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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

PRAYER

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

Almighty God, Power to equalize the pressures of life, we need You! The day stretches out before us. There is more to do than time will allow; there are more people to see than the schedule can accommodate; there are more problems to solve than we have strength to endure. Life becomes a pressure cooker. Thank You for this moment of prayer in which Your peace equalizes our pressure. We press on with the duties of this day knowing that there is enough time today to do what You want us to do. There is no panic in heaven; may there be none in our hearts. Give us the gift of a productive day. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED 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, July 23, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator

from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REED thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, there will be a period for morning business until 10:45 a.m., with the first half of the hour under the control of the Republican leader or his designee, and the second half of the hour under the control of the majority leader or his designee.

At 10:45 a.m., the Senate will vote on the cloture motion on the nomination of Richard Carmona to be Surgeon General of the United States. We hope to voice vote the nomination shortly after the cloture vote.

Upon disposition of the nomination, the Senate will resume consideration of the prescription drug bill, with the time until 12:30 p.m. divided between the two leaders or their designees. The Senate will recess, as we do on every Tuesday, from 12:30 p.m. to 2:15 p.m. for our weekly party conferences.

At 2:15 p.m. today, the Senate will resume consideration of the prescription drug bill, with 30 minutes of closing debate on the pending Graham and Grassley prescription drug amendments, prior to two rollcall votes beginning at 2:45 p.m. first on a motion to waive the Budget Act with respect to the Graham amendment, and second on a motion to waive the Budget Act with respect to the Grassley amendment.

MEASURE PLACED ON CALENDAR—H.R. 4687

Mr. REID. Mr. President, I understand H.R. 4687 is at the desk and due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask that H.R. 4687 be read a second time, and I object to any further proceedings.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 4687) to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

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 10:45 a.m. with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee. Under the previous order, the second half of the time shall be under the control of the majority leader or his designee.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I ask unanimous consent to use some of the time for the Republican side.

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



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The ACTING PRESIDENT pro tempore. The Senator has that right. The Senator from Wyoming.

PRESCRIPTION DRUGS

Mr. THOMAS. Mr. President, we are moving on today, I am pleased to note, to deal with this business of pharmaceuticals. It is a very important issue, one that we have struggled with for some time. I am not particularly impressed with the system we have used. I am afraid it pretty much spells out the fact that it is going to be very difficult for us to come together with any real meaningful legislation with regard to pharmaceuticals. There are a couple of reasons for that. I think we could have done it a little differently.

One, of course, is we do not have a budget. We have not brought up a budget resolution. So the question of funding always comes up. That is the reason for the votes this morning to try and waive a point of order on the budget. Not only does it affect this issue, of course, but the effect is that it is irresponsible not to have a budget for this coming year and be able to have the protections that a budget provides.

We have been talking a long time about the failure of business to do things properly. This is certainly a failure, it seems to me, of the Congress not to have a budget resolution. We have not had it brought up.

The other problem is we are dealing with the very broad subject of pharmaceuticals, which does not have before it a proposition that has been treated by the committee. Obviously, almost all the issues that come before the full Senate—and certainly there are those that are difficult issues—have gone through the committee, and much of the venting, much of the argument, much of the discussion has been done in the committee, and then the committee has come forth with a majority vote.

This is the second time recently we have had bills come to the floor that are complicated and difficult without having had their exposure in the Senate committee.

The energy bill, which we are still involved with, which was on the floor for several weeks, was pulled from the committee. It was not allowed to come through with a committee recommendation, and the same thing with the Finance Committee. So we find ourselves in a very difficult position.

Nevertheless, that is where we are. We have several propositions before us. One is the Graham-Kennedy-Daschle bill, which was in the committee but apparently would not have received a majority vote in the committee, so it therefore was not brought to a vote. This creates a very large increase of Government bureaucracy and basically ultimately sets price controls in pharmaceuticals, has fairly restrictive formulas for the majority of managed-care companies.

The Graham bill has plans to cover at least one name brand drug but not more than two in each therapeutic class. Pharmaceuticals is a difficult issue: How to provide them in terms of distribution; are they a part of this case in the Graham bill; and will they really become part of Medicare?

The competing bill, they have done more in the private sector, and it is separate somewhat. It is a real tough job to encourage people to do it as economically as can be done. How will generics become hopefully more used and useful than they have in the past and therefore reduce some of the costs? How is the distribution done so consumers have some choices in terms of not only brands that are available to them but, frankly, some of us are concerned in States where we have low population whether or not there will be opportunities for consumers to have some choices, whether they will be able to use the local drugstore, or whether they will all have to be mail-in kinds of things.

So it is a tough decision. There are differences in the two proposals. One will be a part of Medicare and will be handled by the Government. The other will be a private sector delivery system that will be set up.

In the case of the Government system, of course, whoever does the distribution will not have to make any particular choices with regard to costs or helping to reduce them. But on the other hand, in the private sector the more they can make it economical, the more profitable it will be.

So I am hopeful as we go through this, we can seek to set forth the best proposition that is possible, at the same time taking into account spending, and the spending in the two bills are quite different. The Democrat bill, the Graham bill, over a period of 7 years, is basically twice as expensive as the other bill. It costs in the area of \$600 billion. The other one is very expensive as well, about \$330 billion over the course of 10 years. So either one is going to be very expensive, but one quite less expensive than the other. Certainly we need to take a look at the expenses.

The tripartisan plan seems truly to find some common ground between traditional Democrat and Republican views, and that is useful. It reforms Medicare. It provides a prescription drug benefit to ensure that seniors do have coverage more similar to employee-sponsored plans that, of course, we have been accustomed to in the past.

I hoped this proposal could have been debated more—I have already mentioned that—in committees. It spends \$330 billion over 10 years to provide prescription drugs for seniors. Even at that, whoever thought we would be talking about something in the area of \$330 billion? Nevertheless, that is the case. It is a compromise between various proposals.

In addition to simply the drug benefits, it spends \$40 billion to make some

overdue changes in Medicare Parts A and B, which need to be done. We have not made changes in Medicare for some time. The prices and payments have caused it to be difficult for people to get services. It tends to bring the Medicare into the 21st century. It does spend \$370 billion over 10 years to make those changes, but I think it is a reasonable proposal. It has a monthly premium, which I think is reasonable if they are going to have these kinds of services. It has an annual deductible which, again, is not unusual in terms of insurance payments of these kinds. I think first dollar payments are very important in terms of any insurance program. It has a benefit cap. The Government pays 50 percent for seniors with drug costs up to \$3,400. It has catastrophic coverage beginning at \$3,700. Seniors will then be responsible for only 10 percent of the cost above that.

So it is a tough program. It is one of the programs, however, that does deal with seeking to solve the problem without excessive expenditure. Low-income assistance below the 150 percent Federal poverty level is good for the entire structure. There is no so-called doughnut, middle ground, for low-income seniors, and that is good. This is the program that provides assistance, of course, to all seniors, and for their drug costs. It gives them access to discounted drug prices, and seniors generally now are the only group who pay full retail prices for drugs.

So I am hopeful as we go into this afternoon's program, even though under the circumstances of bringing these bills this way without having a budget we will have to have 60 votes to get one passed, I hope we will give some thought to the only one that is indeed bipartisan, in fact, tripartisan, in nature, so we have the best opportunity of finding success in the Government to provide pharmaceutical and drug coverage to seniors, something that almost everyone agrees needs to be done.

The question is how it is best done, and how we deal with the costs, the distribution; what ought to be the difference in access between low-income and those who are not; what we do to make some improvements in Medicare. This seems to be the proposition before the Senate that can provide for these benefits.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, our time is very short this morning, so I will be brief. Let me discuss the key criteria Senators should consider.

First, is the drug coverage permanent and dependable? Under the tripartisan amendment, drug coverage would be a permanent part of the Medicare entitlement, for the 21st Century.

Under the Graham amendment, however, that coverage disappears into a black hole. The benefit expires the very same year the baby boomers begin to retire. In my view, it's terribly irresponsible to pull a "bait and switch"

on people who depend on Medicare. How will my colleagues explain to seniors in 2010 that they are out of luck because of a gimmick they used to hide the true cost of their proposal? I ask the Senate to support permanent, dependable drug coverage.

The Graham amendment seriously restricts Medicare enrollees who want access to brand-name drugs. Its restrictive policy will result in long lines for ground-breaking drugs. Why? Because Senator GRAHAM requires Medicare enrollees to wade through a bureaucratic appeals process in order to get needed drugs that are off the formulary. And it's not a short list—their formulary denies access to at least 90 percent of brand-name drugs!

We've heard a lot about gaps in coverage. Mr. President, here's the biggest gap of all: the gap between the large number of brand name drugs beneficiaries may need, and the paltry number Medicare would cover under the Graham amendment. Of the 2,400 brand name drugs approved by FDA, less than 10 percent would be covered. What a gap in coverage.

Our amendment, on the other hand, sets policies to ensure that Medicare enrollees get the drugs they need. We do not limit them to an arbitrary number of drugs in each class, as Senator GRAHAM does. We support making generic drugs an option, with lower cost-sharing, but we don't think depriving seniors of access to brand-name drugs is the way to go about it. So that is a key difference.

Our opponents have talked a great deal about the fact that less than 20 percent of beneficiaries would face a gap in coverage under the tripartisan amendment. But compare that number with the number of beneficiaries who would experience a gap in coverage under their amendment. Under the Graham amendment, fully 100 percent of enrollees would lack full access to brand-name drugs in Medicare. When you lay the two gaps against one another, isn't it clear that their gap, which will affect all enrollees, is the worse one?

Our bill also delivers a cost-effective, quality benefit. CBO says that the only way to contain the cost of a drug benefit is to ensure that drugs are delivered efficiently.

In turn, CBO says that the only way to have drugs delivered efficiently is to have true competition among private plans that stand to make money if they drive hard bargains with drug manufacturers. That's what our amendment offers.

Now, our opponents have gone on and on about private plans not being willing to deliver a drug benefit. Well, they too rely on a private sector delivery system, although it is non-competitive and thus is so expensive.

We have worked hard to ensure our delivery system works. Our opponents say that insurers will refuse to participate, even though the government lays \$340 billion on the table and bears 75

percent of the economic risk, and even though CBO projects it to work everywhere in the country. But what happens in the off-chance that private plans won't want to participate?

Well, here's what will happen. The government has a duty—mandated in our bill—to do what it takes to ensure a drug benefit for every last Medicare beneficiary. If insurers won't participate at the level of competition we expect, the Secretary must adjust the competition bar downward until they will participate.

At a last resort, we would end up with a Graham-type delivery model in which pharmacy benefit managers are simply government contractors, bearing only minimal performance risk. Put another way, our Plan B is Senator GRAHAM's approach. So why are our opponents so afraid of that?

Under no circumstances will our bill allow any senior, anywhere, to go without access to a drug plan. It's an iron-clad guarantee, and it's right there in our bill.

Now, the Senator from Massachusetts has repeatedly objected to the asset test for the low-income benefit in our bill, as if it's something new. What a red herring! There has been asset testing for low-income Medicare populations since 1987, under the Qualified Medicare Beneficiary program and the Specified Medicare Beneficiary programs. And Senator KENNEDY and his Democratic colleagues voted for it overwhelmingly. There's nothing but politics behind those objections.

Another thing the tripartisan amendment offers is an enhanced option in Medicare. The enhanced option will add protection against the devastating costs of serious illness, and make preventive benefits free to help seniors avoid serious illness in the first place. And it is completely voluntary—seniors get to choose, and they don't need to take it in order to get drug coverage.

What does the Graham amendment have to offer beyond drugs? Nothing. Why would anyone want to deny Medicare beneficiaries the choice of free preventive benefits and better protection against serious illness? I will let the other side answer that.

The choice is clear. The Graham amendment offers drug coverage that swiftly disappears into a black hole, and it has the biggest gap of coverage of all. The tripartisan amendment is the right prescription for 21st century Medicare. Because that is the biggest gap of coverage of all. The tripartisan plan is the right prescription for 21st century Medicare.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, in the last 2 weeks the Senate has taken up two of the most important issues facing the American people. First, we took on the issue of corporate governance. We passed a tough, new regulatory framework to deal with the cro-

nyism and corruption in America's private sector. Now we are moving on to deal with prescription drugs for seniors.

I have talked to many seniors in my State. They are really worried. They are worried about corporate scandals and they are worried about the impact these scandals are having on the market. They are watching the Dow Jones go down along with their life savings. While they see their life savings evaporating, they also see the cost of their prescription drugs going up. These two issues are linked. The crisis in corporate governance and the crisis in our markets, and also the whole issue of making affordable prescription drugs available to seniors, are linked together.

Seniors now are talking about their own lives and times and families. The two things they do not want to worry about at this point in their lives are outliving their savings and the rising cost of prescription drugs. With the evaporation of their savings and the escalation of the cost of prescription drugs, they are really scared.

We have faced many fears in the United States of America this year. We salute our military and others who are working on homeland defense. But we really need to provide another defense, a defense against the fear of outliving your savings and not being able to afford the prescription drugs you need. In my State, my constituents are fairly conservative investors. They put money in CDs. I don't mean the kind that are rock and roll recordings, I mean certificates of deposit. Or they put money into conservative mutual funds. We had many of those family funds run right in Maryland.

What did they see? They saw as Greenspan lowered interest rates, it meant a lower return on their conservative investments. Again, what is happening in the stock market, they see the downside of the Dow Jones and no one is trusting the numbers and no one is trusting the CEOs.

Because of what was happening to the cost of prescription drugs, many families got help from their adult children. But their own adult children are worried about the loss of jobs and the loss of economic security as well. What we see in the private sector is that it is being squeezed in terms of the benefits it had hoped to provide.

In my own State, what we see is that American manufacturing, such as the American automobile industry, is competing against Japanese companies that do not have to pay for prescription drug benefits because they have a national health care system. Steel in my State is in bankruptcy because of predatory foreign competition. It is struggling to keep its promises to workers and retirees, providing pensions and health care.

I even see it as someone who appropriates funds for the veterans health care system. More and more veterans who do not have service-connected disabilities are turning to VA because of

the prescription drug benefit. The collapse of the system in which they were able to afford that benefit is having them turn to other systems.

We need a prescription drug benefit, and we need it now.

Considering the possibility of passing a prescription drug benefit, it has to be a meaningful benefit, not just slogans and sound bites. Seniors need a benefit they can count on, and it needs to follow these criteria. First, any benefit we pass has to be voluntary. It must be run by Medicare, not by insurance companies that simply gatekeep, that privatize profits and socialize risks.

The second thing is the benefit must be the same for all seniors, no matter where they live. No benefit should vary from State to State.

Then, who should decide what medications a senior gets? The decision should be made by the doctor, not an insurance gatekeeper. Of course, it needs to be affordable to seniors and also to the taxpayer.

I believe the Democratic plan, the Graham-Miller plan, which I support, meets these criteria. It answers the questions that seniors ask me as I am out and about talking to them.

Who runs it? Our plan is run by Medicare.

Is it available anywhere I live? Our plan says yes.

Who decides what medicines I get? Your doctor.

Is it affordable? You bet. There is no deductible; premiums are \$25; copays are defined, specific, and reasonable; catastrophic drug costs are covered if you have to spend more than \$4,000 on prescription drugs.

This is what our plan is. It is voluntary. It is available anywhere. It is going to be run by Medicare, not by insurance companies. The other plans fail those criteria and therefore I believe fail seniors. The Republican and tripartisan plans do not provide a benefit under Medicare. They turn it over to the insurance companies. Remember them? They are the same people who brought us Medicare+Choice, and they pulled out, leaving seniors without coverage throughout my State. People had signed up believing it was going to be a benefit, but after they squeezed their profits, they dumped the seniors. We cannot have the same experience in this bill.

Another problem is the benefit will not be the same for all seniors. It will vary according to different plans and different States. If in fact it is going to be a Federal program, it should be uniform and available in every State.

Who decides the prescription drugs? Once again, insurance companies will be the gatekeepers, not doctors, and their decisions will be based on profits, not patient care.

These plans will not be affordable for seniors. They are going to have a high deductible, copayments that fluctuate, and also an enormous, huge gap in coverage. The tripartisan plan—on which I know there was serious effort—leaves

people without a drug coverage between the costs of \$3,400 to \$5,000 a year. For \$1,500, you are on your own.

These plans raise more questions than they answer. How would a senior know what he or she is getting? How would they know what is covered? Who will make sure that insurance companies stick by the plans they offer? And how do seniors pay for their medicine in the gap months? America's seniors need their questions answered. They deserve more than that. They deserve—and they need—a real benefit under Medicare.

I know the Presiding Officer could tell me stories he hears in his own State of Rhode Island. I hear them wherever I go in my home State. I hear them from seniors, and I hear them from their families. When you listen to the families, you hear heart-wrenching stories. With the collapse of manufacturing in my State, it is even worse. The fact is that the farmers in my State are facing drought and will have to turn to Federal assistance. The fact is that watermen, who are out there on the Chesapeake Bay during this heat trying to forage for crabs, are foraging for their health care. We have to help meet those needs.

I held a hearing earlier this year on the healthcare benefits of steelworker retirees where I heard from retired steelworkers and their widows. If steel goes under, these people will lose their prescription drug coverage.

I was particularly touched by a story from a steel-widow—Gertrude Misterka. She has diabetes, high blood pressure, high cholesterol, asthma, and periodic chest pains.

She asked her pharmacist how much her medications would cost her without her retiree coverage. He told her—about \$5,800. Gertrude may lose her health care from Beth Steel. Under the Republican and the Tripartisan plan, assuming she could get coverage from a Maryland insurer, she'd pay a \$250 deductible and up to \$33 in monthly premiums. That is \$646 a year, before buying a single pill, and, she could still have no coverage for total drug costs between \$3,450 and \$5,300.

How does that help her? She needs a benefit that she can count on. Beth Steel and other American manufacturing companies need the Federal Government to offer a Medicare benefit so their workers are taken care of.

By passing a Medicare prescription drug benefit Congress will deliver real security to America's senior. Retirement security means more than pension security. Seniors need healthcare security to be at ease in their retirements.

Congress created Medicare as a promise to our seniors. It guaranteed meaningful healthcare coverage. Medicare kept seniors healthy and relieved their fears of being bankrupt by huge hospital bills. But Medicare didn't keep up with medical advances. To be a meaningful safety net, Medicare must include a prescription drug benefit. To be

a meaningful benefit, Congress can't leave it up to insurance companies. Promises made to our seniors must be promises kept.

I really hope we will pass a senior prescription drug benefit that is meaningful, affordable, available nationwide, and that we do it now. Truly honor your father and mother. It is a great Commandment to live by, and it is a great Commandment to govern by.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to join with my colleague from Maryland who spoke so eloquently about the need for real Medicare prescription drug coverage. I thank her for her leadership for our seniors over the years, both in Maryland and around the country. I join her today, and I would like to start by sharing some additional stories, some voices from Michigan.

I have been inviting people to join me in a prescription drug peoples' lobby. The idea of the people's lobby is to counter the huge special interest lobby in the form of the prescription drug lobby that we see every single day. We know there are six drug company lobbyists or more for every Member of the Senate. Yet what we are doing here is so important to people—businesses, farmers, seniors, families—and their voices need to be heard in this debate. I am very confident, if their voices are heard, the right thing will be done.

So I would like to share a story from Christopher Hermann from Dearborn Heights, MI. He writes now as a member of our People's Lobby:

I am a Nurse Practitioner providing primary care to Veterans. I am receiving many new patients seeking prescription assistance after they have been dropped by traditional plans and can no longer afford medications. Many of them have more than \$1,000/month in prescription costs.

The Vets are lucky! We can provide the needed service. Their spouses and neighbors are not so lucky.

I also have such a neighbor. "Al" is 72, self-employed all his life with hypertension. When he runs out of his meds due to lack of money, his blood pressure goes so high, he has to go to the emergency room and be admitted to prevent a stroke. I provide assistance through pharmaceutical programs, but this is not guaranteed each month. We either pay the \$125.00 per month for his medications, or Medicare pays \$5,000.00 plus each time he is admitted. It's pretty simple math to me.

I would agree with Mr. Hermann that it is pretty simple math, that what we are talking about is saving dollars in the long run by helping people stay out of the hospital and remain healthy. It is important that it be a real program that is defined, that folks can count on every month.

Let me also share a story from Debbie Ford from Clio, MI, who called

my office. Her 72-year-old mother cannot afford a supplemental, so the family pays for her prescriptions. This is a very common story, as I know the Presiding Officer knows. She is the widow of an ironworker whose pension continued for only 10 years. She gets what assistance she can—food assistance, energy credits—but no medication assistance. Her Social Security disability is \$800 a month. She has resorted to pill splitting and borrowing medication from others who have prescription coverage.

This is the greatest country in the world. This is the United States. We should have folks having to either split pills or borrow medication in order to get what they need to live.

Let me also share something from Myra McCoy of Detroit, MI. She says:

I receive disability due to a number of medical problems; it is not a choice for me. My poor health has been the hardest thing I have ever had to deal with in my life and it started at age 35, my whole life over. I have lost so much and the depression has made it so bad, I'm in so much debt for medication, I have a second mortgage I can't afford because of my medication.

I've been robbing Peter to pay Paul for medication and trying not to lose my mind in the process. It is hard to talk about this even after ten years. I hope something can be done about the high cost of medication.

We do live in a time of damaged care, if I could work again I would just to cut the cost of my medication. I would like to know what has to happen to make sure all people get treated fairly!

I thank Myra for sharing this as a part of the People's Lobby.

