the application is to be made; and

''(II) the application of a pesticide for which a notice is given under subclause (I) shall not commence before the end of the business day.

''(ii) NOTIFICATION CONCERNING PESTICIDES USED IN CURRICULA.—If pesticides are used as part of a regular vocational agricultural curriculum of the school, a notice containing the information described in subclauses (I),

(IV), (VI), and (VII) of clause (iii) for all pesticides that may be used as a part of that curriculum shall be provided to persons on the registry only once at the beginning of each academic term of the school.

''(iii) CONTENTS OF NOTICE.—A notice under clause (i) shall contain—

''(I) the trade name, common name (if applicable), and Environmental Protection Agency registration number of each pesticide to be applied;

''(II) a description of each location at the school at which a pesticide is to be applied;

''(III) a description of the date and time of application, except that, in the case of an outdoor pesticide application, a notice shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled;

''(IV) all information supplied to the local educational agency by the State agency, including a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied based on—

''(aa) a description of potentially acute and chronic effects that may result from exposure to each pesticide to be applied, as stated on the label of the pesticide approved by the Administrator;

''(bb) information derived from the material safety data sheet for the end-use dilution of the pesticide to be applied (if available) or the material safety data sheets; and

''(cc) final, official information related to the pesticide prepared by the Administrator and provided to the local educational agency by the State agency;

''(V) a description of the purpose of the application of the pesticide;

''(VI) the address, telephone number, and website address of the Office of Pesticide Programs of the Environmental Protection Agency; and

''(VII) the statement described in subparagraph (A)(iv) (other than the ninth sentence of that statement).

''(C) NOTIFICATION AND POSTING EXEMPTION.—A notice or posting of a sign under subparagraph (A), (B), or (G) shall not be required for the application at a school of—

''(i) an antimicrobial pesticide;

''(ii) a bait, gel, or paste that is placed—

''(I) out of reach of children or in an area that is not accessible to children; or

''(II) in a tamper-resistant or child-resistant container or station; and

''(iii) any pesticide that, as of the date of enactment of the School Environment Protection Act of 2001, is exempt from the requirements of this Act under section 25(b) (including regulations promulgated at section 152 of title 40, Code of Federal Regulations (or any successor regulation)).

''(D) NEW STAFF MEMBERS AND STUDENTS.—After the beginning of each school year, a local educational agency or school within a local educational agency shall provide each notice required under subparagraph (A) to—

''(i) each new staff member who is employed during the school year; and

''(ii) the parent or guardian of each new student enrolled during the school year.

''(E) METHOD OF NOTIFICATION.—A local educational agency or school may provide a notice under this subsection, using information described in paragraph (4), in the form of—

''(i) a written notice sent home with the students and provided to staff members;

''(ii) a telephone call;

''(iii) direct contact;

''(iv) a written notice mailed at least 1 week before the application; or

''(v) a notice delivered electronically (such as through electronic mail or facsimile).

''(F) REISSUANCE.—If the date of the application of the pesticide needs to be extended beyond the period required for notice under this paragraph, the school shall issue a notice containing only the new date and location of application.

''(G) POSTING OF SIGNS.—

''(i) IN GENERAL.—Except as provided in paragraph (5)—

''(I) a school shall post a sign not later than the last business day during which school is in session preceding the date of application of a pesticide at the school; and

''(II) the application for which a sign is posted under subclause (I) shall not commence before the time that is 24 hours after the end of the business day on which the sign is posted.

''(ii) LOCATION.—A sign shall be posted under clause (i)—

''(I) at a central location noticeable to individuals entering the building; and

''(II) at the proposed site of application.

''(iii) ADMINISTRATION.—A sign required to be posted under clause (i) shall—

''(I) remain posted for at least 24 hours after the end of the application;

''(II) be—

''(aa) at least 8½ inches by 11 inches for signs posted inside the school; and

''(bb) at least 4 inches by 5 inches for signs posted outside the school; and

''(III) contain—

''(aa) information about the pest problem for which the application is necessary;

''(bb) the name of each pesticide to be used;

''(cc) the date of application;

''(dd) the name and telephone number of the designated contact person; and

''(ee) the statement contained in subparagraph (A)(iv).