Now is the time to get it right, to make it fair, to make prices affordable for everybody, and to have a real plan.

What do we have in front of us? We have two kinds of plans: One passed by the House, a similar one called the tripartisan plan supported by my good friend from Vermont and Senator BREAUX from Louisiana, joining with the Republicans in this plan; and then we have a separate plan which is being supported by the Democrats in the Senate.

What are the differences? What does it mean to the people I have been talking about today, and so many others?

The question is, Which plan guarantees seniors a defined benefit and premium? They know they receive the benefit, and they know what the premium will be every month. This is a pretty important issue to folks—to have a regular benefit, and they know what it is, they know what it will cost.

The Democratic plan will provide that. The other plans—Republican or tripartisan—will not.

Seniors receive the same benefit regardless of where they live. That is a very important issue. Whether you are in the upper peninsula of Michigan or the southwestern tip of Benton Harbor, St. Joe or Detroit or Saginaw or Bay City or Alpena, it should not matter where you live, you should be able to have the predictability of knowing the same plan exists with the same premium for you. The Democratic plan

does that. The other plan in front of us does not.

Seniors are guaranteed affordable coverage throughout the whole year. People debating this issue have talked about the so-called doughnut hole. People probably think we are debating breakfast or something, but the reality is, there is a gap in every plan, except the Graham-Miller-Kennedy plan, supported by the majority.

For the other plans, you would be paying all year but there would be part of the year—in some cases a majority of the year—where you would not receive any help, even though you have to continue to pay. I do not think that is a very good idea.

The plan that we have in front of us, the Graham-Miller-Kennedy plan, would guarantee people that if they pay all year, they get coverage all year.

Another important principle: Seniors are guaranteed access to local pharmacies and needed prescriptions. Under our plan, yes; under the other plan in front of us, no.

And then, finally, seniors retain their existing retiree coverage. This is very important. I have a lot of retirees in Michigan, retired autoworkers and others, who have coverage and we want to make sure they can keep their coverage. Our plan would say yes to that; the other plan would say no.

On the last point, let me share that the Congressional Budget Office has estimated that a similar provision to the one that is in the tripartisan plan, a similar provision that was in the House plan would prompt about one-third of the employers to drop retiree coverage. This translates into about 3.6 million seniors who would lose their coverage. That is not a good deal.

What we have in front of us is an optional plan, optional under Medicare, so you can get the full clout of Medicare and get a group discount. People are covered all year. It is affordable. It is reliable. It has a premium of \$25 a month. It is clear. Every month you pay you are getting help with your bill. It is a very clear, straightforward effort to make sure that low-income seniors are fully covered, without out-of-pocket expenses.

And we make sure that we keep intact Medicare because one of the real concerns I have, in the long run, is that by forcing seniors to retain coverage through private drug-only insurance plans or HMOs—such as the tripartisan plan does—I am concerned that ultimately we are moving to a privatization of Medicare. It certainly is a step in that direction, which would be certainly something that I would strongly, strongly oppose.

So I say to people today—even though we are voting today—if there are not the votes for either of the two plans in front of us, we are going to be continuing to work in a direction to get the kind of plan that we need.

I urge people across the country to get involved and go to a Web site that

has been set up—fairdrugprices.org—to sign a petition, to get involved, to share their story, to make their voice heard in this debate.

There is nothing more important than the debate in front of us—to the economy, to the cost of business, to the out-of-pocket expenses for our seniors and for our families.

It needs to be done right. We have the right plan. I urge my colleagues to support the Graham-Miller-Kennedy plan. If, in fact, that is not adopted, I urge that we keep these principles in whatever plan that we are able to construct.

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

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak for not more than 10 minutes.

The ACTING PRESIDENT pro tempore. There are 8 minutes available.

Mr. GRASSLEY. He may have all of that 8 minutes and whatever else the Senate wants to do for another 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

Mr. JEFFORDS. Mr. President, I will proceed for 8 minutes. I first commend all of our colleagues who have devoted so much effort and leadership on the issue we have the privilege of debating today.

It is largely through their collective efforts that we have the chance to provide our seniors with the most significant expansion of the Medicare program in over 35 years an opportunity to provide them with the most important weapon in our healthcare arsenal prescription medicines.

This is an opportunity that we cannot let political differences block from going into law this year.

Many of our colleagues have come to the Senate floor during this debate and voiced either opposition or support for the two amendments that we will vote on today.

Our colleagues from both sides of the aisle have made pointed criticisms and voiced their strong objections over specific provisions in both of these measures.

There are honest differences and disagreements over the details of how we should develop this Medicare prescription drug expansion.

However, it is important that we recognize something that few have mentioned, and that is, there is extraordinary agreement that we should create this benefit.

We are not debating the question of whether but instead, the question of how to best provide medicines for our seniors. Senators from across the political spectrum, liberal to conservative, Republican, Democrat and Independent have declared their support for providing prescription drugs.

We should not let this opportunity pass today because we may not see it again for a very long time.

Today, we will have the opportunity to vote on two approaches for creating this new entitlement.

One approach has been offered by my friends, Senator GRAHAM and Senator MILLER, and others; and it is an approach with merit and one that I gave serious consideration to supporting.

The other measure is one that many have come to call the Tripartisan Medicare bill. It is called the Tripartisan bill because it was developed by Senators who are Republican, a Democrat and myself, the lone independent in the U.S. Senate.

But that is a bit of a misnomer, because it is not about being tripartisan—or even nonpartisan.

This proposal should not be about politics. It is about providing older Americans with the medicines they need through the best Medicare program we can afford. We can only do that by finding a measure that at least 60 of our colleagues can support. We have to get 60 votes to get it out of here.

I am very proud to join my colleagues here today in support of the tripartisan bill, the 21st Century Medicare Act. Senators GRASSLEY, SNOWE, BREAUX, HATCH, and I have dedicated ourselves to this effort.

We have had many policy discussions over the course of the last year and each have made their particular contributions to the underlying bill. I am honored to be a part of this outstanding group of legislators.

I believe our bill is the best opportunity we have to enact a modernized and strengthened Medicare program that will for first time provide a meaningful and affordable prescription drug benefit for all of our seniors.

This measure guarantees the promised care of the original Medicare program created in the mid-1960s and it delivers the benefits of today's modern health care system.

These are the key provisions of the 21st Century Medicare Act.

First, our legislation preserves the traditional Medicare program for our seniors today and tomorrow.

Our bill does not weaken traditional Medicare, make it more expensive or less available.

If the traditional Medicare program is what seniors want then it will be there for them plain and simple—guaranteed.

Second, we create an all new voluntary enhanced fee-for-service part to the Medicare program that provides new benefits such as disease prevention screenings and coverage for catastrophic health care costs while continuing all of the services available under traditional Medicare.

Our enhanced Medicare program protects our sickest seniors from the high costs of repeated hospitalizations that Medicare doesn't pay for at this time. Our enhanced Medicare would establish a single, \$300 deductible that will save seniors hundreds of dollars in high hospitalization costs.

In addition to better benefits for our sickest seniors, the enhanced Medicare plan provides better disease prevention benefits so our healthy seniors can remain healthy. These benefits, which are not now provided under traditional Medicare, include: tests to detect breast, prostate, and other cancers early when they are most treatable; adult vaccines that prevent a host of diseases; tests to predict the loss of bone mass before people break their hips and other bones; and, medical nutritional therapy to make sure seniors are getting the nutrition they need to keep them healthy.

Finally, the 21st Century Medicare Act ensures that seniors will have access to prescription drug coverage no matter where they live. I know my colleagues will spend the rest of today praising or criticizing the details of each other's proposal for providing the prescription drug benefit, but I want to be straight to the point: our plan is comprehensive, affordable and sustainable into the future. Is it perfect? No, it probably isn't perfect, but it is a good solid plan that will provide seniors with a significant drug benefit at an affordable cost.

Yesterday, Senator SNOWE, my good friend and co-sponsor of the 21st Century Medicare Act, pointed out that this language is not a line drawn in the sand. I agree with her. It is a legislative proposal that was developed, like the one our colleagues, Senators GRAHAM and MILLER have proposed, in a good faith effort. I think all of the principal cosponsors of these bills and many of our other colleagues are willing, and can agree to further refine this measure during a conference with the House, but let's get them out of here.

Over the next hours there will be detailed descriptions of competing ideas and competing proposals debated here on the Senate floor, and I look forward to that debate. I have examined the proposals that are being proposed and this is what I found that is unique about our 21st Century Medicare Act. It strengthens Medicare by building on programs where patients and their doctors can choose the best course of treatment and it ensures that a better Medicare will be there for today's seniors.

It improves Medicare by providing a comprehensive prescription drug benefit and new voluntary disease-prevention benefits that will help seniors live longer, healthy lives. And, it guarantees that the benefits of today will be there for seniors tomorrow.

I am very proud to join my colleagues Senators GRASSLEY, SNOWE, BREAUX and HATCH in support of the 21st Century Medicare Act. This legislation is the result of over a year of concentrated effort and it includes in it provisions that should garner the support of a wide majority of our colleagues.

I look forward to working with all of my colleagues to resolve our differences and enact this quality health

care program and prescription drug benefit for our seniors. I urge my colleagues to begin that effort with their support of the 21st Century Medicare Act.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CLELAND. Mr. President, I ask unanimous consent that I be allowed to speak for 7½ minutes and then my colleague from Missouri, Senator CARNAHAN, be allowed to speak for 7½ minutes.

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

Mr. CLELAND. Mr. President, I come to the floor this morning to share the story of Betty Almeida, a gentle southern lady of 75 years and a life-long resident of Atlanta, who just last week came face to face with the hard reality that she can no longer afford the medications she needs. Betty called my office shortly after visiting her local pharmacy, where she had discovered that the cost of the two medications her doctor prescribed for her was simply too much for her to afford. She had been following the prescription-drug debate in Congress for some time, but last week, with a new sense of urgency, she called me to plead for swift action.

Betty had been retired for a year when she learned she had a heart condition. Unable to afford the medications she needed to keep her condition under control, she came out of retirement and went back to work just to earn money to pay for her prescription drugs. For a while, that arrangement, though a hardship, enabled Betty to earn just enough to pay for her medicine. But recently, after Betty underwent a surgical procedure to remove a blockage from her heart, her doctor prescribed two new medications: one to treat an irregular heartbeat and one to lower her cholesterol to a safe level. Thank God these wonderful, life-saving drugs exist. But when Betty approached the pharmacy counter last week hoping to buy them, she was asked for \$197 for the cholesterol-lowering drug and almost \$150 for the other. Fortunately, it was Senior Citizens Day, so Betty was able to make use of a \$5 discount. Still, the combined cost of the two medications—nearly \$350—was far beyond what Betty could afford. And so, as she stood at the counter, Betty faced a choice: which condition would she treat? Her doctor told her she needed to treat both, but Betty couldn't afford to do that, so she had to choose. Which did she need more: a regular heartbeat, or safe cholesterol levels that would prevent future blockages?

The time to pass a prescription drug benefit for seniors like Betty is now. Actually, the time was yesterday, but it would be an act of gross negligence on the part of the Congress—and a violation of a promise—if we fail this year to bring Betty and so many others the help they desperately need. The Graham-Miller-Cleland bill has received high marks from the AARP and

will, if passed, bring meaningful relief to Betty. Forced to choose, Betty elected to forego the cholesterol-lowering medication because of its \$200 cost. Under the prescription drug program established by the Graham-Miller-Cleland bill, Betty would pay just \$40 for the \$200 drug—one-fifth the cost. There would be no deductible to meet first, and there would be no gap in coverage. Over the course of a year, Betty would pay \$4,200 just for the two heart drugs I mentioned without coverage. Under the Graham-Miller-Cleland bill, her annual out-of-pocket-expenses on medications, even after factoring in the \$25 monthly premium, would be just \$1,260—a 70 percent reduction in yearly costs. Under the House bill, however, Betty's annual out-of-pocket expenses for just those two drugs would be \$3,500—her savings, just 17 percent.

For Betty, and for the millions like her, I urge my colleagues in this body and in the House to pass the Graham-Miller-Cleland Medicare prescription drug benefit without delay. Anything less is unacceptable.

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

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, Senator CLELAND asked for 7½ minutes and time for the Senator from Missouri, and that is fine. To be fair, we should also give the minority 7½ minutes. I ask unanimous consent that they be given 7½ minutes and that the vote occur at or around 11 o'clock, whenever that time runs out.

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

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mrs. CARNAHAN. Mr. President, next week marks the 37th anniversary of the day the Medicare program was signed into law. President Johnson traveled to Independence, MO to sign the bill in the presence of Harry S. Truman, who began the fight for the Medicare program in 1945. I am sure that our effort today to add a prescription drug benefit to Medicare is the type of common sense measure that President Truman would understand. Without this benefit, the Medicare program does not provide seniors with the security and protection its Founders intended.

If you have expensive and debilitating surgery, Medicare will pick up virtually the whole cost. But Medicare will not pay a single penny for prescription drugs that would cure your condition and make the surgery unnecessary. That does not make sense.

So today the Senate has an historic opportunity. People such as Annie Gardner from Columbia, MO will be watching us closely. She is an impressive 63-year-old, retired, mother of five adult children. But she suffers from diabetes and high blood pressure. She

lost her health insurance and then could not afford her prescriptions. First she rationed her prescriptions by taking half the prescribed amount, even though she knew, as a former nurse, that this was a dangerous practice. Later she had to quit purchasing the drugs entirely because of other expenses, like fixing her car and paying increased taxes on her house.

In 21st century America, no one should have to make this type of choice. Today we have the chance to make Medicare the kind of program that we all want it to be. But we have before us two very different plans.

In my view, the benefit plan proposed by my colleagues BOB GRAHAM and ZELL MILLER is the superior choice. Their bill would create a benefit program that seniors could afford and could count on regardless of where they live.

Assistance begins with the very first prescription and is the same all year long. Senior will pay a monthly premium and then \$10 for generic drugs and \$40 for brand name drugs. There are no gaps or limits on the coverage. And once you hit the catastrophic cap of \$4,000, you do not pay another dime for prescription drugs.

The alternative plan before the Senate is riddled with complexities and gaps. Before getting any benefits, seniors pay a \$250 deductible. After that, seniors must pay 50 percent of the cost of their prescriptions. And then, once seniors have paid \$3,451 on drugs—which is a great deal of money for virtually all seniors in Missouri—the coverage simply stops. But seniors still have to continue paying their monthly premium. The coverage does not start up again until seniors have laid out \$5,300.

Under this plan, seniors will be paying a different amount almost every month. Some months they will get coverage—others they will not. I do not believe this is what seniors want from a prescription drug benefit.

The same flaws occur in the alternative plan for the treatment of low income seniors. But our plan would give low income seniors assistance with co-payments and premiums, and 220,000 senior citizens in Missouri would qualify for this assistance. But under the alternative plan, low income seniors will have to pass rigorous assets test.

Mr. President, the reason we are passing a drug benefit is so seniors do not have to sell the family possessions to pay for their prescriptions. I cannot understand why the alternative plan would require low-income seniors to sell off assets to qualify for additional help.

My other concern is that seniors be guaranteed access to a benefit no matter where they live. Under the Graham-Miller plan, all seniors, regardless of whether they live in a rural or urban area, would have guaranteed access to a reliable, affordable benefit administered by the Medicare program.

We all know that the Medicare system is not perfect, but it is reliable,

has always been there for our seniors, and always will be there in the future.

The alternative plan we are voting on today, however, creates a risky structure that does not guarantee that all seniors will be able to access the benefit.

Seniors in rural areas would have the greatest risk of being left empty-handed. How do I know this? Because the Republican plan gives government subsidies to drug HMOs to administer the benefit. This is the same system that Medicare+Choice runs on.

Seniors in rural Missouri know that Medicare+Choice programs have shut down all over the state. We do not want the same thing to happen to the prescription drug benefit. Our seniors deserve a dependable benefit, under Medicare, available to all.

Today is the day when we can put this program in place. We have a choice between an affordable, secure, and reliable benefit that will work for seniors—and a confusing plan that will not provide security and stability.

Mr. President, the Irish poet, Seamus Heaney, wrote that:

Once in a lifetime, the longed for tidal wave of justice can rise up . . . and hope and history rhyme.

Today we have a chance to perfect the Medicare Program, and I pray we have the courage to seize the moment.

I yield the floor.

PROTECTING WOMEN'S RIGHTS AND HEALTH IN AFGHANISTAN

Mr. REID. Mr. President, under the Taliban regime in Afghanistan, women were forbidden to work or attend school. They weren't allowed to leave their homes unless they were accompanied by a male relative. For example, women who laughed out loud or wore shoes that made clicking noises could be beaten. There were many other examples of how women were so poorly treated.

After the fall of the Taliban, we heard encouraging news from Afghanistan. Women could go back to work and to school. They were no longer forced to wear burqas; that was a matter of choice.

A recent report from the United Nations found that now nearly 3 million Afghan children are attending school, and 30 percent of these kids are girls.

In fact, women took part in last month's Loya Jirga, a national conference to choose an interim government, and four women were appointed to positions in the interim Afghan Government.

Earlier today, I had the pleasure of meeting these courageous women. I met them in the Senate. Habibha Surrabi is Minister of Women and Refugee Affairs in Afghanistan. She was a professor of pharmacy at Kabul University, but was forced to flee when the Taliban took over in 1996. In Pakistan, she worked for refugee organizations where she focused on the rights of women, education, human rights, health care, and sanitation.

After September 11, President Bush promised not only to fight al-Qaida in Afghanistan but here in Washington to work to restore peace and democracy in that war-torn country. The President promised promoting women's rights in Afghanistan would be an important part of that mission.

Although the Taliban has been routed and al-Qaida is on the run, Afghanistan is far from peaceful today. Some say the country is on the verge of a civil war as rival warlords battle for control of the countryside.

Vice President Haji Abdul Qadir was assassinated 2 weeks ago. The international group, Human Rights Watch, reported local warlords are forcing young men to serve in their militias against their will. The United Nations has halted its return of refugees to parts of Afghanistan because of the increased violence.

On top of threats to their safety, families suffer from sabotage and from shortages of food, water, and health care because warlords are disrupting humanitarian aid deliveries. These humanitarian aid deliveries are essential. If they cannot be made, then the country cannot proceed.

Unfortunately, the gains Afghan women appeared to be making after the fall of the Taliban in many instances are simply an illusion. Afghan women continue to feel unsafe and most are afraid to remove their burqas. Many of the women who participated in the Loya Jirga a matter of weeks ago have been threatened and intimidated. Violence against women remains pervasive. They have no recourse or protection.

Aid workers, foreigners, and Afghan women and children have been targeted for robberies, assaults, and rapes. I was told by the Minister of Women and Refugee Affairs with whom I met earlier today about some brutal things that have taken place in that country, such as a 14-year-old girl raped. I have it in my mind and it is hard to get it out. Women's rights in Afghanistan will not be secure if there is no law or order.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. REID. I ask unanimous consent I be extended an additional 3 minutes and that same time be extended to the Republicans.

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

Mr. REID. Mr. President, the rights of women in Afghanistan will not be secure if there is no law and order in Afghanistan. Afghanistan's new government does not have the resources, no matter what their will, to combat warlord infighting, banditry, and lawlessness while trying to reestablish institutions of a civil society that were destroyed by the Taliban.

Interim President Karzai has requested international troops to help maintain order across the country. We have countries that are willing to come in and help. They have been told by our

country that they should not come. Afghan women say they feel safer when international peacekeeping troops are present. That is obvious.

United Nations Secretary Kofi Annan has called for more peacekeepers, and there has been a call by both parties for more peacekeepers in Afghanistan. Yet the Bush administration has not yet committed to increasing the number of troops engaged—in fact, they have pushed against it—in peacekeeping, and they also refuse to allow the International Security Assistance Force, ISAF, to operate outside Kabul. We need these troops. We need this presence outside Kabul. Afghan is more than Kabul. It is a country that has great traditions and has a tradition of peace, except for the past 20 years. It can be reestablished.

When President Bush began military operations in Afghanistan, he promised Afghanistan would have a stable, democratically elected government that can govern in peace. We should not be skeptical of his promises. He should follow through on the promises he made. President Bush owes that to the American people, but especially to the people of Afghanistan. We cannot let the people of Afghanistan down again, and we cannot allow either our allies or enemies to believe America does not stand by its promises.

Today I call on the President of the United States to expand the International Security Assistance Force immediately to stop the violence, allow humanitarian aid to reach impoverished areas, and protect Afghan women and children. They need our help, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I have a Republican member who wishes to speak. I wonder if I can get a Democratic member to speak. If not, I will go ahead. Is there anyone waiting to speak on the Democratic side? If they are, I do not want to lose the time.

Mr. REID. How much time do the Republicans have now?

The ACTING PRESIDENT pro tempore. The Republicans have 10 minutes.

Mr. GRASSLEY. I will proceed, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

PRESCRIPTION DRUGS

Mr. GRASSLEY. Mr. President, I wish to speak once again, before the vote this afternoon at 2:45 p.m., on the Graham prescription drug bill and point out that that bill sunsets in the year 2010. Also, it omits coverage of most drugs. First of all, the fact the bill sunsets on December 31, 2010, ought to be an overriding factor of how people vote on this amendment.

Pages 78 and 79 of the bill say "drug coverage must stop after December 31, 2010." That is section 1860(k), for people who want to look it up and verify what I am saying.

The Graham-Miller-Kennedy bill would not provide, if enacted, a permanent Medicare prescription drug benefit.