''(iv) OUTDOOR PESTICIDE APPLICATIONS.—

''(I) IN GENERAL.—In the case of an outdoor pesticide application at a school, each sign shall include at least 3 dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled.

''(II) DURATION OF POSTING.—A sign described in subclause (I) shall be posted after an outdoor pesticide application in accordance with clauses (ii) and (iii).

''(5) EMERGENCIES.—

''(A) IN GENERAL.—A school may apply a pesticide at the school without complying with this part in an emergency, subject to subparagraph (B).

''(B) SUBSEQUENT NOTIFICATION OF PARENTS, GUARDIANS, AND STAFF MEMBERS.—Not later than the earlier of the time that is 24 hours after a school applies a pesticide under this paragraph or on the morning of the next business day, the school shall provide to each parent or guardian of a student listed on the registry, a staff member listed on the registry, and the designated contact person, notice of the application of the pesticide in an emergency that includes—

''(i) the information required for a notice under paragraph (4)(G); and

''(ii) a description of the problem and the factors that required the application of the pesticide to avoid a threat to the health or safety of a student or staff member.

''(C) METHOD OF NOTIFICATION.—The school may provide the notice required by paragraph (B) by any method of notification described in paragraph (4)(E).

''(D) POSTING OF SIGNS.—Immediately after the application of a pesticide under this paragraph, a school shall post a sign warning of the pesticide application in accordance with clauses (ii) through (iv) of paragraph (4)(B).

''(c) RELATIONSHIP TO STATE AND LOCAL REQUIREMENTS.—Nothing in this section (including regulations promulgated under this section)—

''(1) precludes a State or political subdivision of a State from imposing on local educational agencies and schools any requirement under State or local law (including regulations) that is more stringent than the requirements imposed under this section; or

''(2) establishes any exception under, or affects in any other way, section 24(b).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended by striking the items relating to sections 30 through 32 and inserting the following:

''Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.
''Sec. 31. Environmental Protection Agency minor use program.
''Sec. 32. Department of Agriculture minor use program.
''(a) In general.
''(b)(1) Minor use pesticide data.
''(2) Minor Use Pesticide Data Revolving Fund.
''Sec. 33. Pest management in schools.
''(a) Definitions.
''(1) Bait.
''(2) Contact person.
''(3) Emergency.
''(4) Local educational agency.
''(5) School.
''(6) Staff member.
''(7) State agency.
''(8) Universal notification.
''(b) School pest management plans.
''(1) State plans.
''(2) Implementation by local educational agencies.
''(3) Contact person.
''(4) Notification.
''(5) Emergencies.
''(c) Relationship to State and local requirements.
''(d) Authorization of appropriations.
''Sec. 34. Severability.
''Sec. 35. Authorization of appropriations.''.

(d) EFFECTIVE DATE.—This section and the amendments made by this section take effect on October 1, 2001.

SA 806. Mr. REID (for Mr. HARKIN (for himself and Mr. LUGAR)) proposed an amendment to the bill S. 657, to authorize funding for the National 4–H Program Centennial Initiative; as follows:

Beginning on page 2, strike line 14 and all that follows through page 3, line 22, and insert the following:

(b) GRANT.—

(1) IN GENERAL.—The Secretary of Agriculture may provide a grant to the National 4–H Council to pay the Federal share of the cost of—

(A) conducting a program of discussions through meetings, seminars, and listening sessions on the National, State, and local levels regarding strategies for youth development; and

(B) preparing a report that—

(i) summarizes and analyzes the discussions;

(ii) makes specific recommendations of strategies for youth development; and

(iii) proposes a plan of action for carrying out those strategies.

(2) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of the program under paragraph (1) shall be 50 percent.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of the program under paragraph (1) may be paid in the form of cash or the provision of services, material, or other in-kind contributions.

(3) AMOUNT.—The grant made under this subsection shall not exceed $5,000,000.

(c) REPORT.—The National 4–H Council shall submit any report prepared under subsection (b) to the President, the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) FUNDING.—The Secretary may fund the grant authorized by this section from—

(1) funds made available under subsection (e); and

(2) notwithstanding subsections (c) and (d) of section 793 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f), funds from the Account established under section 793(a) of that Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee has scheduled a hearing to consider the nominations of Vicky A. Bailey to be an Assistant Secretary of Energy (International Affairs and Domestic Policy), and Frances P. Mainella to be Director of the National Park Service.