In the tripartisan bill, we are talking about a plan that is permanent. There is no sunset because we know that senior citizens on December 31, 2010, are not going to sunset themselves. They are going to need prescription drugs on January 1, 2001, just as much as they did on December 31, 2010.

We have a bipartisan program that is permanent and continues drug coverage in the future. Why? Because prescription drugs ought to be a part of Medicare as much in the year 2002 as hospitalization was a very important part of Medicare in 1965.

Medicare beneficiaries should understand that there is no guarantee that a prescription drug plan being offered by Senators GRAHAM, MILLER, and KENNEDY, will continue to cover their drug expenses after 2010.

Some refer to this as a sunset, but I wish to make clear, as this chart points out very well, that this is just one very obvious big black hole in this program that will sunset in the year 2010. Sunsetting a Medicare Program seems to be a very strange thing to do. Medicare is an entitlement program. Dependability has been one of its central features. So why should a new drug benefit be any different than any other program that we have—hospitalization, doctor care, or other provisions in Medicare that we have had since 1965.

There is no need to speculate as to why the sponsors sunset their program in 2010. It is a device to make the costs of the bill appear lower than it otherwise would be. In other words, it is a mere gimmick.

I point out another very crucial flaw with the Graham amendment and restrictive formularies that might keep beneficiaries from getting help with their medications that they and their doctor prefer. If we look at the tripartisan plan, any drug that is available, generic or patent that is available, what the doctor and what the patient decide is best for them is going to be available. There is a lower copay for generic drugs. We want to promote generic drugs over patented drugs if that is possible, but for sure we should not in any way limit the availability of drugs as is being done under the Democrat plan.

We have a poster that shows that 100-percent brand name drugs, albeit approved by the FDA, are going to be available under the program we have in the tripartisan bill, but only 10 percent of the brand name drugs are covered by the Graham-Daschle-Kennedy plan, a Government-run process certain to be time consuming and bureaucratic. If a beneficiary wants to appeal the fact that the drug they want and their doctor wants for them is not available under the Kennedy plan, it is possible to go through a Government appeal process to get the preferred drug covered.

Why should we put people to that test of bureaucratic decisionmaking when we have other programs that are available to make the drug that the doctor wants and thinks best for that patient? We do have that in the tripartisan plan. Controls on the pharmacy that can participate in the program, surely this is the biggest gap in coverage.

In any case, the important point is it is going to take another act of Congress to continue the program once it sunsets in the year 2010. Once a program like this sunsets, it could be difficult to pass legislation which would be required to extend it. I do not think that is a particularly good deal for our seniors. Having a drug benefit that disappears into a black hole is a terrible idea, as sunseting is equivalent to disappearing into a black hole.

I would like to have Senators who are still in doubt about how they are going to vote this afternoon look at the tripartisan 21st century Medicare amendment as a reasonable alternative because it is bipartisan, because it is middle ground between the least expensive and the most expensive plans. It is not a big cost to Medicare, and it is something that brings permanency and that is predictable well into the future for Medicare. That is what we should have, and that is what we have in the tripartisan drug plan.

Any Senators on my side of the aisle who want to speak should get here soon.

I reserve the remainder of my time.

Mr. FEINGOLD. Mr. President, I rise today in strong support of a comprehensive and affordable prescription drug benefit for America's seniors. At the same time, we must modernize the entire Medicare benefits package by promoting regional equity in Medicare spending to ensure access to Medicare's basic services.

The absence of affordable prescription drug coverage for most seniors is devastating, and we must address this issue with the same vigor that our predecessors in Congress brought to their effort to enact the original Medicare program.

The addition of a prescription drug benefit will be the largest expansion of the Medicare program since it was initiated in 1965. But we should not simply add a benefit, we must get it right.

Congress must pass an attractive benefit with an affordable premium and a provision on catastrophic costs that is an insurance policy for all Medicare beneficiaries. While I recognize that the cost of any new benefit will be shared with Medicare beneficiaries, any deductibles or co-payments must be low enough to ensure significant participation in the program.

I am very encouraged that my colleagues from Florida and Georgia have recognized the importance of a comprehensive benefit through the Medicare program. It is affordable, comprehensive, and reliable. I am particu-

larly supportive of their effort to fund a defined benefit with no deductible.

While I am certainly open to working with my colleagues on the benefit structure, I am very concerned about proposals to enact this benefit outside the Medicare program that would amount to a privatized benefit. Past efforts to offer privatized benefits outside the Medicare benefit structure have simply not worked in Wisconsin.

The Medicare+Choice program has offered very few choices to most Wisconsin seniors. While the structures of some of the private Medicare prescription drug benefits are plainly different from the Medicare+Choice program, I remain concerned that states like Wisconsin will end up with few choices. As with Medicare HMOs in the Medicare+Choice program, Wisconsin seniors will likely be faced with little choice with Medicare prescription drug HMOs.

We must also harness the purchasing power of the Medicare program to ensure that the Federal Government gets a fair price for the prescription drug program. That's the reason why I support the Hatch-Waxman reforms in the underlying bill.

By closing a series of loopholes in the original Hatch-Waxman law, these reforms will increase competition by preventing brand-name pharmaceutical firms from blocking generic drugs from entering the market. While I strongly support the original Hatch-Waxman law because it promoted competition and consumer choices, the reforms in the underlying bill will modernize the law and strengthen competition in the marketplace.

If we simply allow pharmaceutical companies to dictate the price of prescription drugs to consumers, the cost of the prescription drug benefit will skyrocket out of control. I am not advocating price controls. But we must ensure that taxpayers and Medicare beneficiaries get a fair price.

And I have further concerns on behalf of American taxpayers, as each of the proposals we are likely to consider actually digs our deficit hole deeper at a time when our budget deficit already is getting worse every day.

In its recently released mid-session review of the budget, the Office of Management and Budget estimates that the budget deficit for the current fiscal year, the one ending on September 30, will be a whopping \$165 billion, and that includes the Social Security Trust Fund balances.

If you look at the real budget deficit—the one that does not use the Social Security Trust Funds to help mask our fiscal problems—the figure is \$322 billion.

The projected \$322 billion deficit for this year is just shy of the \$340 billion deficit that we faced when I was first elected to the U.S. Senate in 1992.

We spent the balance of the last decade climbing out of that deficit hole, and in the end, thanks to the virtuous cycle of fiscally responsible budget

policies and a growing economy, we were able to balance our books and actually began to pay down some of the massive Federal debt that was racked up during the 1980s and early 1990s.

But in the course of a little over a year, thanks in large part to the fiscally reckless tax cut enacted last year, the administration and Congress have squandered what was achieved during the previous eight years.

Even OMB's estimate of the real deficit over the next five years is over \$1 trillion! And that estimate may be based on overly optimistic assumptions.

It is against that backdrop that we are now considering Medicare prescription drug proposals.

There is no doubt that we need to modernize Medicare by adding a prescription drug benefit. I strongly favor such a reform. But we should find off-sets to fund a drug benefit.

It would be far better if we pay for this new program. Unless we pay for this needed reform, it will always be at risk of being severely cut back or even eliminated. Medicare beneficiaries can not rely on any drug benefit enacted under such circumstances, and we will do a disservice to them if we do so.

We must enact a real prescription drug benefit, one that provides meaningful help to seniors, and one which beneficiaries will know will be there for them when they really need it, not placed on the budget chopping block the instant it is enacted.

Congress could achieve some of these cost savings by modernizing other aspects of the Medicare program. For example, I am hopeful that the Senate will consider proposals to modernize the underlying Medicare program to promote regional fairness among Medicare beneficiaries.

We must address Medicare's discrimination against Wisconsin's seniors and health care providers. The Medicare program should encourage the kind of high-quality, cost-effective Medicare services that we have in Wisconsin. By encouraging this high-quality, low-cost care, we may well achieve cost savings to the program and offset part of the cost of a prescription drug benefit.

To give an idea of how inequitable the distribution of Medicare dollars is, imagine identical twins over the age of 65. Both twins worked at the same company all their lives, at the same salary, and paid the same amount to the Federal Government in payroll taxes, the tax that goes into the Medicare Trust Fund. But if one twin retired to New Orleans, LA, and the other retired in Madison, WI, they would have vastly different health care options under the Medicare system. The twin in Louisiana would get much more.

For example, in most parts of Louisiana, the first twin would have a wide array of options under Medicare. The high Medicare payments in those areas allow Medicare beneficiaries to choose between an HMO or traditional fee-for-

service plan, and, because area health care providers are reimbursed at such a high rate, those providers can afford to offer seniors a broad range of health care services. The twin in Madison would not have the same access to care. Because of low Medicare payments in Madison, there is no option to choose an HMO, and there are fewer health care agencies that can afford to provide care under the traditional fee-for-service plan.

How can two people with identical backgrounds, who paid the same amount in payroll taxes, have such different options under Medicare? They can because the distribution of Medicare dollars among the 50 States is grossly unfair to Wisconsin, and much of the Upper Midwest. Wisconsinites pay payroll taxes just like every American taxpayer, but the Medicare funds we get in return are much less than what other states receive.

The low payment rates received in Wisconsin are in large part a result of our historic high-quality, cost-effective practice of health care. In the early 1980s, Wisconsin's lower-than-average costs were used to justify lower payment rates. Since that time, Medicare's payment policies have only widened the gap between low- and high-cost states.

I have introduced a package of legislation that will take us a step in the right direction by reducing the inequities in Medicare payments to Wisconsin's hospitals, physicians, and skilled nursing facilities. At the same time, my proposals would establish pilot programs to encourage high-quality, cost-effective Medicare practices. My proposal would reward providers who deliver higher quality at lower cost. It would also require that the pilot states create plans to increase the amount of providers providing high-quality, cost-effective care to Medicare beneficiaries.

Congress must modernize Medicare and add a prescription drug benefit. It should do so in a fiscally-responsible manner. And it must also restore basic equity to the Medicare program and stop penalizing higher quality providers of Medicare services.

The issue before us is an important one. And it is important enough to do it right.

Mr. THOMPSON. Mr. President, I rise today to discuss the important issue of adding a prescription drug benefit to the Medicare program. As a part of the debate on this drug pricing bill, we are considering amendments to provide Medicare beneficiaries with coverage for their prescription drug costs. This would be the largest expansion of any Federal entitlement program since Congress enacted Medicare in 1965. And as I listen to the debate, I am concerned that this body is ignoring some very serious issues, namely the cost of what we are doing and whether we can afford to take this action given the current budget situation.

I think each of us here today would agree that the Medicare program is

outdated. If we were creating this program from scratch right now, there is no question that we would include coverage for prescription drugs. Medicines have become integral to the treatment of disease, in many cases replacing costly surgical procedures. However, in our desire to address one serious flaw in Medicare, I am concerned that we are missing the broader questions of the impact of our actions on future generations of taxpayers and on the sustainability of the Medicare program. We cannot legislate in a vacuum.

I want to begin my remarks by reminding my colleagues of the demographic time bomb we are facing in this country. The first wave of the 76 million baby boomers will begin retiring in 2008. Between now and 2035, the number of Americans over the age of 65 will double. We will go from having 3.4 workers to support Medicare and Social Security beneficiaries today to 2.3 workers by 2026. Not only is the over-65 population growing rapidly, but they are living longer. Increased life expectancy is a good thing, but it also has serious implications for the Federal budget and entitlement spending.

According to the Medicare Trustees' most recent report to Congress, the Medicare Part A Trust Fund is scheduled to be in a cash deficit beginning in 2016 and will go bankrupt in 2030. Spending on Medicare Part B, which covers outpatient services, is growing at a faster rate than our economy. Over the next 10 years, the Medicare trustees estimate that Part B spending will increase on average by 6.1 percent each year, compared to a growth rate in the economy of 5.1 percent per year. The Congressional Budget Office projects that Federal expenditures on Medicare, Social Security and Medicaid combined will grow from the current 7.8 percent of GDP to 14.7 percent of GDP in 2030. I think it's important to remember that the Federal Government has generally taken no more than 20 percent out of the economy in taxes to fund the government. Entitlement spending is moving dangerously close to that limit.

David Walker of the General Accounting Office testified before the Senate Budget Committee earlier this year, and he warned us that by 2030, absent any changes to Social Security and Medicare, there will be virtually no money left for discretionary spending such as national defense, education or law enforcement. This estimate does not take into consideration any new spending Congress may authorize, such as adding a Medicare prescription drug benefit or increasing Medicare payments to health care providers. As inadequate as the current Medicare program may be, it is not sustainable even in its current form.

In addition, I feel compelled to offer additional context to this debate. We all know that our world and budget situation have changed dramatically over the past 10 months. The latest projections from the Office of Management

and Budget are that our deficit this year could reach \$165 billion. In addition, the requirements of protecting our Nation and combating terrorism have placed urgent new claims on Federal resources.

In fiscal year 2002, we will spend at least \$29.2 billion on homeland security. The supplemental appropriations bill would spend an additional \$5.8 billion, bringing the total to nearly \$38 billion. The President's budget request for fiscal year 2003 proposes spending of \$37.7 billion for homeland security. This amount is double what we were spending on homeland security items prior to the September 11 attacks. The Brookings Institute recently recommended funding of \$45 billion for fiscal year 2003 on homeland security.

We are also in the process of considering the President's proposal to create a new Department of Homeland Security. The cost of creating this new department could be another billion dollars. The truth is that we just don't have a good notion of how much homeland security spending will cost in the coming years, but we know that the costs will be tremendous, and we know that we must spend whatever it takes.

On top of these security-related claims on our Federal resources, we need to remember that a majority of Congress just voted to increase spending on farmers by \$90 billion above the current level over the next 10 years. I opposed that legislation, because I believe much of that money would be better spent on other priorities, including a prescription drug benefit. And let us not forget that we voted in May to create a new, \$20 billion federal health care entitlement for workers displaced by trade. These things add up. We're spending money we no longer have.

I do believe that Congress should address the needs of the one-third of seniors who have no prescription drug coverage now. But when I look at the cost of adding a prescription drug benefit, it is clear to me that there is just no inexpensive way to provide seniors with a meaningful drug benefit. CBO projects that seniors' spending on prescription drugs over the next 10 years will be \$1.8 trillion. That is 21 percent higher than CBO's 10-year estimate from last year. Although two-thirds of that increase is due to the changing budget window, dropping the low-cost year, 2002, and adding the higher cost year, 2012, this projection still concerns me.

The various Medicare prescription drug proposals we are debating have 10-year cost estimates ranging from a low of \$150 billion for the Hagel/Ensign bill to \$370 billion for the tripartisan bill, to as much as \$600 billion for the Graham/Kennedy bill. Can we really rely on the accuracy of these numbers?

Last year's budget resolution set aside \$300 billion over 10 years for Medicare modernization and a prescription drug benefit. My colleagues on the

other side of the aisle strongly supported that \$300 billion number as sufficient to pay for a Medicare drug benefit. If we were to trend that \$300 billion forward one year, we would be looking at a \$350 billion drug package. This year, the budget resolution that was reported by the Senate Budget Committee, but never passed by the full Senate, contains \$500 billion over 10 years for a Medicare prescription drug benefit and for increased Medicare provider payments and for providing health coverage to the uninsured. How is it that we are even considering a \$600 billion bill that would only provide prescription drug coverage?

I am firmly in the camp of those who believe that we should not add a prescription drug benefit to Medicare without also making much-needed changes to strengthen the program. The Medicare and Social Security Trustees advise us that we can make relatively small changes now to put the Medicare and Social Security programs on sound financial footing for the future. But, the longer we wait, the harder it will be. This debate over a Medicare prescription drug benefit provides us with an excellent opportunity to begin taking steps that will make Medicare sustainable over the long term.

I want to commend the members of the tri-partisan group for their efforts to put us on the path toward a strengthened Medicare program. They have worked hard for more than a year to craft their bill to provide a reasonable and permanent drug benefit, unlike the proposal of my colleague from Florida. And, they have drafted the only proposal that makes any meaningful improvements to the Medicare program. I believe that the tri-partisan proposal would provide greater security for today's seniors and for tomorrow's seniors. The new fee-for-service plan, Medicare Part E, would make the transition to Medicare more seamless for those Americans who are beginning to age into the Medicare program by providing them with a benefit that more closely resembles the private health plan they are used to. The tri-partisan bill would also provide seniors with protection from unusually high health care costs for the first time.

I am deeply disappointed that the Finance Committee has not been given the opportunity to mark up either the tri-partisan bill or any other Medicare prescription drug bill. It is a shame that the Majority Leader has decided once again to by-pass the committee process, which might have yielded a product that could garner the 60 votes needed to pass a Medicare prescription drug benefit. Even more important is that we would not be in the current parliamentary situation of needing 60 votes to waive a budget point of order on these bills if the Senate had passed a budget this year.

In the likely event that neither of two comprehensive prescription drug proposals garners 60 votes, then I would

hope we could at least pass the Hagel/Ensign proposal. The Hagel/Ensign amendment would provide the neediest seniors with assistance with their prescription drug costs. It would allow all seniors to benefit from group discounts. And, it would provide all seniors with protection from unusually high drug costs. These benefits could be implemented immediately, and the proposal would buy us time to find bipartisan consensus on an affordable, comprehensive Medicare prescription drug benefit.

I hope we can carry forward the spirit of the tri-partisan group and work together to address the needs of our seniors who lack prescription drug coverage, bring Medicare into the 21st century and set it on sound financial footing, and do so while recognizing the new budget world in which we live.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CARNAHAN). The clerk will call the roll. The bill clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Madam President, I yield back our 3 minutes.

The PRESIDING OFFICER. All time is yielded back.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF RICHARD H. CARMONA, OF ARIZONA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, AND SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the cloture vote on Executive Calendar No. 921, which the clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Executive Calendar No. 921, the nomination of Richard H. Carmona, of Arizona, to be the Surgeon General of the Public Health Service:

Edward M. Kennedy, Debbie Stabenow, Tom Daschle, Harry Reid, Jack Reed, Richard J. Durbin, Barbara Mikulski, Patrick Leahy, Jean Carnahan, Tom Carper, Byron L. Dorgan, Paul Wellstone, Jon Corzine, Jeff Bingaman, Daniel Inouye, Kent Conrad.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 921, the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 185 Exe.]

YEAS—98

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	

NOT VOTING—2

Helms Specter

The PRESIDING OFFICER. On this vote, the yeas are 98, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Arizona.

Mr. MCCAIN. Thank you, Madam President. It is my understanding we are now in postcloture debate time; is that correct?

The PRESIDING OFFICER. The Senator is correct.

THE ANDEAN TRADE PREFERENCE ACT

Mr. MCCAIN. Madam President, I want to take a few minutes to talk about the failure of the Congress to enact the Andean Trade Preference Act, the importance of this issue in our hemisphere, and the absolute criticality of us acting before we go out for the August recess on the Andean Trade Preference Act.

Madam President, America is facing a crisis in its relations with our Latin

neighbors. Political instability and a fierce backlash against free market reforms are hobbling friendly democratic governments across the region, with consequences that clearly endanger the democratic and free market tide that has swept the continent in the past decade. Yet partisan wrangling over other issues has prevented Congress from renewing the Andean Trade Preference Act, even though both Houses have approved it. It is time to stop the politics and send the President an Andean trade bill, immediately.

Madam President, wrongly, the Andean Trade Preference Act has been linked to the larger issues of trade adjustment authority and other trade issues. I do not know why that is the case.

Mr. REID. Parliamentary inquiry, Madam President.

Mr. MCCAIN. Madam President, I have the floor.

Mr. REID. Would my friend yield—
The PRESIDING OFFICER. The Senator declines the inquiry.

Mr. REID. Will my friend yield for a question then?

Mr. MCCAIN. What is that?

Mr. REID. The question I have—

Mr. MCCAIN. Do I have the floor, Madam President?

The PRESIDING OFFICER. The Senator from Arizona has the floor and may decline to yield for an inquiry.

Mr. MCCAIN. I decline to yield.

I remind my colleagues that only a few years ago we in Washington were congratulating ourselves on living in a hemisphere that, with the exceptions of Cuba and Haiti, had embraced freedom and free markets after long years of military rule and statist economic policies.

Although there remained deep poverty, aggressive free market reforms were seen as the best way to improve the welfare of people across Latin America.

Mr. REID. Madam President, regular order.

Mr. MCCAIN. Expanded trade policies, including the Andean Trade Preference Act and America's vision of a hemispheric trade area—

Mr. REID. I ask the Chair to call for the regular order.

Mr. MCCAIN. Lent momentum to the Latin reform agenda, which produced real gains in people's daily lives and provided a critical base for the consolidation of democratic institutions and free markets.

The PRESIDING OFFICER. The Senator from Nevada is calling for the regular order in debate. Under cloture, debate must be germane.

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

The PRESIDING OFFICER. The Senator from Arizona should confine his remarks to the question before the body.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent the Senator from Arizona be extended up to 15 minutes to speak on any subject he desires.

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

The Senator from Arizona.

Mr. MCCAIN. I thank my colleague from Nevada. I intend to be brief.

I do believe this is an important issue. The other body is going out at the end of this week—in just 3 days. Unless we act on the Andean Trade Preference Act, it will have significant consequences, both socio and economic, in our hemisphere.

I thank my colleague from Nevada for allowing me this time.

Today, as we look south, the picture is altogether more bleak, and deeply troubling in the eyes of both Americans and the people of Latin America. Free market reforms are undergoing a crisis of legitimacy as a result of political mismanagement, corruption and cronyism, and because many of the easy reforms have already been made. It is fair to place part of the blame on a failure of national leadership in parts of Latin America. But almost every government in the hemisphere has been democratically elected, and will be held democratically accountable. What is more worrisome, and within our power to change, is Washington's hands-off policy toward some of the very partners we touted only a few years ago as a symbol of Latin America's success, their policy accomplishments made possible with the support of the United States.

Today, as our friends in the Andean region grapple with the problems of poverty, terrorism, drug trafficking, and the forces of political extremism, leaders in Washington squabble over unrelated issues that hold up speedy passage of the Andean Trade Preference Expansion Act. This trade measure is not controversial. Were it to face an up-or-down vote, it would probably garner 90 votes of support. But a political decision made with no consideration of the plight of our Andean partners—to bundle the noncontroversial ATPA into a trade package including trade promotion authority and trade adjustment assistance—is having stark consequences in Latin America at exactly the same time as the backlash against reformist economic Ecuador, Colombia, and Peru.

In Bolivia, the president of the country's coca-growers' association, an avid opponent of free market policies, won enough votes in the next presidential election to force a runoff against a more mainstream candidate, in defiance of all pollsters' predictions. In Colombia, a new President with a historic mandate for change needs our support against the narcoterrorists that threaten his government; strangely, we provide the aid his government needs. But not the trade that is so important to his people, and that costs America

nothing. In Ecuador, political instability grows as the spillover from Colombia's war and the depth of poverty threaten state institutions. In Peru, a democratically elected president who, as an opposition leader, stood down a dictatorship has been forced by popular pressure to fire the very reformers within his cabinet who hold the key to his country's development. America is not to blame for every setback on the road to free market, democratic governance in Latin America. But we are to blame when we abdicate our responsibility to advance our interests and support our friends with the trade preferences that they believe to be critical to their economic future.

Madam President, on Friday the New York Times ran a front-page story highlighting the growing political instability that increasingly haunts Latin American leaders who understand that their country's development hinges on a reform agenda supported by the United States. The article traces a political rift over free-market reforms that runs straight down the continent, from Venezuela to Argentina, and whose consequences threaten to upend the extraordinary progress Latin American reformers have made since they ended the era of military dictatorship and statist economics. I ask unanimous consent the Times article be printed in the RECORD, as well as an opinion piece by John Walters, our drug czar, entitled "Just Say Yes to ATPA."

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

[From the New York Times, July 19, 2002]

STILL POOR, LATIN AMERICANS PROTEST PUSH FOR OPEN MARKETS

(By Juan Forero)

The protest that shook this colonial city last month was very much like others in Latin America recently. There were Marxists shouting 60's-era slogans, and hard-bitten unionists. But there was also Fanny Puntaca, 64, a shopkeeper and grandmother of six. Though she had never before protested, Ms. Puntaca said, she could not bear to see a Belgian company buy what she called "our wealth"—the region's two state-owned electrical generators. So armed with a metal pot to bang, she joined neighbors in a demonstration so unyielding that it forced President Alejandro Toledo to declare a state of emergency here, suspend the \$167 million sale and eventually shake up his cabinet. "I had to fight," Ms. Puntaca said proudly. "The government was going to sell our companies and enrich another country. This was my voice, my protest."

Across Latin America, millions of others are also letting their voices be heard. A popular and political ground swell is building from the Andes to Argentina against the decade-old experiment with free-market capitalism. The reforms that have shrunk the state and opened markets to foreign competition, many believe, have enriched corrupt officials and faceless multinationals, and failed to better their lives.

Sometimes-violent protests in recent weeks have detailed the sale of state-owned companies worth hundreds of millions of dollars. The unrest has made potential investors jittery, and whipsawed governments already weakened by recession. The backlash

has given rise to leftist politicians who have combined pocketbook issues and economic nationalism to explosive effect. Today the market reforms ushered in by American-trained economists after the global collapse of Communism are facing their greatest challenge in the upheavals sweeping the region. "The most worrying reading is that perhaps we have come to the end of an era," said Rafael de la Fuente, chief Latin American economist for BNP Paribas in New York. "That we are closing the door on what was an unsuccessful attempt to orthodox economic reforms at the end of the 90's."

For at time the policies worked, and many economists and politicians say they still do. The reforms increased competition and fueled growth. Stratospheric inflation rates fell back to earth. Battered bureaucracies were replaced with efficient companies that created jobs. The formula helped give Chile the most robust economy in Latin America. In Mexico exports quintupled in a dozen years. In Bolivia, poverty fell from 86 percent of the population in the 70's to 58.6 percent today.

Still, the broad prosperity that was promised remains a dream for many Latin Americans. Today those same reforms are equated with unemployment and layoffs from both public and private companies, as well as recessions that have hamstrung economies. "We privatized and we do not have less poverty, less unemployment," said Juan Manuel Guillen, the mayor of Arequipa and a leader in the antiprivatization movement here. "On the contrary. We have more poverty and unemployment. We are not debating theoretically here. We are looking at reality." Indeed, 44 percent of Latin Americans still live in poverty, and the number of unemployed workers has more than doubled in a decade. Tens of millions of others—in some countries up to 70 percent of all workers—toil in the region's vast informal economy, as street vendors, for instance, barely making ends meet. Economic growth has been essentially flat for the last five years.

Popular perceptions—revealed in street protests, opinion polls and ballot boxes—are clearly shifting against the economic prescriptions for open markets, less government and tighter budgets that American officials and international financial institutions have preferred. A regional survey supported by the Inter-American Development Bank found last year that 63 percent of respondents across 17 countries in the region said that privatization had not been beneficial. "It's an emotional populist attitude people have," said Larry Birns, director of the Council on Hemispheric Affairs, a Washington-based policy analysis group. "It may not be reasoned, but it's real, and it's explosive and it's not going to be easily contained by coming up with arguments that free trade is the wave of the future."

In Brazil, South America's largest country and its economic engine, revulsion with American-led market orthodoxy has fueled strong support for the labor leader Luiz Inacio da Silva, known as Lula, who is now the front-runner in the October presidential election, to the chagrin of worried financial markets. In Paraguay protests last month blocked the \$400 million sale of the state phone company by President Luis Gonzalez Macchi, whose government has been dogged by a dismal economy and corruption charges. This week deadly demonstrations led the president to declare a state of emergency. In Bolivia the country's political landscape was redrawn this month when Evo Morales, an indigenous leader who promised to nationalize industries, finished second among 11 candidates for president. This spring, the sale of 17 electricity distributors in Ecuador fell through in the face of political resist-

ance, a blow to a country that has adopted the dollar as its currency and is heavily dependent on foreign investment. Meanwhile, in Venezuela, President Hugo Chavez's left-leaning government has been intent on scaling back reforms, exacerbating the divisions that led to his brief ouster in April. The backlash in many of these countries gathered momentum with the economic meltdown in Argentina, which forced a change of presidents after widespread rioting in December.

While the causes are multifold, many Argentines blame the debacle on a combination of corrupt politicians and the government's adherence to economic prescriptions from abroad that have left the country with \$141 billion in public debt, the banking system in ruins and one in five people unemployed. Argentines now look for possible salvation from Elisa Carrio, a corruption fighter in Congress who has been scathing in her criticism of the International Monetary Fund. She is now the early favorite in the upcoming presidential election. "This has created the backlash because now there's a debate all around Latin America," said Pedro Pablo Kuczynski, Peru's former economy minister and a favorite of Wall Street who resigned under pressure last week. "Everywhere you look people say, 'The guys followed the model and they're in the soup. So obviously the model does not work.'"

The backlash comes as foreign direct investment in Latin America has fallen steeply, dropping from \$105 billion in 1999 to \$80 billion in 2001. A big reason for the decline is that many big-ticket sales of state companies to private investors have already been completed. But economists like Mr. Kuczynski, who say market reforms must continue for capital-poor Latin economies to progress, are worried. Bolivia, for instance, was an early convert along with Chile in the 1990's to what is called the neoliberal model. It reined in loose monetary policies and shrank the government by unloading dozens of state-owned companies to private international investors. The results, particularly in taming inflation and reducing poverty, were impressive.

But in one of Latin America's poorest nations, it is hard for Bolivian officials to talk about progress to the wide portion of the population that continues to live in grinding poverty and feels that entitlements the government once provided in the form of subsidized rates for water and electricity have been stripped away. The better services that have accompanied the sale of state enterprises have left many indifferent, particularly in impoverished areas where residents have invested their own money and sweat to string up electrical lines or put in water pipes and drainage. "Clearly if you're poor and have no water, sewage and live in a rural area, having three long distance telephone companies when you have no phone lines doesn't make a bean of difference," Bolivia's president, Jorge Quiroga, acknowledged in an interview.

In Peru the resistance to privatization and market reforms is especially pronounced and, for its government, puzzling. Unlike most of Latin America, the economy here has steadily grown since Mr. Toledo's election in June 2001 as the government has continued sales of assets begun during the decade-long rule of Alberto K. Fujimori. Government officials say the program has been successful. Phone installation, which used to take years and cost \$1,500 or more, now costs \$50 and takes a day or two. Electrical service, once shoddy and limited, has spread across the country. The privatization of mines, which is nearly complete, has improved efficiency and output so much that employment in that sector and related ac-

tivities has increased to more than 60,000 today from 42,000 in 1993. But government belt-tightening also led to widespread layoffs. Mr. Toledo's government has been hit hard by protests and popular discontent, much of it fueled by its inability to alleviate poverty. Many have blamed the privatizations, seeing them as a vestige of the corruption-riddled presidency of Mr. Fujimori, who is now in exile in Japan.

Here in Arequipa, where the economy was already limping, when word came that the government was about to sell the two state-owned electric companies, Egasa and Egesur, people recalled that Mr. Toledo had campaigned on a pledge never to sell the companies to private owners. It did not matter that the government promised Arequipa half the sale price, and that the investor, the Brussels-based Tractebel S.A., would invest tens of millions of dollars more to improve services. The promises were not believed. Soon the workers federation, neighborhood organizations and university students organized protests, suspecting that higher electricity costs and layoffs were on the way. "Thanks to our fight, our perseverance, the government backed down," Alejandro Pacheco, a leader in the protests here, told a roomful of supporters this week. "Now we need to do this in the rest of Peru."

[From the Hill, Mar. 20, 2002]

JUST SAY YES TO ATPA

(By John Walters)

It is rare when an easy-to-understand, bipartisan foreign policy initiative that is embraced by all the countries involved and lauded by the Federal Government for its effectiveness is developed and passed into law. It is rarer still when such an initiative is allowed to simply slip away due to legislative indifference or neglect. Yet that could be the fate of one of our most effective South American policy initiatives.

On December 4, 2001 the Andean Trade Preferences Act (ATPA) expired. Although the House has voted to extend ATPA, the Senate has not yet acted. There is a temporary duty deferral in place, but if it is allowed to expire without being reauthorized, thousands of people in the Andean region will suffer—and we will have needlessly lost a valuable tool in our ongoing anti-drug efforts.

ATPA simultaneously furthers two important policy goals: stimulating legitimate economic growth while destabilizing the drug trade. To make progress in the fight against illegal drug production we must provide alternative and expanded job opportunities to support economic growth and democratic institutions in the Andean region. For the past ten years, ATPA has been a powerful trade tool in the fight against illicit drug production and trafficking by successfully helping our Andean allies (Colombia, Bolivia, Ecuador and Peru) develop legitimate commercial exports as alternatives to the illegal drug industry—an industry that supplies Colombia's leading terrorist group, the FARC, with an estimated \$300 million a year.

ATPA's benefits to the region's development are indisputable. In 1991, the last full year before ATPA was implemented, the United States imported \$12.7 billion in total commodities from the Andean nations. In 2000, the U.S. imported \$28.5 billion in total commodities from these nations, a 125 percent increase. One of the great successes tied to ATPA is the Andean region's development of a robust flower industry—an industry that is especially important because of the large number of economically distressed people it employs. There are often as many as ten employees per hectare of flower-producing land involved in cultivating the flowers for export. ATPA has also generated significant

job opportunities in other industries, such as fruits and vegetables, jewelry, and electronics. These new jobs draw workers who otherwise might have been drawn to drug-producing narco-terrorist groups for employment.

Our economy has realized direct benefits from this program as well. Under ATPA, U.S. exports to the Andean region have soared, growing by nearly 65 percent to a total of \$6.3 billion in 1999.

Now that the House has voted, the Senate should act quickly. The passage of ATPA reiterates our commitment to helping the Andean region develop economic alternatives to drug crop production. We know that drug production in this region is tied to our country's demand for these poisonous substances. But as we work to cut the demand for drugs in the United States, we must support our southern neighbors in their efforts to build their economies and promote democracy.

Last week the House also passed H. Res. 358, which expressed the support of Congress for the democratically elected government of Colombia and its efforts to counter terrorism. I applaud their actions and wholeheartedly agree that we must actively support our neighbors in Colombia and the Andean region. ATPA is a direct and tangible way for the United States to demonstrate this support.

Letting ATPA lapse would not just be a missed economic opportunity; it would be a threat to regional stability. Our goal is to help these countries create an economic and social environment in which legitimate industry, rather than narcotics cultivation and trafficking, is the norm. We have the opportunity to help our neighbors build and expand their economies and democratic institutions. Renewing ATPA is a top regional priority and a top anti-drug priority. I urge the Senate to act quickly.

Mr. McCAIN. Renewing the Andean Trade bill is the most immediate action we could take to remind our partners in the region of our commitment to reform and free markets. Unfortunately, Congress' inaction on ATPA is rightly viewed by our friends in the region as a symbol of America's unfortunate disregard for their plight in this difficult time. It is time we paid attention. I urge immediate action from the conferees to the trade bill to separate out and pass ATPA. This issue is critical to American leadership and economic growth in the Andean region, as its leaders will tell anyone who listens. America has too much at stake to turn our back on our Andean partners, who confront threats from terrorists, drugs, and poverty that threaten their governments and their people's future. Our friends in Peru, Colombia, Ecuador, and Bolivia cannot wait much longer.

Madam President, I do not want to hold up the progress of the Senate on this important prescription drug bill. But I think it is generally regarded as factual that we will probably not provide trade promotion authority or trade adjustment authority to the President of the United States before the other body goes out at the end of this week. That would be a terrible mistake.

I will come to the floor on Wednesday or Thursday and ask consent that we move, take up, and pass the Andean Trade Preference Act. I believe that is probably the only way we will get this

done before the Congress goes out for the August recess.

We have a serious situation in our hemisphere from Mexico to the Tierra del Fuego. Argentina, once the fifth largest economy in the world, is facing an economic crisis of incredible proportions. Venezuela is in a chaotic socioeconomic situation. Peru, Bolivia, and Ecuador are all in various stages of extreme difficulties. Colombia is in the midst of a civil war which at least, if they are not losing, they are probably not winning either.

This is a modest proposal. I have been visited by the leaders of these countries, and they say the following: We do not want aid, but we do want trade.

This is a trade agreement that was made by the first Bush administration. It should clearly be passed. It would get 90 votes in this body if it were up by itself. We should address it, move it forward, and do these nations a small favor. We could pay a very heavy penalty in terms of socioeconomic difficulties in our own hemisphere if we do not act quickly on this issue.

Mr. NICKLES. Will the Senator yield?

Mr. McCAIN. I am glad to yield.

Mr. NICKLES. Madam President, I wish to be associated with my friend and colleague from Arizona and thank him for his tenacity in raising this issue. The Senate is being very irresponsible in not passing the Andean Trade Preference Act.

I thank the Senator from Arizona. I will be happy to join him in making that unanimous consent request and ask that our colleagues join us in helping these four allies. I appreciate our friend from Arizona bringing the matter to the attention of the Senate.

Mr. McCAIN. I thank my friend from Oklahoma. I hope we won't have to do it. We owe it to these very great allies of ours in a very difficult time to act before we go out. The other body goes out at the end of this week.

I thank my colleague from Nevada for his indulgence. I thank my colleagues for their indulgence, and I yield the remainder of my time.

Mr. KENNEDY. Madam President, I commend our Senate leadership for moving so promptly to the consideration of the nomination of Dr. Richard Carmona to be Surgeon General of the United States.

Today, the U.S. Senate is in the midst of an historic health care debate. So it is appropriate that we consider at this time a nominee to this position of such crucial importance to the public health.

The Surgeon General is our Nation's doctor. He is our country's principal official on health care and health policy issues. He is the leader of the Public Health Service and the Service's Commissioned Corps, one of the seven uniformed services of the United States.

In fact, almost exactly 204 years ago, the Public Health Service was created on July 16, 1798. President John Adams

signed a law creating what was then called the Merchant Hospital Service for the care of sick or injured merchant seamen. Boston was the site of the first such facility, but the Service soon extended through the Great Lakes, the Gulf of Mexico and to the Pacific.

As our country grew in the 19th century, so did the Service. It was Service physicians who inspected the immigrants who arrived at Ellis Island. Even then, the Surgeon General was at the head of national disease prevention campaigns against cholera, tuberculosis, and smallpox.

When the Service was renamed the Public Health Service in 1912, it was the Surgeon General who was at the forefront in combating the great influenza epidemic of 1918. At a time when modern medicine was in its infancy, this epidemic took more than 600,000 lives, the worst epidemic in American history.

I raise this history to make a simple point. The Surgeon General has been, and continues to be, one of the most important jobs in our National Government. Our Nation has faced extraordinary public health threats in the past, and today, the challenges are just as grave.

Once, the threat was cholera. Today, it is AIDS. Smallpox threatened our cities in the 19th century. Today, it is bioterrorism. It will be the Surgeon General who will continue to promote and protect the health of all Americans.

Over the years, our country has been blessed with courageous and outspoken Surgeons General. They did not allow politics to blunt their work to alert the public to health threats. By speaking the truth about public health, they enabled millions of our fellow citizens to live longer, fuller lives.

We remember Dr. David Satcher's work on mental health and against the tobacco industry, and Dr. C. Everett Koop's historic leadership on AIDS. There is Dr. Julius Richmond's pioneering work on Head Start and, of course, Dr. Luther Terry's landmark report on smoking.

These are big shoes to fill. But today, our country needs another such champion of public health. We need a strong and independent Surgeon General who will put public health first, and leave politics and ideology well behind.

In this new century of the life sciences, the Surgeon General must help us take the breakthroughs at the lab bench and ensure they improve the lives of all Americans. He must lead our country in preventing tobacco use by our children and youth, expanding access to health care, ending disparities in health care among our nation's communities, improving childhood immunization rates, preparing for the threat of bioterrorism, and preventing the spread of the AIDS epidemic.

These are heavy responsibilities, and they demand an individual of extraordinary expertise and experience, who has demonstrated a strong commitment to improving the public health.

Dr. Carmona comes to us with an impressive background. He has taken on many important responsibilities. He is a trauma surgeon, a decorated police officer, a former health care administrator, and a former Green Beret. He is a father of four children. In addition to his heroic service in the Army and as a law enforcement officer, Dr. Carmona made his professional mark in the fields of trauma care and bioterrorism preparedness.

The Committee carefully considered Dr. Carmona's nomination. In both his oral testimony and in response to written questions from the Committee, he satisfactorily addressed all the tough questions that would be expected for someone nominated to this important position.

Dr. Carmona impressed us with his commitment to preventive health, and made particularly clear his intention to aggressively oppose tobacco use by our children and youth and to combat the HIV/AIDS epidemic.

Dr. Carmona is a trauma surgeon and nurse by training. But he has assured us that he will also listen to, and learn from, the greater public health community. There is an army of health professionals and educators in our country eager to help him do his job. There is an army waiting to be led in the campaign for better health.

I would close by noting that Dr. Carmona is endorsed by the National Safe Kids Campaign, the National Alliance for the Mentally Ill, the American Medical Association, the American Dental Association, and the National Hispanic Medical Association.

For these reasons, I support Dr. Carmona to be Surgeon General of the United States, and encourage my colleagues to vote in favor of his nomination.

Mr. KYL. Madam President, I rise in support of the nomination of Dr. Richard Carmona to be Surgeon General. He is clearly the person we need at this critical time for this position.

Dr. Carmona is exceptionally qualified for this important position. The President has announced that the new Surgeon General will address a number of important health issues, among them, helping America prepare to respond to major public health emergencies, such as bioterrorism.

Dr. Carmona's education and extensive career in public service have prepared him to lead ably on all health issues facing Americans today. He received his medical education from the University of California at San Francisco and a Masters of Public Health at the University of Arizona. He is currently a Clinical Professor of Surgery, Public Health, and Family and Community Medicine at the University of Arizona, as well as Chairman of the State of Arizona Southern Regional Emergency Medical System. Dr. Carmona has published numerous scholarly articles on such varied subjects as emergency care, trauma care and responses to terrorism.

He is also currently a Deputy Sheriff in the Pima County Sheriff's Department SWAT team and the National Association of Police Organizations named him the Nation's Top Cop in 2000.

Dr. Carmona has also been an administrator of a community hospital. Additionally, he was a Special Forces Medic and served in Vietnam, where he received the Bronze Star, two Purple Hearts, and a Combat Medical Badge.

As you can tell, Dr. Carmona not only has the medical experience to be Surgeon General, but also other expertise that will be necessary for the Surgeon General position at this crucial time. Unfortunately, one of the key areas Dr. Carmona will be involved in is bioterrorism. He will provide valuable leadership in helping to prepare the United States for possible future attacks. It is very important for America to be able to turn to trusted leaders if such a terrible event should occur and Dr. Carmona has the experience and skills necessary to respond to such events.