The hearing will take place in room 366, Dirksen Senate Office Building on Wednesday, June 27, immediately following the committee's 9:30 a.m. business meeting.

Those wishing to submit written statements on the nominations should address them to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C., 20510.

For further information, please contact Sam Fowler at 202/224–7571.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 19, 2001, At 9:30 a.m. on local competition.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 19 at 9:00 a.m. to conduct a hearing. The committee will receive testimony on S. 764, a bill to direct the Federal Energy Regulatory Commission to impose just and reasonable load-differentiated demand rate or cost-of-service based rates on sales by public utilities of electric energy at wholesale in the western energy market, and for other purposes; and sections 508–510 (relating to wholesale electricity rates in the western energy market, natural gas rates in California, and the sale price of bundled natural gas transactions) of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, June 19, 2001, to here testimony regarding Medicare Governance: Perspectives on the Centers for Medicare and Medicaid Services (formerly HCFA).

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

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on June 19, 2001, at 10:00 a.m. in room 485 Russell Senate Building to conduct a hearing to receive testimony on the goals and priorites on the member tribes of the Midwest Alliance of Soveregn Tribes For he 107th session of the Congress.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, June 19, 2001, for a markup on the nomination of Gordon H. Mansfield to be Assistant Secretary for Congressional Affairs at the Department of Veterans Affairs. The meeting will take place off the Senate chamber after the first roll call vote of the day.

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

SUBCOMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Aging be authorized to meet for a hearing on ''Geriatrics: Meeting the Needs of Our Most Vulnerable Seniors in the 21st Century,'' during the session of the Senate on Tuesday, June 19, 2001, at 10:00 a.m.

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

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 19, 2001, to conduct an oversight hearing on the Multifamily assisted Housing Reform and Affordability Act of 1997.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 19, 2001 to conduct a hearing on ''Reauthorization of the U.S. Export-Import Bank.''

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

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, on behalf of Senator KENNEDY, I ask unanimous consent that Stacey Sachs, a fellow in his office, have the privileges of the floor during the pendency of the debate on S. 1052.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that floor privileges be granted to my health policy fellow, Kris Hagglund, for the duration of the debate on the Patients' Bill of Rights.

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

Mr. REID. Mr. President, I ask unanimous consent that Alaine Perry, a fellow on Senator DASCHLE's staff, be granted privileges of the floor during debate on S. 1052.

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

ORDER FOR STAR PRINT—S. 1041

Mr. REID. Madam President, I ask unanimous consent that S. 1041 be star printed with the changes which are at the desk.

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

IMPORTANCE OF MEMBERSHIP OF THE UNITED STATES ON THE UNITED NATIONS HUMAN RIGHTS COMMISSION

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 50, S. Res. 88.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 88) expressing the sense of the Senate on the importance of membership of the United States on the United Nations Human Rights Commission.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table en bloc, and any statements related thereto be printed in the RECORD.

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

The resolution (S. Res. 88) and its preamble were agreed to en bloc.

The resolution, with its preamble, reads as follows:

S. RES. 88

Whereas the United States played a critical role in drafting the Universal Declaration of Human Rights, which outlines the universal rights promoted and protected by the United Nations Human Rights Commission;

Whereas the United Nations Human Rights Commission is the most important and visible international entity dealing with the promotion and protection of universal human rights and is the main policy-making entity dealing with human rights issues within the United Nations;

Whereas the 53 member governments of the United Nations Human Rights Commission prepare studies, make recommendations, draft international human rights conventions and declarations, investigate allegations of human rights violations, and handle communications relating to human rights;

Whereas the United States has held a seat on the United Nations Human Rights Commission since its creation in 1947;

Whereas the United States has worked in the United Nations Human Rights Commission for 54 years to improve respect for human rights throughout the world;

Whereas the United Nations Human Rights Commission adopted significant resolutions condemning ongoing human rights abuses in Cuba, Iran, Iraq, Chechnya, Congo, Afghanistan, Equatorial Guinea, Burundi, Rwanda, Burma, and Sierra Leone in April, 2001, with the support of the United States;

Whereas, on May 3, 2001, the United States was not re-elected to membership in the United Nations Human Rights Commission;

Whereas some of the countries elected to the United Nations Human Rights Commission have been the subject of resolutions by the Commission citing them for human rights abuses; and

Whereas it is important for the United States to be a member of the United Nations Human Rights Commission in order to promote human rights worldwide most effectively: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States has made important contributions to the United Nations Human Rights Commission for the past 54 years;

(2) the recent loss of membership of the United States on the United Nations Human Rights Commission is a setback for human rights throughout the world; and

(3) the Administration should work with the European allies of the United States and other nations to restore the membership of the United States on the United Nations Human Rights Commission.

ALLOWING RED CROSS VISITATION

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 51, S. Con. Res. 35.

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

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 35) expressing sense of Congress that Lebanon, Syria and Iran should allow representatives of the International Committee of the Red Cross to visit the four Israelis, Adi Avitan, Binyamin Avraham, Omar Souad, and Elchanan Tannenbaum, presently held by Hezbollah forces in Lebanon.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table en bloc, and that any statements related thereto be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 35) and its preamble were agreed to en bloc.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 35

Whereas on October 7, 2000, Hezbollah units, in clear violation of international law, crossed Lebanon's international border and kidnapped three Israeli soldiers, Adi Avitan, Binyamin Avraham, and Omar Souad;

Whereas on October 15, 2000, Hezbollah announced that it had abducted a fourth Israeli, Elchanan Tannenbaum;

Whereas these captives are being held by Hezbollah in Lebanon;

Whereas the 2000 Department of State report on foreign terrorist organizations stated that Hezbollah receives substantial amounts of financial assistance, training, weapons, explosives, and political, diplomatic, and organizational assistance from Iran and Syria;

Whereas Syria, Lebanon, and Iran voted in favor of the Universal Declaration of Human Rights in the United Nations General Assembly;

Whereas the International Committee of the Red Cross has made numerous attempts to gain access to assess the condition of these prisoners; and

Whereas the International Committee of the Red Cross has been denied access to these prisoners: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that Lebanon, Syria, and Iran should allow representatives of the International Committee of the Red Cross to visit the four Israelis, Adi Avitan, Binyamin Avraham, Omar Souad, and Elchanan Tannenbaum, presently held by Hezbollah forces in Lebanon.

CONDEMNATION OF THE TALEBAN

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 52, S. Con. Res. 42.

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

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 42) condemning the Taleban for their discriminatory policies, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table en bloc, and that any statements related thereto be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 42) and the preamble was agreed to en bloc.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 42

Whereas the Taleban militia took power in Afghanistan in 1996, and now rules over 90 percent of the country;

Whereas, under Taleban rule, most political, civil, and human rights are denied to the Afghan people;

Whereas women, minorities, and children suffer disproportionately under Taleban rule;

Whereas, according to the United States Department of State Country Report on Human Rights Practices, violence against women and girls in Afghanistan occurs frequently, including beatings, rapes, forced marriages, disappearances, kidnapings, and killings;

Whereas Taleban edicts isolate Muslim and non-Muslim minorities, and will require the thousands of Hindus living in Taleban-ruled Afghanistan to wear identity labels on their clothing, singling out these minorities for discrimination and harsh treatment;

Whereas Taleban forces have targeted ethnic Shiite Hazaras, many of whom have been massacred, while those who have survived, are denied relief and discriminated against for their religious beliefs;

Whereas non-Muslim religious symbols are banned, and earlier this year Taleban forces obliterated 2 ancient statues of Buddha, claiming they were idolatrous symbols;

Whereas Afghanistan is currently suffering from its worst drought in 3 decades, affecting almost one-half of Afghanistan's 21,000,000 population, with the impact severely exacerbated by the ongoing civil war and Taleban policies denying relief to needy areas;

Whereas the Taleban has systematically interfered with United Nations relief programs and workers, recently closing a new hospital and arresting local workers, closing United Nations World Food Program bakeries providing much needed food, and closing offices of the United Nations Special Mission to Afghanistan in 4 Afghan cities;