I have no doubt that Dr. Carmona will be an excellent Surgeon General and help our nation deal not only with bioterrorism, but other pressing issues such as alcohol and drug abuse, and overcrowding in hospital emergency rooms. Dr. Carmona will also be able to bring guidance in these other critical areas. His experience in trauma care will help guide him in dealing with the multitude of problems that are affecting hospital emergency rooms. I urge every Senator to support his confirmation.

Mr. DOMENICI. Madam President, I rise today in support of Dr. Richard Carmona, the President's nominee to be the Surgeon General of the United States.

The job of Surgeon General is a challenging and evolving one. The traditional requirements of disease prevention and health promotion continue to be vitally important. We must have a Surgeon General who is qualified and prepared to address these issues.

However, in this post-September 11 world, being the chief Public Health Officer also involves addressing the very real threat of bioterrorism. Therefore, it is imperative that our Surgeon General have the background and ability to deal with this new threat.

Fortunately, the President selected a candidate for this position who is uniquely qualified to address all of these requirements of the job. I won't attempt to recite all of his numerous accomplishments and qualifications, but I would like to briefly touch on a few, simply to illustrate why I believe this is the right man at the right time for this job.

Dr. Carmona's educational background, with a medical degree and a Masters in Public Health, provides a solid foundation. It is his experience, however, that solidifies his qualification for this position.

Dr. Carmona has a tremendous amount of hands-on experience as a

trauma surgeon, professor, and medical director of the Arizona Department of Public Safety Air Rescue Unit. His experience as a professor at the University of Arizona has given him the opportunity to teach about public health, surgery, and family and community medicine. As a result, he has spent a great deal of time dealing with those more traditional aspects of the job.

As for the more recent responsibilities that come with being named Surgeon General, Dr. Carmona has been working on the issue of bioterrorism since the mid-1990's. He has worked to develop seminars on bioterrorism for medical students. Furthermore, he recognizes the importance of coordinating the schools of public health with other local agencies to prevent and respond to potential threats.

While I could spend much more time touting the qualifications of Dr. Carmona, I will instead end by saying I am thankful that this remarkable American has answered the President's call to serve.

As a New Mexican, I am pleased to extend a neighborly welcome to someone else from the great Southwest. As a U.S. Senator, I am proud to cast my vote to confirm him as the Surgeon General of the United States.

Mr. MCCAIN. Madam President, I rise in strong support of the nomination of Dr. Richard Carmona to be Surgeon General of the United States.

Dr. Carmona's inspiring story is the living embodiment of the American dream. A high school dropout, Richard Carmona first served our nation with the Special Forces in Vietnam, where he became a decorated Green Beret. Upon his return, he obtained his high school equivalency and became the first member of his family to graduate from college. He went on to become a nurse and later enrolled in medical school, specializing in trauma surgery.

When he graduated, Dr. Carmona relocated in Tucson, Arizona, and established southern Arizona's first trauma center. Later he continued his education, obtaining a master's degree in public health from the University of Arizona, where he now serves as a member of the faculty. As a professor, Dr. Carmona shares his knowledge and experience in clinical surgery, public health and community medicine with our nation's future doctors.

Always in pursuit of more challenges, in 1986, Dr. Carmona joined the Pima County Sheriff's Department as a surgeon and a part-time SWAT team leader. Today, Dr. Carmona is a celebrated Deputy Sheriff. In fact, he has received the honor of "Top Cop" from the National Association of Police Organizations, and is one of the most decorated policemen in Arizona.

In addition to his service, Dr. Carmona is a motivating community leader. He has stressed the importance of local preparedness, and warned of the dangers of a biological assault long before September 11. After the terrorist attacks, Dr. Carmona recognized the

psychological impact of the events on Tucson residents, and coordinated a team of mental health experts to assist them in dealing with the associated trauma. Due to his bioterrorism experience, he was also put in charge of implementing southern Arizona's bioterror and emergency preparedness plans.

Although Arizona will surely miss this phenomenal man, and I know he will miss Arizona, in Richard Carmona, our nation will gain an invaluable leader. With his military and law enforcement background, coupled with his demonstrated commitment to public health and community preparedness, Dr. Carmona is extraordinarily, perhaps uniquely qualified to address the needs of our nation as Surgeon General.

I urge all of my colleagues to favorably support this outstanding nominee. The PRESIDING OFFICER. Is there further debate on the nomination? If not, without objection, the nomination is confirmed.

The nomination was confirmed.

Mr. KENNEDY. I ask unanimous consent that the motion to reconsider the vote by which the nomination was confirmed be laid upon the table, and the President be immediately notified of the action.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The Senator from Oklahoma.

PRESCRIPTION DRUGS

Mr. NICKLES. Madam President, how much time remains on both sides on this issue?

The PRESIDING OFFICER. Forty-six minutes.

Mr. NICKLES. Does that include 46 minutes prior to the lunch break? Is it 23 minutes a side?

The PRESIDING OFFICER. It is evenly divided.

A PRESCRIPTION DRUG BENEFIT

Mr. NICKLES. I will be brief and yield myself 5 minutes.

Madam President, I hope this week the Senate will be able to pass a positive prescription drug proposal. It may be mission impossible. I wish that was not the case.

If we would have done it the ordinary way, the regular way, the way we have handled almost all Medicare bills in the last 20-some years, every single one except for one, it would have gone through the Finance Committee and been reported out with bipartisan support. Frankly, that bill would have been the basis, the foundation for reporting a bill that would eventually become law.

Unfortunately, we were not allowed to do that in this case. This particular bill happens to be probably the most important and the most expensive expansion in Medicare history, more expensive than any other changes and amendments we have made to Medicare since its creation in 1965. Yet we haven't had a hearing in committee on this proposal or the other proposals. We haven't had a markup. We had some bipartisan meetings, but we didn't have a chance to have a bipartisan markup. Maybe it is because it was likely that the product to be reported wouldn't have been what the majority leader wanted. It would have been a majority of the members of the Finance Committee.

I am very troubled by what we see in the Senate time and time again. If we have a committee that may not report something that the majority leader wants, we don't let the committee work. That happened earlier this year when we had a very extensive, expensive energy bill. Twenty-one members of the Energy Committee didn't get to offer an amendment. Now we have 19 members of the Finance Committee who have not reviewed this product or didn't have a markup on this product.

We are going to be voting at 2:45 on a bill that was introduced by Senator GRAHAM and Senator KENNEDY and Senator DASCHLE and others. It is 107 pages. The committee has not reviewed this. We didn't have a hearing on it.

I guess we now have somewhat of a scoring by the Congressional Budget Office, and they say it is \$594 billion over the next 10 years. We find out it doesn't go 10 years. This is a benefit that is started but stopped. It doesn't start until the year 2005, but it stops in the year 2010. So we are going to pay part of your prescription drugs, but we are going to stop after a few years.

I find that to be very hypothetical at best. In fact, it wouldn't happen. Once you start an entitlement program, you never stop it, especially one that would be as popular as this.

But what are we starting? Some of us were estimating that the Democrat proposal, as originally outlined—I say “the Democrat proposal”; Senator GRAHAM and some Democrats are supporting other proposals, but the Graham-Kennedy-Daschle proposal was going to be a lot more expensive than \$600 billion.

Keep in mind the budget we passed with bipartisan support last year called for \$300 billion. Keep in mind the President requested \$190 billion. Yet now we find one at \$600. I thought it would be more expensive. The reason why it is not is because they decided to ration prescription drugs.

If our colleagues would look on page 62, it says:

The eligible entity [health plan] shall . . . include . . . at least 1 but no more than 2 brand name covered outpatient drugs from each therapeutic class as a preferred brand name drug in the formulary.

In other words, you can come up with one, maybe two drugs in each therapeutic class. For arthritis there must be a dozen drugs. For blood pressure there must be at least eight or nine or ten brand name drugs. Only one or two are going to get payment. The rest of it, you are on your own. If you are not the Government-chosen drug, I am sorry patients, you don't get any help from the Federal Government. You don't get any help from this new drug benefit. You are out of luck. You are on your own.

The beneficiary is responsible for the negotiated price of the nonformulary drug:

In the case of a covered outpatient drug that is dispensed to an eligible beneficiary, that is not included in the formulary established by the eligible entity for the plan, the beneficiary shall be responsible for the negotiated price for the drug.

In other words, beneficiary, you pay 100 percent. You choose or take the Government-selected drug, which would be a very small percent. Maybe that would cover about 10 percent of eligible drugs in the entire population. If you don't get that drug, you are out of luck. You are responsible for 100 percent.

I could go on and on. We are limited on time. I have several speakers on our side who wish to address this. This is one of many serious mistakes that are in this bill. It is one of the mistakes we made by following the process of not marking it up in committee. I am sure if it had been discussed in the Finance Committee, we would have modified it. Unfortunately, we didn't have that chance.

If I thought this were going to pass, we would be talking about it a lot more because it has several fatal flaws that would be very injurious to America's health. It would mean rationing of prescription drugs; certainly something that we don't want to do.

I urge my colleagues to vote no on the Graham-Daschle-Kennedy amendment at 2:45.

I yield the floor.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Graham Amendment No. 4309, to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program.

Hatch (for Grassley) Amendment No. 4310, to amend title XVIII of the Social Security

Act to provide for a Medicare voluntary prescription drug delivery program under the Medicare program, and to modernize the Medicare program.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I point out to my friend from Oklahoma that there are no provisions in his bill that are going to require the insurance companies to provide more than two drugs in any therapeutic group in a formulary. There is none. What is beyond that is what the cost will be.

In our bill, if the doctor recommends that a patient have a particular brand name drug that is not on the formulary, the patient can have it. We write in our bill how much that patient will pay, which is \$40. But there is no such provision in the bill the Senator is talking about.

The Senator cannot show in his bill what the premiums are, what the cost is for premiums, deductibles, or the copay. It is going to be what the insurance company wants to do. It is a blank check for the insurance companies. There is no provision in there that indicates what the costs will be. That is the big difference.

Under the Graham proposal, which was spelled out in great detail last evening by Senator GRAHAM and others, beneficiaries will be able to get that off-formulary drug, and the price will be \$40.

On page 29:

Treatment of medically necessary nonformulary drugs will be whatever is medically necessary.

Madam President, I withhold the remainder of my time.

Mr. NICKLES. Madam President, I believe under the unanimous consent request, we had Senator GREGG managing the time. Senator GRASSLEY will manage the remainder of the time.

Mr. KENNEDY. I yield 15 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I was listening to the comments made by my friend from Oklahoma. It is too bad he wasn't here in 1965 because he could have joined the chorus of voices on that side of the aisle that argued against Medicare. He would have fit right in. If you read the debate, it is almost like listening to it again. So it is too bad my friend wasn't here in 1965. He could have led the charge against Medicare.

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. I only have 10 minutes.

Mr. NICKLES. I was wondering why you were guessing what I might have done in 1965.

Mr. HARKIN. I am just taking it from your approach here because you want to basically—what the Senator is saying is he wants to turn this over to the insurance companies. A lot of people wanted to do that in 1965, to turn Medicare over to the insurance companies.

Mr. NICKLES. If the Senator will yield further—

Mr. HARKIN. I will yield when I get done.

Mr. NICKLES. I would appreciate it, if my colleague is questioning my motives—

Mr. HARKIN. The point is, the Senator from Oklahoma and other people on that side are saying turn it over to the insurance companies. He talks about rationing, but what the Republicans want to do is give private insurers a free ride, charge seniors whatever they want, and then they will be able to tell them what drugs they take. That is what the insurance companies do now anyway.

Look at the debate on Medicare. Turn it over to the insurance companies. You can just go back to 1935 and look at the debate on Social Security. We have heard the same echoes all the time down through the years that we cannot do this. Well, it is time we do it. It is time we make good on the promise to 44 million Americans who rely on Medicare.

The choice is very clear: You either do it under Medicare, which is proven and has a proven track record; it cuts out all of the middlemen in the middle ground and gets the drugs right to seniors, or you can go in the other direction and say we will do it through the insurance companies, which is exactly what the bill on the Republican side proposes to do.

I know a little bit about this personally. My father was quite old when I was born. When I was in high school, my father was already in his late sixties, and he had worked just enough quarters to qualify for Social Security. He worked most of his life in coal mines, but during the war and right after the war he worked enough just to qualify for Social Security. But he would get sick every winter. We didn't have drug coverage. He would go to the hospital, and thank God for the Sisters of Mercy, who would take care of him and send him back home again. I happened to be in the military in 1965 when Medicare passed. I came home on leave and saw my father, and he had his Medicare card. Head held high, he could go in and be taken care of without relying on charity. But the one thing that was missing was prescription drugs.

My father is long gone, but for others since that time, the one thing that is missing is prescription drugs. I have never been able to understand why it is that if you get sick and you go to the hospital, Medicare pays for all your drugs, but if you want to stay healthy, stay at home, Medicare won't pay for your drugs. That has never made sense to me. It seems to me you would want to get the drugs to the elderly to keep them as healthy as possible, to keep them at home, so they don't go to the hospital.

My friend from Oklahoma mentioned rationing. We hear rationing, rationing. I say to my friend, go to Iowa right

now and talk to the low-income elderly in Iowa. Here is their rationing. They cannot pay for their prescription drugs.

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. They cut them in half, or they decide whether or not to pay their heating bills in the winter or take their drugs; and when they have to cut back on their drugs, they get sicker and sicker, and they go to the hospital, and of course then Medicare pays for all their drugs.

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. I said I will yield when I get through with my statement.

So the Graham-Miller proposal is the one that does it through Medicare. It is the one on which seniors can rely, and it is rock solid.

This is the proposal the Republicans have right here on this chart.

For example, they say, under their plan, a senior with \$1,000 in drug care costs still pays \$913. That is 91 percent that they still have to pay. And 18 percent of seniors have drug costs of about \$250. Under this, they would pay everything. Eighteen percent have drug costs of \$1,000. Under the Republican proposal, they would pay 91 percent, \$913. Seventeen percent of seniors have \$2,000 in drug costs a year. Under the Republican proposal, they would pay \$1,413, or 71 percent. Twenty-three percent of seniors—about one out of four—have \$4,000 a year in drug costs. Under the Republican bill, they would pay \$2,688 out of pocket, or 67 percent. If they have \$5,000 in drug costs, they are going to pay 74 percent out of pocket. What kind of insurance is that, where you are paying 91 percent, 71 percent, 67 percent, or 74 percent out of your own pocket? Would you buy insurance like that?

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. Would you buy any kind of insurance—say a homeowners policy, and if your house burned down, you would pay 91 percent? Or if your car gets wrecked and it has to be fixed up, you would pay 71 percent of the fees. What kind of insurance proposal is that?

It is nonsense, not insurance. It is just another rip-off for the drug companies. Again, this does not provide adequate coverage and it doesn't contain costs.

Two weeks ago, I had a roundtable discussion in Iowa with insurers, business leaders, and consumers about drug costs. They were united in saying that not only are rising drug costs hurting seniors, they are a growing problem for employers trying to maintain affordable health insurance for workers. It is a problem for younger workers, feeling the pinch of higher health insurance premiums and cost sharing as a result. These Iowans were adamant, saying that any bill we pass has to have some new tools to hold down the rising drug prices.

Only the Graham-Miller bill makes progress toward cost containment. It

includes a bipartisan plan that will close the loopholes that have allowed drug companies to block lower cost generics from coming on the market. It addresses the issue of the 30-month rollover that they get all the time. The bill on that side doesn't do that. It is crucial because generic drugs cost a fraction of what the name brand equivalent costs, and they are just as safe and effective. But only the Graham-Miller bill addresses that issue of bringing generics on the market and providing for that competition with brand names.

The Graham-Miller bill has the Stabenow amendment, which will allow States to provide the discounts they get through Medicaid to others in the State, including seniors.

There is also the important Dorgan amendment, which says drugs could be reimported from Canada by pharmacists. If you want to know how important this is, talk to my friend Marie, a 67-year-old retired nurse from Council Bluffs. She dedicated 43 years of her life to helping others. She told me she is lucky compared to her friends because she is only on three medications. She recently got an advertisement from a drug company in Canada that would sell her drugs to her for less. She did some research and got a prescription from her doctor. She is saving over \$80 a month right now.

She has a friend who takes tamoxifen, an anticancer drug for breast cancer. She tried buying her tamoxifen from the Canadian company. In the United States, it cost her \$319 for a 3-month supply. It cost her \$37 from Canada.

The problem with that is that individuals are doing that, and they are leaving out their local pharmacists. It is vitally important for the elderly to have communication and a relationship with their local pharmacist to make sure they are taking the right drugs and the right dose.

While I think it is fine for seniors to get their drugs from Canada reimported, we have to make sure local pharmacists can do the same thing. Let them reimport the drugs from Canada at that same price. The Republican bill does not do that, but the Graham-Miller bill does.

Today we have a chance to pass a bill that will contain costs, that will provide affordable and reliable prescription drug coverage without gaping holes. We have the chance to make sure we bring generics on the market sooner to provide competition and to let our pharmacists reimport drugs from Canada at a cheaper price for our consumers.

All of that is in the Graham-Miller-Kennedy amendment, not in the Grassley-Breaux-Jeffords, et al, amendment. If you want good coverage, if you want to close the loopholes, vote for the Graham-Miller bill and not the fake substitute on the other side.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator's time has expired.

Who yields time? The Senator from Iowa.

Mr. GRASSLEY. Madam President, I yield 1 minute to the Senator from Oklahoma, and then I would like to immediately yield 9 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Madam President, I do not intend to object. If the Senator from Oklahoma should be provocative, which for a moment or two he might be, I hope I can yield a moment to the Senator from Iowa just to be quiet, calm and reserved, and then go to the 9 minutes for Senator BREAUX.

The PRESIDING OFFICER. The provocation standard is recognized. The Senator from Oklahoma.

Mr. KENNEDY. Do we have that understanding?

Mr. GRASSLEY. I agree.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, people are entitled to their own opinion, but they are not entitled to their own facts. The tripartisan bill—and I will let Senator GRASSLEY and Senator BREAUX and others defend it—says for people with incomes less than 150 percent of poverty, the Federal Government, or this new plan, will pick up 95 percent of the drug—95 percent.

Under the Democrat proposal, if you do not have the Government-chosen plan or prescription drug, you get zero. Zero. Not 9 percent, not 50 percent.

The chart the Senator from Iowa has is incorrect. Under the basic plan, if you have an income above 150 percent of poverty—in other words, above \$20,000 for a couple—the Federal Government picks up half the prescription drug cost up to \$3,450—half, 50 percent—and you choose your drug, not the Government choosing the drug. There is a big basic difference in this plan. You get to choose the drugs, not the Federal Government.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I ask for 1 minute to respond.

Mr. KENNEDY. I yield 1 minute.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I heard the Senator from Oklahoma. Talk about a Harry Houdini magic trick and trying to pull a funny curtain over issues. If you are below 150 percent of poverty, then it picks up 95 percent, but what he is not telling you is there is an assets test.

Take someone in Iowa who has an automobile worth \$4,500. We need cars in Iowa. We do not have mass transportation. If you have a \$4,500 car, you are not eligible for less than 150 percent of poverty. That is the assets test. If you have a burial plot worth \$1,500, then you are out of the 150-percent poverty test; \$2,000 worth of furniture, you are out. They are not telling you that. Have him stand up and tell you about the assets test and tell my elderly in

Iowa, many who are below 150 percent of poverty, that they cannot have a \$4,500 car, that they cannot have a \$1,500 burial plot, that they cannot even have \$2,000 worth of furniture in their house. If they do, they do not qualify. Go ahead and tell them that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. WELLSTONE. Madam President, with my colleague's indulgence, I ask unanimous consent that I follow the Senator from Louisiana for 5 minutes.

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

Mr. BREAUX. I thank the Chair. Madam President, I thank my colleague for yielding me time.

On this amendment, on the argument in which the two colleagues were engaged, there is already an assets test for Medicare. The assets test is part of the concept of delivering health care in this country. If someone has low income but has assets—a house in Florida, a large bank account, investments in stock—those assets are always considered to determine whether a person is eligible for Medicaid. We have all supported that. It is not new.

The purpose of my taking the limited time that I have is not to criticize the other approach because our approach cannot be good just because the others are deficient. The tripartisan plan should be able to stand on what it stands for, not because the Graham plan is deficient in any particular area. So I am not going to spend my time talking about any perceived deficiencies in their plan but rather explain what we have presented to the Senate.

Legislating is the art of the possible. It is not trying to get something done that cannot happen. There are a number of proposals trying out how we are going to do what everybody thinks we should do, and that is an attempt to provide some reform to Medicare and at the same time do what we should have done in 1965, and that is to cover prescription drugs under Medicare.

Prescription drugs today are equally as important as a hospital bed was in 1965. Mostly that is on what Medicare tried to focus. It should cover prescription drugs, we all agree. There are various proposals as to how we should do that, ranging from \$150 billion over 10 years, the Hagel proposal from the Republican side; the House has a plan for about \$350 billion which includes provider givebacks; the Graham proposal is \$594 billion dollars; our proposal is Medicare reform and a prescription drug plan that is about \$370 billion, which I think fits between the various proposals.

Every one of us should remember from where the money is coming. The money on any plan is coming from the Social Security trust fund. Our plan, the Graham plan, the Hagel plan—all of it is taking the money for the people today out of the trust fund for Social Security for our children and our

grandchildren. That is from where it is coming.

I can say I want \$1 trillion, but from where is it coming? We have to be realistic in these economic times to recognize there is not a whole lot of money floating around that we can do with what we think is appropriate without doing grave damage to the Social Security trust fund for our children and our grandchildren.

What we have tried to do in the tripartisan approach is to figure out what is a good drug delivery system and what is an affordable price. I mentioned the price we have is about \$370 billion, which includes about \$30 billion for reforming Medicare, which desperately needs reforming.