Whereas, as a result of those policies, there are more than 25,000,000 persons who are internally displaced within Afghanistan, and this year, contrary to past practice, the Taleban rejected a United Nations call for a cease-fire in order to bring assistance to the internally displaced;

Whereas, as a result of Taleban policies, there are now more than 2,200,000 Afghan refugees in Pakistan, and 500,000 more refugees are expected to flee in the coming months unless some form of relief is forthcoming;

Whereas Pakistan has closed its borders to Afghanistan, and has announced that Pakistani and United Nations officials will begin screening refugees in June with a view toward forcibly repatriating all those who are found to be staying illegally in Pakistan;

Whereas the Taleban leadership continues to give safe haven to terrorists, including Osama bin Laden, and is known to host and provide training ground to other terrorist organizations; and

Whereas the people of Afghanistan are the greatest victims of the Taleban, and in recognition of that fact, the United States has provided $124,000,000 in relief to the people of Afghanistan this year: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) condemns the harsh and discriminatory policies of the Taleban toward Muslims, Hindus, women, and all other minorities, and the attendant destruction of religious icons;

(2) urges the Taleban to immediately reopen United Nations offices and hospitals and allow the provision of relief to all the people of Afghanistan;

(3) commends President George W. Bush and his administration for their recognition of these urgent issues and encourages President Bush to continue to respond to those issues;

(4) recognizes the burdens placed on the Government of Pakistan by Afghan refugees, and calls on that Government to facilitate the provision of relief to these refugees and to abandon any plans for forced repatriation; and

(5) calls on the international community to increase assistance to the Afghan people and consider granting asylum to at-risk Afghan refugees.

NATIONAL 4–H PROGRAM CENTENNIAL INITIATIVE

Mr. REID. Madam President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 657, and that the Senate then proceed to its consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 657) to authorize funding for the National 4–H Program Centennial Initiative.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, Senators HARKIN and LUGAR have an amendment at the desk. I ask unanimous consent that the amendment be agreed to, the bill, as amended, be read three times and passed, the motion to reconsider be laid upon the table without any intervening action, and that any statements relating thereto be printed in the RECORD.

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

The amendment (No. 806) was agreed to, as follows:

(Purpose: To modify the funding for the National 4–H Program Centennial Initiative)

Beginning on page 2, strike line 14 and all that follows through page 3, line 22, and insert the following:

(b) GRANT.—

(1) IN GENERAL.—The Secretary of Agriculture may provide a grant to the National 4–H Council to pay the Federal share of the cost of—

(A) conducting a program of discussions through meetings, seminars, and listening sessions on the National, State, and local levels regarding strategies for youth development; and

(B) preparing a report that—

(i) summarizes and analyzes the discussions;

(ii) makes specific recommendations of strategies for youth development; and

(iii) proposes a plan of action for carrying out those strategies.

(2) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of the program under paragraph (1) shall be 50 percent.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of the program under paragraph (1) may be paid in the form of cash or the provision of services, material, or other in-kind contributions.

(3) AMOUNT.—The grant made under this subsection shall not exceed $5,000,000.

(c) REPORT.—The National 4–H Council shall submit any report prepared under subsection (b) to the President, the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) FUNDING.—The Secretary may fund the grant authorized by this section from—

(1) funds made available under subsection (e); and

(2) notwithstanding subsections (c) and (d) of section 793 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f), funds from the Account established under section 793(a) of that Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

The bill (S. 657), as amended, was read the third time and passed, as follows:

S. 657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL 4–H PROGRAM CENTENNIAL INITIATIVE.

(a) FINDINGS.—Congress finds that—

(1) the 4–H Program is 1 of the largest youth development organizations operating in each of the 50 States and over 3,000 counties;

(2) the 4–H Program is promoted by the Secretary of Agriculture through the Cooperative State Research, Education, and Extension Service and land-grant colleges and universities;

(3) the 4–H Program is supported by public and private resources, including the National 4–H Council; and

(4) in celebration of the centennial of the 4–H Program in 2002, the National 4–H Council has proposed a public-private partnership to develop new strategies for youth development for the next century in light of an increasingly global and technology-oriented economy and ever-changing demands and challenges facing youth in widely diverse communities.