The model we have used is to ask: What has worked? One approach that has worked is the health care plan I have as a Senator—it is a pretty good plan; we wrote it—as do about 9 million other Federal employees. It is contained in the Federal Employees Health Benefits Plan that we get every year. We get to choose our drug plan or our health plan. We have private contractors come in and say: This is what we can offer to provide you health care at this price.

What we have tried to do in the tripartisan plan is say let's combine the best of what Government can do with the best of what the private sector can do. Some of my colleagues on this side of the aisle would say the private sector should do everything—keep the Government out of it. Some on my side of the aisle will say we need to have a Government-run program because nothing else is going to work.

The truth is, the best of what both can do needs to be combined, and that is exactly what the tripartisan plan has attempted to do. We combine the best of what Government can do, i.e., helping to raise the money to pay for it; No. 2, supervising it to make sure nobody in the private sector tries to scam it; to have Government controls and Government approvals over all segments of participation, and then what the private sector can do is bring about innovation and bring about competition to help keep costs down. So that is the proposal we have before the Senate.

Some have said that is not going to work because the big insurance companies are somehow going to try to rip off the beneficiaries in this country. Well, there are insurance companies right now that provide Medicare to beneficiaries, which is supervised by the Federal Government. Blue Cross and Aetna regularly provide all of the benefits, the hospitals and doctor coverage, under a contract with the Federal Government.

What we are saying is have the same type of delivery system for prescription drugs but have the plans have some of the risks. We are talking about Blue Cross and Blue Shield, Aetna and Merck-Medco, national operations that are big boys in this business. Under the Graham plan, they say we are going to

have a management contract with them, but if they overshoot their costs and their costs are more than they say they are going to be, the taxpayer is going to pay the difference. The difference in our plan says these guys are big players and if they say they can provide prescription drugs for \$100 per beneficiary, and it ends up costing \$102, they are going to have to assume the risk. They are going to have to eat their mistake, not the taxpayers of this country.

Why is that important? It is important because if they know they are on the hook for some of the risk, they are going to have an incentive to negotiate the best possible price with the pharmaceutical companies in order to make sure the price they say they can do it for is, in fact, that price or even less. They will then have an incentive.

What kind of an incentive does a provider have if they know when they bid costs more than that, the taxpayer is going to pick up the cost? That is exactly what the other approach does and why I think the approach, by saying these companies should have some of the risk, not all of it, but they ought to have enough risk to make sure they negotiate and compete, and that is one of the differences in our plan.

All of this is done under the supervision of the Health and Human Services Secretary to make sure the plans they present do not try to scam the beneficiaries, do not try to cherry-pick only the healthiest. The Government can do that, and in our plan the Government does that.

One of the other concerns I have had is that people have said it is not going to work in rural areas; Medicare+Choice does not work in rural areas. And that is true. One of the reasons is that Medicare+Choice has to do a lot more than just provide prescription drugs. They have to have a hospital in a rural area, doctors, emergency rooms, ambulance services, all the things that are necessary to create a health care system in a rural area. As the Presiding Officer knows, that is a very difficult challenge.

If only prescription drugs are being delivered, that infrastructure is not needed. The only thing that is needed is a doctor to write a prescription and a drugstore to fill it, or a mailbox if one chooses to do it by mail order. The entire infrastructure is not needed as it is under Medicare+Choice.

What we say in the bill very clearly is that every administrator shall, consistent with the requirements, approve at least two contracts to offer a Medicare prescription drug plan in an area. What that means is that every person, even in the most rural part of America, has to have at least two people or two companies offering prescription drugs to the people in that area. If only one bids, the Government can make the assumption of the risk even greater until one gets at least two plans to compete. If one ends up with only one, the Government will be the one that provides the other alternative.

So rural areas are protected. Can't we tighten that up? I am certainly willing to try and do it. I think we state very clearly that every part of the country has to have at least two plans offered to them on a competitive basis. That is what the law would be. The Government has to make sure that there are two plans, and if someone does not get two plans, then the Government will come in and offer the prescription drugs to the people in the area.

Under the Federal Employees Health Benefits Plan, pick the most rural part of New York or the most rural part of Montana and there is a Federal employee who probably works in one of those counties that has Federal health insurance. They get it in the most rural part of this country, under a system that utilizes private contractors to provide it. They get their prescription drugs under the Federal Employees Health Benefits Plan.

The other part is that people have said there is too much flexibility in our plan. Every plan that everybody gets, including mine, has flexibility of choice. We can pick the plan that is actuarially equivalent and pick the one that makes the most sense for us.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 9 minutes.

Mr. BREAUX. I would conclude by saying I think we have offered something that is possible, that is doable and that we can actually adopt. I think that is a good suggestion this body ought to take under consideration.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, Eli Lilly has a discount card. It is called Lilly Answers. The card is supposed to give low-income seniors a 30-day supply of any Lilly drug for a \$12 fee. Sounds like a great deal, but when one reads the fine print, it turns out that a lot of drugs are excluded.

Noland Decks from Winona sent me this letter about his sister:

I am writing to relate to you the prescription medicine situation for my sister, Hazel Decks, who has Parkinson's disease. Her income is such that she has qualified for the Lilly Answers program which is supposed to give her a one month supply of Permax for \$12. When I approached the pharmacy to get her prescription refilled, I was informed that Eli Lilly has chosen to exclude this medication from the program, in spite of the fact that the bottle says it is manufactured by Lilly. I contacted Lilly and could find no one who would explain why. I now believe that they will not allow it because it is too expensive. The 30 day supply costs Hazel \$375.

For Parkinson's medication. I had two parents with Parkinson's disease.

Her Social Security check is \$479 a month.

I give this example because in 5 minutes I cannot even begin to cover the ground, but there are about three or four thoughts that come to mind as we come close to a vote. First, I do not think, based upon what we have seen in the last month or two, anybody any longer would believe that the Arthur

Andersens of this world should be writing any kind of reform legislation when it comes to securities reform, when it comes to protecting investors and consumers. I do not believe that hardly anybody in the Senate would argue that when it comes to a clean air bill or a clean water bill that environmental polluters should write that legislation.

So it is, I do not believe that the pharmaceutical companies ought to be writing a prescription drug benefit plan. I think it is a mistake.

What are the differences? I will not go through all the numbers. Everybody has heard the numbers. To me, the differences are as follows: In the Graham-Kennedy-Miller plan, at least there is a defined benefit. Does it sound familiar, a "defined benefit"? Not defined contribution. Senior citizens' prescription drug coverage is part of Medicare. It is a defined benefit. They know what they are going to be eligible for and they are going to have the coverage.

The competing proposal basically has the Federal Government farming out a subsidy to private health insurance plans, Medicare managed-care plans, and basically saying we hope to give enough of a subsidy that they then will provide the benefit. It is a suggested benefit. It is not a defined benefit. There is no security for senior citizens with this alternative.

For my own part, I will go one step further. When there is too high a deductible or there is a doughnut hole where a lot of seniors are worried about what they are going to do about these expenses as they run up \$2,000, \$3,000, \$4,000 a month, that is the other big issue. We do not want to have a huge gap where people get no coverage, and that is exactly what is in the competing proposal.

Finally, I say to all of my colleagues, which is a different point, but I get a chance to say this, I want to see us do better on discounts and cost containment. I want to see us for sure support the Schumer-McCain amendment on generic drugs. I want to make sure this reimportation from Canada actually is put into effect—it looks like the administration does not want to—because of the huge discount for senior citizens and other seniors as well. I would personally like to see the Federal Government become a bargaining agent for 40 million Medicare recipients, and in the Graham-Kennedy-Miller bill there is allowance for the different managers around the country, benefit managers to do that work getting discounts. I want to see the States building on the Stabenow amendment and see States able to recoup some of the savings they get from exacting a discount for people with no coverage now and adding that on to medical assistance.

Colleagues, what is going on is there are quite a few Senators in good faith—I don't assume bad faith—who do not believe there is a major government role here. They do not believe this ought to be part of Medicare. They are

not quite sure they believe in Medicare, though it has been an enormously successful program. We should extend prescription drug benefits to Medicare and make it a clear, defined benefit that is affordable for senior citizens. That is the right thing to do.

I yield the floor.

Mr. FRIST. Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator from Tennessee has 5 minutes and 40 seconds.

Mr. FRIST. And the other side?

The PRESIDING OFFICER. Three minutes 55 seconds.

Mr. FRIST. I yield myself 3 minutes.

Madam President, soon we will vote on one of the most important matters facing the Nation—whether to provide within Medicare a prescription drug benefit. In order to strengthen Medicare, we must include affordable prescription drug coverage as part of the package. Too many seniors today find prescription drugs unaffordable. The high cost of prescription drugs serves as a barrier between seniors and the health care security they deserve—which this body has promised them.

There is only one proposal that accomplishes the goal of modernizing Medicare and including a prescription drug benefit within Medicare: that is the tripartisan bill. Senator SNOWE, a Republican, BREAX, a Democrat, JEFFORDS, an Independent, HATCH, a Republican, GRASSLEY, a Republican, COLLINS, a Republican, and LANDRIEU, a Democrat, collectively have sponsored this bill which reduces the cost of prescription drugs and provides a stable and sustainable prescription drug benefit. The word "sustainable" is critical.

The tripartisan bill provides low-income seniors and those with initially high drug costs special additional coverage in order to give them security. It expands and improves Medicare benefits under the traditional Medicare fee-for-service program that seniors and individuals with disabilities are comfortable with and understand today. It begins the critical element of instilling competition as we seek to add a new benefit—which means prudent decisionmaking will be made. The tripartisan bill is designed to be permanent, sustainable, affordable and responsible. Even though the cost—\$370 billion—goes beyond what was intended in the initial budget, I believe it is a reasonable first step.

In closing, the tripartisan bill is not perfect, but it is clearly more responsible than the alternative bill. Many think \$370 billion, the cost of this bill, is high. And it is high, especially since it is not coupled with as much reform as I think will be required to ultimately strengthen Medicare. Additionally, the bill lacks some of the necessary reforms that are needed to make Medicare truly sustainable—considering that the number of seniors will double in the next 30 years. Finally, the bill is not immediate, but neither is the alternative bill.

The time to help seniors is now. We must act now, act responsibly, and implement a plan that can be sustained. I will support the tripartisan bill because it provides the best and only real opportunity for progress this year on this important issue.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina.

Mr. EDWARDS. Madam President, I yield myself 3½ minutes.

This debate taking place in the Senate is about people's lives. We have senior citizens who desperately need a prescription drug benefit. This is what they want. They want one that is affordable and reliable. It is no more complicated than that.

The Graham-Miller bill meets that criteria. Unfortunately, the bill from the other side does not for at least two major reasons. It turns the prescription drug benefit over to private insurance companies. The insurance companies themselves have said this will not work. It will not work because they are in the business of making a profit. They will only go to the markets where it is profitable. That means there will be millions of senior citizens around this country with no access to a prescription drug benefit.

Second, it has an enormous gap in coverage. For those who have \$400 a month in prescription drug costs, there will be 3 or 4 months toward the end of the year where they will get no coverage at all, no help for their prescription drugs, although every month they are writing a premium check. That makes no sense. Those problems are taking care of in the Graham-Miller bill.

In addition, we have to bring the cost of prescriptions under control. That is why, no matter what, we have to pass the underlying bill that gets generics in the marketplace, stops the frivolous use of patents to keep generics out of the marketplace so we can have competition and bring down the cost of prescription drugs for everyone.

Second, to allow, in a safe fashion approved by the FDA, for drugs from Canada at lower cost to be brought into the United States so folks can buy at a lower cost.

Third, to allow States to make prescription drugs available to the uninsured at the same cost of those of us with health insurance and those in the Medicaid Program pay, to make the same cost available to them that is available to everyone else so they are not taken advantage of.

Those things will help make this prescription drug benefit affordable.

Last, in addition to all of that, this has to be considered in the context of a responsible fiscal budget, in order to get this country back on the path to fiscal discipline. In January of 2001, there was a \$5.6 trillion projected surplus; \$5 trillion of it is gone. Why? The biggest single reason is because of a tax cut proposed by the President that

has now been passed and signed into law.

To get this country back on the path to fiscal discipline, which it so desperately needs to be able to afford a prescription drug benefit, we ought to do at least three things; First, we ought to have pay-as-you-go rules apply in this Congress; Second, we ought to follow spending caps; Third, we ought to do something about the top layer of the tax cut for the 1 percent of Americans, the highest earning, richest people in America, scheduled to go into effect in the year 2004, to ask them to give up that tax cut in order to help their fellow Americans, in order to help us get back on the path to fiscal discipline and operate this Federal Government and this Federal budget in a responsible way.

The American people want us to do all these things. Give them a real prescription drug benefit, one that is affordable, one that is reliable, one they know they can depend on to bring down the cost of prescription drugs and find a way to pay for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield myself such time as I may consume of the remaining 2 minutes and 40 seconds.

First, I am happy to hear the Senator from North Carolina mention the prescription drug program has to be within the context of a fiscally sound budget process. I agree with that. But I think that is very much an argument for a piece of legislation that is permanent as the tripartisan plan is, as opposed to a sunsetted provision coming from the other side of the aisle that is \$370 billion as opposed to \$595 billion, the latter being the figure from the other side of the aisle. Just basically getting more for your money in the sense that CBO has scored the tripartisan program as the only program that brings down drug prices because of competition and the efficiency with which they are delivered as opposed to the program on the other side of the aisle that is very much a partisan plan as opposed to our bipartisan plan that drives up the price of drugs according to the CBO, which is our nonpartisan scoring arm.

Also, for the benefit of the Senator from Massachusetts who is still here and my colleague from the State of Iowa who is not here, I go back to the assets test. I think they think they have something. But the point of the matter is, they do not. We have heard these repeated objections to the assets test for low-income benefits in our bill as if it is something new. That is a red herring. There has been an assets test for low-income Medicare populations since 1987, and I happen to know that these programs passed by overwhelming margins—under the qualified Medicare beneficiary program as one example, as a specified Medicare beneficiary program as a second—and these programs have passed overwhelmingly

with the support of my Democrat friends on the other side of the aisle.

I think that is injecting an argument into the program that is not legitimate. Current law excludes from the test the home and property it is on, a car that is necessary. I can also say it happened to be in the 1999 Clinton Medicare bill—that included an assets test as well.

The PRESIDING OFFICER. The time of the Senator has expired.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the parliamentary situation? What is pending?

AMENDMENTS NOS. 4309 AND 4310

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes for debate, to be equally divided between the Senator from Massachusetts, Mr. KENNEDY, and the Senator from New Hampshire, Mr. GREGG.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, on behalf of Senator KENNEDY, whom I do not see in the Chamber yet, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am going to vote for the Graham-Miller amendment because it is, to my mind, the best proposal before us. It will provide affordable prescription drug coverage throughout the country. I think that is the best policy.

But it now appears there may not be enough votes for that amendment. The same, I might add, is also true of the Grassley amendment, which embodies the so-called tripartisan approach.

If that turns out to be the case, we will be at a stalemate. At that point, we will have to decide whether there is some way to resolve our remaining differences so we can write a prescription drug bill that can pass.

With that in mind, I would like to briefly discuss the three key remaining differences.

The first, and probably most significant, is referred to as the delivery model. That may sound like some kind of technical jargon, but it is actually a very important matter and will determine whether we are passing some theoretical, pie-in-the-sky prescription

drug benefit that works on paper but fails out in the real world or whether we are passing one that will really get prescription drugs to seniors at affordable prices.

There are two approaches.

Under the Graham-Miller approach, prescription drugs will simply be added to the existing Medicare Program, with some new incentives for efficient administration.

Under the Grassley approach, in contrast, prescription drugs will be provided through a new, market-based system that relies on private insurance companies.

People may ask: Why not try something new? What is wrong with a new market-based system?

Simply this: The new system is untested and may leave seniors without adequate coverage, especially in rural States such as my State of Montana.

Let me explain. Montana seniors, like those living in other rural areas, lack the rich retiree coverage options their urban counterparts enjoy. There just are not as many large companies offering benefits to retired workers in my State of Montana as there are in other parts of the country.

We also do not have any Medicare+Choice plans offering free or low-cost drugs to beneficiaries as in places such as Florida or some other parts of the country. In addition, our Medigap rates are higher than the national average and Medicaid coverage is lower.

On top of all that, we have been burned in the past by the promises of competition and efficiency. Rural areas often get the short end of the stick when we deregulate and leave people at the complete mercy of market forces that favor highly-populated areas. Consider airline deregulation, managed care, and energy deregulation, to name a few.

I don't want to overstate the case. I'm not saying that a new approach is absolutely unworkable. But I am not willing to buy a pig in a poke. I want a reasonable assurance that a private insurance model will work.

I know that many other Senators share my concern. How can we address this concern? Is there another way, another idea? There may be.

In essence, we would shift to a new, market-oriented system but do it gradually, with plenty of safeguards to make sure that it really works, especially in rural areas and other underserved areas.

The resulting system might not be quite as efficient as some would like but in exchange, it is more stable than it otherwise would be under the private model.

The second key difference, between the two main proposals, is how much to spend on a prescription drug benefit. Clearly, we are talking about a big investment of government dollars, and even at the amounts we are considering here, we won't buy a benefit that will meet seniors' expectations.

The proposals that include a so-called doughnut, or coverage gap, give pause for concern, simply because during some parts of the year, seniors would not receive any assistance. I don't want to belabor the point, as I know many others have talked about this problem over the past few days.

To my mind, the Graham-Miller bill is right about on target, and I hope that those who support the Grassley approach can, in the spirit of compromise, agree to devote some further resources to helping our seniors.

The final key difference involves what is referred to as "Medicare reform." That means making additional changes to the Medicare system, beyond those necessary to provide a prescription drug benefit.

With due respect to the proponents of reform, I believe that we should keep our eye on the ball. We have limited resources. Many of the reforms are untested and, in some cases, risky. We will have other opportunities to consider broader changes to the Medicare program.

In light of this, I suggest that we defer the debate about additional reforms until a later date, and concentrate on prescription drug coverage.

Those are the key differences. Delivery model, spending, and other reforms.

Are they significant? They certainly are.

Can they be resolved? If we roll up our sleeves and put the interests of seniors ahead of politics or theory, we will get it done.

I yield the floor and encourage my colleagues in the next several days to work to find a compromise that gets the large vote and protects our seniors.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield 3 minutes to the Senator from Maine.

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

Ms. SNOWE. Mr. President, the moment is at hand when the Senate will determine the fate of prescription drug coverage for our Nation's seniors. I hope we will not allow a 60-vote threshold to stand between us and the possibility of passing a meaningful benefit for our Nation's seniors. That would be doing a tremendous disservice to those seniors who desperately need prescription drug coverage. I hope we will avoid the procedural gymnastics and do what is right.

The tripartisan plan is the only plan that has across-the-aisle political support. We worked on this endeavor for more than a year. I hope Members of the Senate will give it serious consideration.

The facts speak for themselves on the tripartisan plan. Our plan is permanent. It does not sunset as the Graham proposal that sunsets after 2010. The language is right in the legislation. We have never, ever added a temporary benefit to the Medicare Program in its

37-year history, and we should not start now. It is providing a false hope to seniors who need this type of coverage. They should not have to beat the clock when it comes to their own health care. I guess you had better not get sick after 2010 because that benefit will expire.

The tripartisan plan is universal, applying to seniors no matter where they live in America, with the lowest premium offered of any bill either in the House or the Senate, thanks to a 75-percent Federal subsidy, which is higher than what Federal employees get under their health care coverage. Our opponents' plan not only creates a higher premium, but they also increase the prices of prescription drugs. That is not our projection; it is the projection of the Congressional Budget Office that estimates it could be anywhere as high as 15 percent, but at least 8 percent, in driving up the cost of prescription drugs.

It is also estimated under the tripartisan plan that 99 percent of seniors will participate, and 80 percent of those who do will never reach our benefit limit of \$3,450.

I remind Members that we have a catastrophic benefit of \$3,700 to protect people's out-of-pocket costs that are very high. Seniors in our plan will pay less on copayments, less on copayments under our plan for 39 out of the top 50 prescribed drugs for seniors. And we cover all drugs—brand name, generics—unlike the plan offered by the Senator from Florida, Mr. GRAHAM who leaves out most of the brand name prescriptions. In fact, only 10 percent of the brand name drugs will be covered under that legislation. Under the tripartisan plan, seniors will have access to all drugs.

I ask unanimous consent for an additional minute.

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

Ms. SNOWE. That is an important feature because by excluding most of the brand names from coverage, that means you are denying seniors access to the most innovative and cutting-edge therapies available. That is not the kind of coverage we want to provide because that is a huge gap in coverage.

Finally, I hope we will not allow this issue to die today here on the floor. I appeal to my colleagues to do everything they can to prevent killing this legislation. We need to get something done. These votes today are going to be very important in determining who wants the politics or who wants the issue.

We want progress. The best way to get progress on this most vital issue to our Nation's seniors is by supporting the tripartisan plan that has bipartisan support in the Senate.

I hope Members of this body will support this plan that will do more to help our Nation's seniors in providing them a much-deserved prescription drug benefit.

I yield the floor.

Mr. LEAHY. Mr. President, in recent days the Senate has begun to consider a number of proposals designed to help Americans afford their needed prescription drugs, not the least of which is to create a Medicare prescription drug benefit. This is an important debate, and one that has been a long time in coming to the floor of the Senate. Now we have the opportunity to not just talk about creating a Medicare drug benefit but to prove to our Nation's seniors and disabled that we stand by our word. The amendment offered by Senators GRAHAM, MILLER, and others is the best proposal before us, and it is one that I urge my colleagues to support.

I am pleased to be an original cosponsor of this piece of legislation because it is the only one that would create a new, voluntary prescription drug benefit within the Medicare Program that all beneficiaries would be eligible for. Under the Graham-Miller proposal, Medicare beneficiaries will receive assistance starting from the moment they buy their first prescription drug. There is no deductible and there is no gap in coverage, ensuring that no senior will be left stranded without the drugs they need. Beneficiaries would be responsible for copayments of \$10 for generic drugs and \$40 for medically necessary preferred brand name drugs until they have reached \$4,000 of out-of-pocket spending, at which point Medicare pays all expenses. This bill provides low-income seniors and those with disabilities with extra assistance by covering the premiums and copays for those living below 135 percent of poverty, and giving premium assistance to those between 135 and 150 percent of poverty. In my State of Vermont, 28,000 of our 87,000 Medicare beneficiaries have incomes less than 150 percent of poverty and thus will qualify for this extra assistance available under the Graham-Miller proposal.

This amendment will help our seniors get the drugs they need, no matter where they live, what their income, or how sick they are. I urge my colleagues to support this important measure that will put affordable prescription drugs within the grasp of some of our most vulnerable Americans.

Mr. AKAKA. Mr. President, I rise today as a cosponsor of the Graham-Miller-Kennedy amendment that would establish a guaranteed Medicare prescription drug benefit for all seniors.

Approximately 19 million seniors in the United States have little or no prescription drug coverage. Prescription drugs are the largest out-of-pocket health care cost for seniors. Many who cannot afford drug coverage often do not take the drugs their doctors prescribe, and one in eight senior citizens is sometimes forced to choose between buying food and buying medicine. While numerous seniors live on modest fixed incomes, prescription drug costs have increased by more than 10 percent a year since 1995. Medicare needs a voluntary prescription drug benefit so

seniors have the same protection against the high cost of prescription drugs as they have for hospital care.

The Graham-Miller-Kennedy amendment is the most comprehensive Medicare prescription drug benefit proposed in the Senate thus far. It provides coverage to all seniors regardless of their health or income. In Hawaii, 159,000 senior citizens and disabled Medicare beneficiaries would be eligible for coverage under the Outpatient Prescription Drug Act, 41,000 low-income seniors in Hawaii would qualify for additional assistance under the plan.

Affordable premiums and copayments are key components of the Graham-Miller-Kennedy plan. For example, if a senior spends \$4,000 on prescription drugs, she would reach the catastrophic limit and all additional drug expenses would be covered under this proposal. Seniors will not lose their current employer retirement coverage and will not have to rely on the public benefits provided by the plan. There also would not be a asset test required for participation in the Graham-Miller-Kennedy program.

The competing amendment proposed by the Senator from Iowa is well intended, but the Grassley amendment would not provide adequate coverage for seniors. The Grassley amendment would result in 26,000 seniors in Hawaii losing their existing retirement coverage, 47,000 seniors and disabled Medicare beneficiaries in Hawaii would fall into the benefit hole and would have to continue paying premiums and paying higher drug costs while not receiving any benefits. The Grassley amendment would also include a means test to qualify for additional assistance that would prevent seniors with assets greater than \$4,000 from qualifying for additional assistance.

Today, the Senate has a historic opportunity to provide seniors with the missing piece of health care coverage that is urgently needed. We must ensure that all seniors are provided with an affordable and comprehensive prescription drug benefit for all seniors. I urge my colleagues to support the plan which does this, the Medicare Outpatient Prescription Drug Act.

Mr. VOINVICH. Mr. President, I rise to speak in favor of the tripartisan prescription drug proposal before the Senate. I applaud the efforts of Senators GRASSLEY, BREAUX, HATCH, SNOWE, and JEFFORDS, in developing this legislation.

Their work is the culmination of a year's effort to bridge the gap between the Medicare of 1965 and the Medicare for today and the future. As my colleagues know, when Medicare was enacted in 1965, Congress made a commitment to our Nation's seniors and disabled to provide for their health security. Unfortunately, that security is on shaky ground because Medicare has not kept up with the evolving nature of health care. The delivery of health care has vaulted ahead so dramatically 37 years after the inception of Medicare,

that this system which was once sufficient is now anticipated and ineffective.

For example, conditions that used to require surgery or inpatient care can now be treated on an outpatient basis with prescription drugs. It is time for Medicare to reflect the realities of today's health care delivery system. The vast majority of my colleagues will agree when I say providing prescription drug coverage through Medicare is the next logical step towards modernizing the program. The best way to deliver such a benefit, however, is a point on which a number of my colleagues on the other side of the aisle disagree. My colleagues from the Finance Committee have found a solution that is a good compromise and is result that can be agreed to by both Democrats and Republicans. In fact, I would venture to say that the tripartisan proposal has the support of a majority of Senators.

Unfortunately, a simple majority will not suffice. As my colleagues know, we are working under the fiscal year 2002 budget resolution, which set aside \$300 billion for a prescription drug benefit. Because we never voted on a fiscal year 2003 budget resolution, the first time the Senate has not done so since 1974, we have no choice but to stay within the parameters of 2002 funding levels. The fact of the matter is we have stacked the deck against passing any sort of meaningful benefit that costs over \$300 billion, regardless of whether the majority of Senators support the proposal.

Regardless, the bar has been raised to pass prescription drug coverage, which clearly indicates that any bill that passes through this body will have to be bipartisan in nature—or tripartisan in this case. The tripartisan bill is the only measure we have before the Senate that bridges both parties and is a benefit that can pass.

We cannot delay any further. Each year we delay means another year our Nation's seniors will be forced to do without. already we have heard too often of seniors that have had to choose between food and prescription drugs. I, for one, am ready to go to my constituents in Ohio and say we were able to move past partisanship and provide real security for their health. The tripartisan proposal does that. We must act now, and we must act responsibly.

It is vital that we pass a prescription drug benefit this year, and it is vital that we pass one that is fiscally responsible. Ideally, the Federal Government would be able to pay for every pill ever needed for every senior. Unfortunately, we live in the real world and are subject to limited resources. I would like to take a few moments to shed some light on our Government's current fiscal condition. Last year, the Congressional budget Office predicted a unified budget surplus of \$313 billion or fiscal year 2002. As my colleagues know, this rosy budgetary picture is no longer the case. Recent budget projec-

tions show that the Federal Government is in much worse fiscal condition than we thought. These new projections show that the Federal Government will spend the entire Social Security surplus in both the current fiscal year and in fiscal year 2003 and we will be borrowing \$52 billion this year and \$194 billion in 2003.

With this in mind, it is imperative that we act not only to provide Medicare benefits for today's beneficiaries, but also for the baby boomers who will arrive in 2011. If we do not act responsibly in providing a benefit, we will end up writing IOUs not only for Social Security, but for this benefit as well. The tripartisan proposal strikes a balance between providing seniors and the disabled access to needed prescription drugs today and doing so in a fiscally sensible way that will allow benefits to extend to future generations.

I cannot say the same for the Graham-Miller bill. Top the best of my knowledge, I cannot definitively state what the Graham-Miller bill will cost. My colleagues on the other side claim that their bill will cost \$450 billion over 6 years. Then, after 6 years, as their bill is currently written, the benefit would sunset.

However, let us make the assumption that the Graham-Miller bill passed and their benefit did not sunset. What would that mean for the American people? I have a sneaking suspicion that \$450 billion will somehow become \$800 billion or as much as \$1 trillion over 10 years. This is on top of the estimated \$3.6 trillion it will cost the Federal Government to provide basic Medicare services for seniors and the disabled. As I see it, under the Graham-Miller bill, the American people get stuck between choosing cyanide and hemlock.

Senator GRASSLEY and the others in the tripartisan group have put before the Senate a proposal that would cost \$370 billion as scored by CBO. The natural question that I think the American people would like to know is what does \$370 billion buy? In my opinion, \$370 billion provides a real prescription drug benefit that is affordable to both the beneficiaries and the Federal Government.

Under the tripartisan proposal, premiums would be \$24 a month, an amount that is lower than the Graham-Miller bill. After a \$250 deductible, the Government would cover half of all prescription drug costs up to \$3,450.

Now, my colleagues on the other side of the aisle will claim that the so-called doughnut hole after \$3,450 will be the financial ruin of every senior. The truth is that the vast majority of seniors, 80 percent, would never even hit that hole. Moreover, the hole exists only until the beneficiary accrues another \$250 in costs, at which time the government would pay for 90 percent of all remaining drug costs.

While this benefit will greatly help seniors throughout the Nation, there are still some seniors for whom the \$24 per month premium and additional

cost-sharing is still too high. For those individuals, the tripartisan bill provides protections that will allow access to prescription drugs. For those seniors under 135 percent of poverty, the tripartisan plan would provide a full subsidy for monthly premiums. In addition, the Government would cover 95 percent of their prescription drug costs to the initial benefit limit and 100 percent above the stop-loss limit. And for those seniors between 135 and 150 percent of the poverty level, the tripartisan proposal would provide assistance with their monthly premiums on a sliding scale. In addition, these individuals would pay no more than 50 percent of their drug costs once the \$250 deductible has been reached.

When we talk about dollars being spent, we should also point out to seniors that they will receive more bang for their buck under the tripartisan proposal. Seniors will not just receive direct assistance from the government to cover their prescription drug bills. Rather, under the tripartisan plan, competing pharmaceutical delivery plans will be forced to provide the best value on prescription drug prices in order to attract beneficiaries to their respective plans. To the advantage of both Medicare beneficiaries and the Federal Government, this competition will decrease the price of prescription drugs and permit all parties to stretch their dollars further. For example, the same dollar that today would buy one day's dose of Lipitor, might purchase 2 days' worth of the drug when competing plans vie for consumers as they would under the tripartisan plan.

This body has been playing this political posturing game for too long. I am tired of explaining partisanship as the excuse for why this body has not passed a prescription drug benefit and has forced the least of our brothers and sisters to choose between food and prescription drugs. I am pleased that the Senate will have the opportunity to show the American people, especially our Nation's seniors and disabled, whether we are serious about enacting legislation to provide a prescription drug benefit this year.

The tripartisan bill has support from both sides of the aisle. The House has passed their measure. The President is ready and willing to sign a bill into law this year. The burden is squarely on the Senate's shoulders. All eyes are on us. I am confident that we will have more than 50 votes in favor of the tripartisan plan. I hope that those that are considering voting against this proposal have a very good reason for not supporting it, because the people in their State will be asking them the question: Why didn't you support a plan that gets the job done in a fiscally responsible way.

So while seniors wait for a prescription drug benefit, I will continue to work to educate seniors about generic drugs. I have been working on this issue for some time, providing funds at the Food and Drug Administration for

consumer education and working with other non-profits to educate our seniors about the availability and efficacy of generics.

In the meantime, I urge my colleagues to waive the budget point of order on the tripartisan amendment so that Medicare can move forward into the 21st century and so that seniors and the disabled are able to have access to affordable prescription drugs.

Ms. COLLINS. Mr. President, as an original cosponsor of the tripartisan 21st Century Medicare Act, I rise in support of this amendment to make affordable prescription drug coverage available to all of our Nation's seniors.

Prescription drugs are as important to a Medicare beneficiaries' health today as a hospital bed was in 1965, when the program was created, and I have long been a supporter of providing a prescription drug benefit as part of our efforts to strengthen Medicare. With recent advances in research, prescription drugs can literally be a lifeline for patients whose drug regimen protects them from becoming sicker and reduces the need to treat serious illness through hospitalization and surgery. Soaring prescription drug costs, however, have placed a tremendous financial burden on the millions of Medicare beneficiaries who must pay for these drugs out of their pockets.

More and more, I am hearing disturbing accounts of older Americans who are running up huge, high-interest credit card bills to buy medicine they otherwise couldn't afford. Even more alarming are the accounts of patients who are either skipping doses to stretch out their pill supplies or being forced to choose between paying the bills or buying the prescription drugs that keep them healthy. It is therefore critical that we bring Medicare into line with most private sector insurance plans and expand the program to include prescription drugs.

The tripartisan plan that is before us today will provide an affordable and sustainable prescription drug benefit that will be available to all seniors. Moreover, unlike the alternative bill, our plan will make the drug benefit a permanent part of Medicare and is fully funded at \$370 billion over 10 years.

Under the tripartisan bill, all seniors will have the choice of at least two prescription drug plans, regardless of where they live. This will enable them to select the kind of prescription drug coverage that they need. Moreover, the coverage under these plans will be comprehensive. Seniors will have access to every drug, from the simplest generic to the most advanced, innovative therapy.

Our plan is also affordable and has the lowest monthly premium—\$24—of any of the comprehensive prescription drug proposals that are on the table. Not only does our plan offer a lower premium, but it also offers lower copays for most drugs than the amendment proposed by the Senator from

Florida. As the senior Senator from Maine pointed out on the floor the other day, seniors will pay more for most of the top 50 drugs under the Democrats' bill than they will under the tripartisan plan. For example, the copayment for Glucophage, which is used in the treatment of Type 2 diabetes, would be \$40 under the Graham-Kennedy bill, and only \$31 under the tripartisan plan.

In fact, our plan is such a good deal that the Congressional Budget Office tells us that just about everyone will take it. According to the CBO, 93 percent of seniors will enroll in our program, while 6 percent will elect to retain their current prescription drug coverage. This means that 99 percent of all seniors will have prescription drug coverage once our plan is implemented.

No one should have to choose between paying their bills and buying their pills. That is why our bill provides additional subsidies to low-income seniors. For example, the 10 million seniors nationwide, including 65,000 Mainers, with incomes below 135 percent of poverty will have 98 percent of their prescription drug costs covered by Medicare with no monthly premiums and no gap in coverage.

In addition, these low-income seniors will not be subject to any deductible, and they will pay an average copayment of just \$1 and \$2 for each prescription. This is comparable to the copays required under Maine's Medicaid Program, which requires beneficiaries to pay \$2 for each generic drug and \$3 for each brand name drug.

The 10,000 Maine seniors with incomes between 135 percent and 150 percent of poverty will also receive generous subsidies under our plan. All seniors with incomes below 150 percent of poverty will be exempt from the benefit limit. As a consequence, 80 percent of Medicare beneficiaries will never experience any gap in coverage under our plan. Seniors with incomes below 150 percent of poverty will also receive a subsidy that lowers their monthly premiums to anywhere between zero and \$24 a month, based on a sliding scale according to income.

My biggest concern about the amendment offered by my colleague from Florida is the cost. My understanding is that this plan will cost anywhere between \$600 billion and \$1 trillion over the next ten years. This is simply too heavy a financial burden for both current and future generations to shoulder, particularly given our mounting Federal deficit.

Moreover, despite its tremendous cost, the alternative plan promises only temporary help, not a permanent solution. Their plan sunsets after 6 years, and makes no provision for a drug benefit after 2010. In other words, their plan ends just as the tidal wave of baby boomers is preparing to retire.

The tripartisan plan also includes other improvements to the Medicare Program that are not included in the Graham-Kennedy proposal. The current

Medicare benefit package, which was established in 1965, now differs dramatically from the benefits offered under most private health plans. Our bill would provide a new, enhanced fee-for-service option for Medicare beneficiaries that more closely mirrors private health plans. For example, it would cover more preventive services than traditional Medicare at little or no cost. It would also provide protection against catastrophic medical costs for those seniors with serious health problems. The traditional Medicare Program provides no such catastrophic protection.

No one would be forced to enter this new plan. It is simply another option. If seniors want to stay in the traditional Medicare Program, that is fine, and they will still be eligible for the new prescription drug coverage.

Access to affordable prescription drugs is perhaps the most important issue facing our Nation's seniors today. It is therefore my hope that the Senate will stop playing politics so that we can pass a meaningful Medicare prescription drug bill this year. The 21st Century Medicare Act is the only legislation before the Senate that has not just bipartisan, but tripartisan support. Moreover, it has the support of 12 of the 21 members of the Senate Finance Committee, which has jurisdiction over Medicare. That is not to say that I think the tripartisan plan is perfect. I do not, for example, like the copayments imposed on home health care in the new fee-for-service option, and I would, of course, prefer a plan that had no gaps in coverage.

The tripartisan plan does, however, provide a major improvement in coverage, and I believe that it is the only proposal that gives our seniors any real hope of getting an affordable Medicare prescription drug benefit this year.

Since the cost of providing a meaningful drug benefit will only increase as time passes, it is all the more important that we act now. I therefore urge all of my colleagues to join me in supporting this tripartisan amendment.

Mr. REED. Mr. President, I would like to take a few minutes before we vote later today on the Graham amendment and the Grassley amendment to describe some of the grave concerns I have with the tripartisan amendment sponsored by Senators GRASSLEY, JEFFORDS and BREAUX.

The tripartisan Senate bill offers the following "benefits" to seniors: an expected monthly premium of \$24; a beneficiary must cover the first \$250 in drug costs; then half of his or her drug costs are covered between \$251 and \$3,450; at that point the beneficiary is then responsible for all drug expenses between \$3,451–\$5,300;

Moreover, the plan claims to offer assistance for low-income beneficiaries. What is not mentioned is that a strict asset test would prevent 40 percent of low-income seniors from even qualifying for this subsidy. A car, a wedding ring, or a burial plot over a certain

value would render a beneficiary completely ineligible.

The purpose of insurance is to provide protection against certain costs. The kind of insurance some of my colleagues in the Senate have proposed would leave those seniors and persons with disabilities holding the bag when their drug expenditures are highest. Under the tripartisan plan, beneficiaries could still be required to pay thousands of dollars in drug expenditures.

This proposal would create a serious lapse in what is supposed to be a safety net for our most vulnerable citizens, only paying a quarter of an average Rhode Islander's prescription drug costs.

When a person breaks an arm, Medicare pays for the whole cast, not half. A prescription drug benefit should pay for all of your benefits.

There are other nonprescription-drug-related provisions contained in the tripartisan bill that are also of great concern, particularly Title II, the "Option for Enhanced Medicare Benefits" section. To me, the provisions outlined in this section of the bill are a direct affront on the Medicare Program as we know it. It seeks to create a new Medicare option that combines both Part A and Part B with a combined premium.

Under this option, a beneficiary would pay more upfront, out-of-pocket costs, such as a \$10 co-payment for the first five home health visits and \$60 per day for the first 100 days in a skilled nursing facility. In return, the beneficiary would pay nothing for preventive health services such as mammography and cancer screening and would receive protection against catastrophic health care costs.

This new Medicare benefit option would reverse the universal nature of our current program by creating a new line of services for those who can pay more. During the Balanced Budget Act debate of 1997, I fought against the addition of copayments for home health and other essential services because they threaten the access of low-income beneficiaries to those services.

This new enhanced benefit option would create a two-tiered system of the haves and the have-nots. Since there is no premium assistance for low-income beneficiaries who may wish to enroll in the enhanced benefit option, only more wealthy beneficiaries would be able to afford it. And since it requires beneficiaries to pay a greater share of their upfront costs, it would divert healthier, younger beneficiaries from the traditional program. This adverse selection would ultimately result in higher costs for those who remain in the traditional Part A and Part B program.

The sponsors and supporters of the tripartisan Senate bill have argued that even though our Nation's most vulnerable citizens deserve a Medicare prescription drug benefit they can depend on, the proposal offered by Sen-

ators GRAHAM, MILLER, and KENNEDY is simply too expensive. I would like to take a moment to highlight for my colleagues a recent report by the Center on Budget and Policy Priorities that I believe adds an important perspective to that point of debate.

The report compared the cost of last year's tax cuts with the costs of two prescription drug proposals for the Medicare population. The estimated 10-year cost of the first plan being roughly \$350 billion and the second \$700 billion for the same period. The report found that when the tax cut is fully in effect, the cost of the tax cut for just the top 1 percent of the population would exceed the entire difference in cost between the two prescription drug proposals.

I voted against the President's tax cut because I felt that it failed to leave room for critical immediate needs such as a prescription drug benefit, nor did it allow us to adequately address the long-term solvency of Social Security and Medicare.

Once Congress enacts a Medicare prescription benefit, it will be difficult to modify or significantly alter it. If we are going to enact a benefit, we must pass a solid, reliable benefit that will continue to meet the needs of Medicare beneficiaries in years to come. And if resources are the issue, many Members have already stated clearly that there is a way to address that issue, either through the reserve fund set aside in last year's budget or by other means.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I yield myself 4 minutes, after I ask unanimous consent that Senator DAYTON be added as a cosponsor of this amendment.

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

Mr. GRAHAM. Mr. President, I rise to respond to criticisms raised about the availability and cost of drugs under the Democratic proposal. The minority leader has distributed a memo in which he cites selected provisions of our bill to come to a false conclusion about the access seniors would have to prescription drugs. I want to set the record straight.

Under the Democratic proposal, all medically necessary drugs would be available to our seniors at a rate of no more than \$40 per prescription for the year 2005—all medically necessary drugs, not just the drugs that are on the preferred list.

The sections of the amendment Senator LOTT chose to omit make clear that every senior would have access to any drug that is medically necessary for that senior. Seniors are further protected because the Medicare Program would assure that the definition of a class of drugs is clinically appropriate. To the contrary, the Republican bill allows the drug HMOs to define the classes of drugs and, further, on page 32 of their amendment, clarifies that not all drugs within a class would have to be covered.

Senator LOTT may want to take a closer look at the Republican language given his concerns in this area.