(b) GRANT.—

(1) IN GENERAL.—The Secretary of Agriculture may provide a grant to the National 4–H Council to pay the Federal share of the cost of—

(A) conducting a program of discussions through meetings, seminars, and listening sessions on the National, State, and local levels regarding strategies for youth development; and

(B) preparing a report that—

(i) summarizes and analyzes the discussions;

(ii) makes specific recommendations of strategies for youth development; and

(iii) proposes a plan of action for carrying out those strategies.

(2) COST SHARING.—

(A) IN GENERAL.—The Federal share of the cost of the program under paragraph (1) shall be 50 percent.

(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of the program under paragraph (1) may be paid in the form of cash or the provision of services, material, or other in-kind contributions.

(3) AMOUNT.—The grant made under this subsection shall not exceed $5,000,000.

(c) REPORT.—The National 4–H Council shall submit any report prepared under subsection (b) to the President, the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) FUNDING.—The Secretary may fund the grant authorized by this section from—

(1) funds made available under subsection (e); and

(2) notwithstanding subsections (c) and (d) of section 793 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f), funds from the Account established under section 793(a) of that Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

CONGRATULATING THE LOS ANGELES LAKERS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 113 submitted earlier today by Senators BOXER and FEINSTEIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 113) acknowledging that the Los Angeles Lakers are the undisputed 2001 National Basketball Association champions and congratulating them for outstanding drive, discipline and dominance.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD with no intervening action.

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

The resolution (S. Res. 113) and the preamble were agreed to en bloc.

(The text of S. Res. 113 is located in today's RECORD under ''Statements on Submitted Resolutions.'')

ORDERS FOR WEDNESDAY, JUNE 20, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Wednesday, June 30. I further ask unanimous consent that on Wednesday immediately following the prayer and the pledge, 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 resume consideration of the motion to proceed to S. 1052, the Patients' Bill of Rights, with time for debate on the motion alternating in 30-minute increments between Senator KENNEDY or his designee and Senator GREGG or his designee beginning with the first block of time controlled by the Democratic manager, Senator Kennedy.

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

PROGRAM

Mr. REID. Madam President, as the majority leader indicated just a few minutes ago, on Wednesday the Senate

will continue to consider the motion to proceed to the Patients' Bill of Rights all day tomorrow. Under a previous consent agreement, the Senate will vote on a motion to proceed to the Patients' Bill of Rights on Thursday at 10 a.m., and for the time prior to 12 o'clock we will have a discussion on that motion to proceed and general debate. Thereafter, the Republicans will offer the first amendment.

The majority leader asked that I convey to everyone that the RECORD be spread with the fact that the majority leader is going to conclude this debate on the Patients' Bill of Rights prior to our taking any recess for July 4. It is going to be difficult. But if it is not done, that is what he is going to do. He has indicated that we will work Friday, Saturday, and Sunday. The only day we are going to take off is the holiday, July 4, until we finish this very important legislation.

As the leader indicated, when we get back from the break, if in fact there is a break, there are 13 appropriations bills on which we have to work. This is the time to do the Patients' Bill of Rights, and Senator DASCHLE has said that we are going to complete it prior to the Fourth of July break.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:44 p.m., adjourned until Wednesday, June 20, 2001, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 19, 2001:

DEPARTMENT OF AGRICULTURE

JAMES R. MOSELEY, OF INDIANA, TO BE DEPUTY SECRETARY OF AGRICULTURE, VICE RICHARD E. ROMINGER, RESIGNED.

DEPARTMENT OF DEFENSE

MICHAEL PARKER, OF MISSISSIPPI, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE JOSEPH W. WESTPHAL.

DEPARTMENT OF STATE

MICHAEL E. GUEST, OF SOUTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ROMANIA.

THE JUDICIARY

LAURIE SMITH CAMP, OF NEBRASKA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA, VICE WILLIAM G. CAMBRIDGE, RETIRED.

PAUL G. CASSELL, OF UTAH, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF UTAH, VICE DAVID SAM, RETIRED.

DEPARTMENT OF JUDICIARY

SHAREE M. FREEMAN, OF VIRGINIA, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF FOUR YEARS, VICE ROSE OCHI, TERM EXPIRED.