Under the Democratic proposal, seniors will know in advance exactly how much they will pay for any drug. In 2005, they will never pay more than \$10 for a generic and \$40 for a medically necessary brand name drug.

Under the Republican plan, there is no way of knowing how much a senior would pay for a specific drug because there is no defined benefit in the Republican plan. Who makes the decisions? The drug HMOs make the decision. They choose how much the beneficiaries will pay, what the deductibles will be, and how much they will pay for each prescription in coinsurance. It could be 50 percent, which is what their charts say. It could be 80 percent. It will be determined not by the seniors, not by Medicare, but by the drug HMO.

I urge my colleagues to consider carefully the differences between the Democratic and Republican bills. Our bill uses the Medicare Program, a tried and true delivery system, to provide prescription drugs to our seniors. The Republican bill privatizes Medicare and requires seniors to get their drugs from a drug HMO—if they can find one in their State.

Our bill assures that seniors in rural America are guaranteed the same benefits provided to senior Americans elsewhere in this country. The Republican bill abandons rural Americans. Our bill gives seniors an affordable drug benefit and guaranteed prices. The Republican bill lets private insurers decide what drugs are covered and how much seniors will pay for each prescription.

Our bill uses every taxpayer dollar, every dollar paid by the beneficiary in monthly premiums to lower the cost of prescription drugs for seniors. The Republican bill uses taxpayer dollars and premium dollars to lure uneager private insurers into a market for which today there is no private insurance being offered.

Our bill is a bill for seniors. The Republican bill is a bill for drug companies and private insurers. The differences between the bills will make a very real difference in the ability of our seniors to afford the prescription drugs they need, and enjoy the improved health that those drugs will bring.

I urge my colleagues to support the Graham-Miller-Kennedy Medicare prescription drug benefit. In the event that none of the proposals that will be voted on this afternoon garner the necessary votes to move forward, I urge my colleagues to roll up their sleeves and begin work immediately on a proposal that can be adopted this year.

The outcomes of the votes today should not be viewed as a trumpet of defeat, but as an even more urgent call to find a proposal this year, in 2002, that will bring our seniors the drugs they need, the drugs that we have promised, the drugs a compassionate America will provide to this, our greatest generation.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield 3 minutes to the Senator from Louisiana.

Mr. BREAU. Mr. President, I thank the distinguished Senator and say how much I have enjoyed working with him on the tripartisan group.

The Senate will be faced, in a few moments, with an interesting proposition. We will have Graham legislation that will not get the requisite number of votes to proceed. And we will be faced with the tripartisan proposal to see if we have an opportunity to proceed with that legislation. That will be the second and final vote, I take it, today on this issue. At least, I think it will be.

I don't think the Senate and this Congress can go back this year and tell our constituents that we didn't do prescription drugs because it is the other party's fault. I don't think the Republicans can say they didn't bring back prescription drugs because it is the Democratic Party's fault, and I don't think we will get very far saying we didn't have a prescription drug plan because the Republicans would not support ours. I think the seniors are wising up and know that this blame game is no longer going to help them one bit. You cannot take an excuse to the drugstore and buy prescription drugs. What the seniors need is both sides to come together and create a program that would work. Our tripartisan bill is somewhere between the two versions that I have described—the Hagel bill at \$150 billion, and the Graham bill at about \$594 billion. All of that comes out of the Social Security trust fund money. We have tried to be responsible in how much we can spend to make sure we have a sufficient number of votes to actually pass something and also create a delivery system that can work.

What we have suggested is that for people in the Medicare Program, just like those of us in the Federal Employees Health Benefits Plan—the program that we have drug coverage under and all of our insurance—that private companies compete for the right to sell us that coverage. They compete for the right to sell us prescription drugs. The company that can do it the cheapest is the one, in most cases, from which we purchase the plan. That is what we are suggesting.

We are also suggesting that these companies are big people, big players. There are PBMs like Merck-Medco or Aetna or Blue Cross. These companies are used to assuming risk. That is their business. Why should we say we are going to get companies to deliver the product, but if they underestimate how much it is going to cost, the taxpayers are going to cover their loss? Our bill says if these companies bid \$100 to provide prescription drugs for seniors, and it costs them \$102, then that is their responsibility. That is the risk they have

to assume. Why should the taxpayers say: Look, we don't care how much it actually costs, the taxpayer will pick up the difference no matter what.

Regarding rural areas, our legislation says there will be at least two competing plans in every area of the United States. The Government will ensure that there are at least two competing plans. It is not like an HMO. Here you had to have a hospital and doctors and emergency rooms. The only thing you need to deliver drugs in a rural area is a drugstore to have the prescription filled and a doctor to write the prescription. We guarantee that every part of the country will have at least two competing plans.

What do we do if neither side has 60 votes? Do we give up? I suggest we try to find common ground. I think we can do that and we will continue to work in that regard.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The minority has 5 minutes 45 seconds. The majority has 4 minutes 45 seconds.

Mr. GRASSLEY. Mr. President, I yield 3 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, just a few years ago, when President Clinton was President, he was asking for a drug benefit program of \$168 billion. Last year, the Democrats wanted a \$311 billion program. This year it is \$600 billion. Frankly, I think it is a lot more than that because they have written in a sunset provision that actually helps to reduce the cost of that program, but also makes the program temporary.

I have to say that some of the things I find objectionable about the Graham approach is that the bill sets up a Government formulary that allows only two drugs for each illness. Because of that, it means that literally dozens of drugs that may be prescribed by doctors will have to be purchased by the patients themselves.

I might also add that it means a situation of price controls without question. Countries that set price controls on prescription drugs have been unable to duplicate the success of the United States in developing new pharmaceuticals.

Our tripartisan plan provides a permanent benefit, not a temporary one like Graham-Miller does. It gives beneficiaries choice in Medicare coverage, drug coverage, and options to select any prescription they want. It is affordable. Our plan costs \$370 billion over 10 years. The Graham plan costs \$600 billion over 10 years. Our plan, in addition, includes Medicare reforms. The Graham-Miller plan does not. Our plan is not run by the Government, but by the private sector, and it depends on private competition. It trusts seniors to make their own decisions and choices. The Graham-Miller bill does not. Ours is affordable, it creates competition, and there are no price controls on drugs. We take care of the

poorest of the poor and we do it within reasonable budgetary limits.

Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield 4 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. MILLER. Mr. President, first I want to quickly make a point about a matter that has been raised on the provision in the Graham-Miller-Kennedy bill that says we take a second look at this legislation after a few years. That is not a weakness. It is one of its strengths, and it is nothing new. That is what we did with welfare reform, and that is what we did with the farm bill.

I submit to the Chair, if we had that provision in the original Medicare bill, we probably would have had a prescription drug benefit years ago.

Back in April, right after the Easter recess, I came to the Senate floor and talked about the urgency of passing a prescription drug bill. I spoke then of my 88-year-old Uncle Hoyle who lives next door to me in the mountains of North Georgia. He has been like a father to me in many ways. Once a very strong mountain man, Uncle Hoyle now suffers from diabetes, prostate cancer, recently had angioplasty, and also suffers from a kidney infection. Although he still makes a great garden—and I had tomatoes and corn out of it this last week—that once strong body is growing frail. I cannot get Uncle Hoyle, or millions like him, off my mind.

Many—too many—refuse to see these elderly waiting, waiting for someone, anyone, to knock on that screen door and say, as John Prine sings: “Hello in there.”

The elderly are waiting for something else, too. They are waiting for us to do something about their health needs. So far, they have waited in vain, each day growing older, growing weaker. Now it comes down to us on this July afternoon 2002.

If we do not do something, you know who we are going to be like? If we do not do something, we are going to be like those who pass by that man in the ditch on the side of the road in that Biblical story of the Good Samaritan: Passed him by, tried not to look at him, refused to help him. We will be no better than they were and should be remembered in the same negative way.

We must come to the aid of our seniors by adding a meaningful prescription drug benefit to Medicare. The Graham-Miller-Kennedy bill would do just that. I believe and, more importantly, the AARP believes that our bill offers the best value for seniors. We deliver our prescription drug benefit through the tried and tested Medicare system. We provide extra help for our neediest seniors. We guarantee coverage 24 hours a day in every corner of this country, including that tiny rural town that the Presiding Officer knows, where I and my Uncle Hoyle live.

Remember what FDR once said: Try something; if it doesn't work, try

something else. But for God's sake, try something. That is what I am trying to say. I want Uncle Hoyle and all those millions like him in this land of plenty who played by the rules, raised their families, and worked hard to have some hope and dignity in their twilight years.

Is that really too much to ask? Mr. President, I do not think so.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Iowa be granted 3 additional minutes and the Senator from Massachusetts, the manager of the bill, be given 3 additional minutes prior to the vote.

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

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, soon we will cast what could be our final votes on a new Medicare prescription drug benefit. I am deeply disappointed with the process that brought us to this point, a process that ignored the good bipartisan will on the Finance Committee in favor of politics and partisanship that has seemed to dominate the debate on the floor of the Senate.

However, I continue to believe that our bill, the Tripartisan 21st Century Medicare Act, represents the broadest and best approach to providing prescription drug coverage.

Our work on this bill over the course of a full year involved fine Senators from every party. I have never been prouder to work in a bipartisan manner than with my colleagues Senator HATCH, Senator BREAUX, Senator SNOWE, and Senator JEFFORDS on probably the most important change in Medicare in the 37-year history of that legislation.

Together the five of us, bipartisan or tripartisan, whatever one wishes to call it, consulted stakeholders of all political persuasions and the Congressional Budget Office as we developed our policies over the last year. At every step of the way, we faced trade-offs and made compromises, all in the spirit of cooperation, with the common goal of getting something done that could actually work without breaking the Medicare bank.

Our bill reflects the best of what good bipartisan cooperation can do. It offers seniors affordable coverage on a permanent basis. It does not sunset, and it does not take brand name drugs away from our seniors. It improves and enhances other unfair aspects of the Medicare Program, and it does it all on a voluntary basis. It does so at a total cost that reasonable people from both parties should be able to support—\$370 billion over 10 years.

I urge my colleagues to remember that anything that comes to the floor on a purely partisan basis, such as the

Graham-Kennedy bill before us right now, is destined to failure, and I remind everyone again that nothing ever passes this body on a partisan basis alone. Around here, it takes bipartisanship to make things happen, and apparently the Democrat leadership is not interested in making things happen for our senior citizens.

Our bill is built on a bipartisan foundation. Had it been given a chance to be debated in the Senate Finance Committee, it could no doubt have been improved further still, but we were denied that chance all because the other side did not want real debate. They wanted a real issue instead.

I urge my colleagues, especially those on the other side of the aisle, to listen closely when Senators claim to care about bipartisanship. Our bill is the only bipartisan prescription bill in all of Washington, DC, this year. It deserves consideration of the full Finance Committee, but since we have been denied that right by the Democratic leadership, it deserves your vote today.

The bill, other than the tripartisan bill before us, is without a doubt a program for big Government. Rather than allow prescription drug plans to design cost savings and innovative benefits that best suit seniors' needs, the Graham-Kennedy bill requires Federal bureaucrats to set up 10 regional drug formularies, basically deciding which prescription drugs seniors can and cannot access.

Under Graham-Kennedy, plans would not compete with one another. It would not be allowed to deviate from a regional drug formula, thus restricting seniors' choices. Plans would be further restricted from offering more than two brand name drugs in a therapeutic class.

This approach puts control squarely in the hands of bureaucrats in Government, and we know from experience that exclusive Government control over medicine has not worked well. The Government has lagged many years behind the private sector in covering immunizations, physicals, mammograms, and other preventive care in Medicare.

By contrast, the Tripartisan 21st Century Medicare Act approach puts control in the hands of our senior citizens. The bill guarantees multiple plans will compete in each region of the country, giving seniors a choice to pick the plan that best suits their needs and the right to get out of plans that do not meet their needs.

The tripartisan bill also does not restrict plans from offering more drug choices and better overall drug coverage. Under the tripartisan bill, private plans compete for seniors, not Government bureaucrats. What if the specific drug a senior relies on is not on the regional Government formulary? The Graham-Kennedy bill forces seniors to go through multiple layers of bureaucratic red tape to convince the Government to give them the drugs that their doctors think they need.

The tripartisan bill lets seniors and their doctors decide what drugs they should receive.

Take your choice. We have it within the next 5 minutes. I hope you will vote for the tripartisan plan.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Will the Chair let me know when there are 15 seconds remaining?

The PRESIDING OFFICER. The Chair will so advise the Senator.

Mr. KENNEDY. Mr. President, this vote is one of the most important any of us will ever cast. It is a vote about our national character and national priorities.

It is a vote about the quality of our society. But most of all it is a vote about senior citizens and disabled Americans and their right to live in dignity.

Medicare is a solemn promise between Government and the individual. It says, "Play by the rules, contribute to the system during your working years, and you will be guaranteed health security in your retirement years." Because of Medicare, the elderly have long had insurance for their hospital bills and doctors bills. But the promise of health security at the core of Medicare is broken every day because Medicare does not cover the soaring price of prescription drugs.

Today, we have the opportunity and the duty to mend the broken promise of Medicare. It is time to pass a Medicare prescription drug benefit. It is time for Congress to listen to the American people instead of the powerful special interests.

When I first came to the Senate, I was privileged to participate in the debates that led to Medicare's passage. Then, as now, there were two plans before us. One plan was the solid, dependable, comprehensive Medicare program that became law. The other was little more than a political fig leaf for the elections. One plan was supported by all the organizations representing senior citizens and working families. The other plan was supported only by the powerful special interests. That is the same situation we face today.

Senators GRAHAM, MILLER, and I have offered a solid, affordable Medicare prescription drug benefit that offers senior citizens and disabled Medicare beneficiaries the protection they need at a price they can afford. There is no deductible, there are no gaps, there are no loopholes. The benefit and the premium are both guaranteed in the law itself. Low income senior citizens get special assistance.

But the other side has taken a different approach. Their plan is not affordable, not adequate, and not Medicare.

Under their plan, benefits are so inadequate that senior citizens will still be forced to choose between food on the table and the medicines they need to survive. There is a high deductible and a large coverage gap. Whether the sen-

ior citizen has large drug needs or more modest ones, the program only pays a small fraction of the cost of needed medicine—leaving the elderly to shoulder the rest or go without.

Special help for the low income elderly is conditioned on a cruel and intrusive assets test.

Instead of guaranteeing benefits for senior citizens, their program provides subsidies for insurance companies—and allows them to set the premium and determine the benefits that the elderly can receive.

And to reduce the cost of their plan, they have set it up in such a way that it actually encourages employers to drop the good retirement coverage that more than ten million senior citizens now enjoy.

According to the Congressional Budget Office, under the Republican plan one-third of these retirees—three and one-half million—would actually lose the good coverage they have today and be forced into the inferior Republican plan.

From the AARP to the Leadership Council of Aging Organizations to the National Committee to Preserve Social Security and Medicare, virtually every organization representing senior citizens and the disabled supports our amendment. Not a single legitimate organization of senior citizens or the disabled supports their proposal.

We are proud that our Democratic leader brought this matter to the floor of the Senate. This is the time for us to act.

The PRESIDING OFFICER. The Senator from Massachusetts has 15 seconds remaining.

Mr. KENNEDY. Senior citizens and their children and their grandchildren understand that affordable, comprehensive prescription drug coverage under Medicare should be a priority. Let's listen to their voices instead of those of the powerful special interests. Let's pass a Medicare prescription drug benefit worthy of the name.

Every single member of this body has a good prescription drug benefit. Let's do the same for the American citizens. That is what our program does.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I think the time has expired.

The PRESIDING OFFICER. The Senator from Iowa has 45 seconds.

Mr. GRASSLEY. Mr. President, I yield back the remainder of our time.

Mr. President, I make a point of order that the Graham amendment, No. 4309, violates section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. CARPER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—52

Akaka	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Edwards	Mikulski
Biden	Feingold	Miller
Bingaman	Feinstein	Murray
Boxer	Fitzgerald	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Cleland	Johnson	Schumer
Clinton	Kennedy	Stabenow
Conrad	Kerry	Torricelli
Corzine	Kohl	Wellstone
Daschle	Landrieu	Wyden
Dayton	Leahy	
Dodd	Levin	

NAYS—47

Allard	Enzi	Nickles
Allen	Frist	Roberts
Bennett	Gramm	Santorum
Bond	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Smith (NH)
Burns	Hatch	Smith (OR)
Campbell	Hutchinson	Snowe
Chafee	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Kyl	Thomas
Craig	Lott	Thompson
Crapo	Lugar	Thurmond
DeWine	McCain	Voinovich
Domenici	McConnell	Warner
Ensign	Murkowski	

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. Under the previous order, the amendment is withdrawn.

VOTE ON AMENDMENT NO. 4310

The PRESIDING OFFICER. The question now occurs on the Grassley amendment No. 4310.

The majority leader.

Mr. DASCHLE. Mr. President, I make a point of order that the pending amendment violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, pursuant to section 904 of the Budget Act, I move to waive the point of order for the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 51, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—48

Allard	Enzi	Murkowski
Allen	Fitzgerald	Nickles
Bennett	Frist	Roberts
Bond	Gramm	Santorum
Breaux	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hatch	Smith (NH)
Burns	Hutchinson	Smith (OR)
Campbell	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Landrieu	Thompson
DeWine	Lott	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NAYS—51

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	Lugar
Biden	Edwards	Mikulski
Bingaman	Feingold	Miller
Boxer	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Hagel	Nelson (NE)
Carnahan	Harkin	Reed
Carper	Hollings	Reid
Chafee	Inouye	Rockefeller
Cleland	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kerry	Stabenow
Corzine	Kohl	Torricelli
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. Under the previous order, the amendment is withdrawn.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CORZINE). Is there objection?

Mr. REID. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

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

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

Mr. REID. Mr. President, I ask unanimous consent that when the Senate considers the Hagel amendment, it be considered under the following time limitations: During today's session there be 90 minutes under the control of Senator HAGEL or his designee and 30 minutes under the control of Senator

KENNEDY or his designee; that upon the use or yielding back of the time, the amendment be set aside to recur when the Senate resumes consideration on Wednesday, July 24; and there be additional time of 120 minutes prior to the vote in relation to the amendment controlled as follows: 60 minutes under the control of Senator HAGEL or his designee and Senator KENNEDY or his designee; that upon the use of the time, the Senate vote in relation to the amendment.

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

Mr. REID. Mr. President, before Senator HAGEL begins the debate, we hope to get from the House today the supplemental appropriations bill. After Senator HAGEL and Senator KENNEDY finish debate time today, we will begin the debate on the supplemental appropriation.

Based on the unanimous consent agreement just entered, I have the authority of the majority leader to announce there will be no more rollcall votes tonight.

I have been asked we have a consent request on the supplemental. The time, of course, is not running against the Senator's amendment.

Senator HAGEL has been his usual courteous self. He has been very patient in waiting for us to write this agreement. We have known his was going to be the next amendment for some time, and it is unfortunate it has taken so long to get to where we are.

Mr. President, I ask unanimous consent that at the conclusion of the Hagel amendment debate today, and notwithstanding receipt of the conference report to accompany H.R. 4775, the supplemental appropriations bill, there be 2 hours 40 minutes for debate with respect to the conference report, with the time divided as follows: 60 minutes each for the chairman and ranking member of the committee; 30 minutes under the control of Senator WELLSTONE, and 10 minutes under the control of Senator REID of Nevada or his designee; that on Wednesday, July 24, the Senate proceed to the consideration of the conference report at 10:30 a.m. with the time until 11 a.m. equally divided and controlled by Senators BYRD and STEVENS or their designee; that at 11 a.m., without further action or debate, the Senate vote on adoption of the conference report.

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

The Senator from Nebraska.

AMENDMENT NO. 4315 TO AMENDMENT NO. 4299

(Purpose: To provide medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs)

Mr. HAGEL. Mr. President, I call up amendment No. 4315, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. HAGEL], for himself, Mr. ENSIGN, Mr. LUGAR, Mr.

GRAMM, Mr. INHOFE, and Mr. GREGG, proposes an amendment numbered 4315 to amendment No. 4299.

Mr. HAGEL. I ask unanimous consent reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. HAGEL. Mr. President, we have spent 4 days debating and voting on two Medicare prescription drug proposals, the Graham-Miller-Kennedy bill and the so-called tripartisan bill. I have worked with Senators ENSIGN, LUGAR, PHIL GRAMM, INHOFE, SANTORUM, and GREGG to introduce relevant, straightforward, realistic legislation to add a prescription drug benefit to our Medicare Program.

Our legislation would create a permanent Medicare prescription drug program that would be available to all Medicare beneficiaries beginning January 1, 2004. We keep it affordable to both beneficiaries and taxpayers. We do it without creating a new Federal Government bureaucracy. The program is not perfect. None of the Medicare prescription drug bills we have considered have been perfect.

This bill accomplishes a very important goal. This bill gives seniors the peace of mind that comes with knowing they have security from extremely high drug costs, catastrophic costs that ruin families.

Why are we engaged in this debate?

Medicare was created, as we all know, in 1965—and it is a 1965 model. Preventive health care, like diet, lifestyle, and exercise, was not emphasized in 1965. Prescription drugs were not as widely prescribed or used. Research had not developed the kind of lifestyles and life expectancies and quality of life we now enjoy—prescription drugs, pharmaceutical research, being the core of that development.

Seniors needed protection, in 1965, from high hospital costs for inpatient services, and we gave them that protection. It came through Medicare Part A hospital insurance.

In 2000, the average American spent \$435 a year on prescription drugs. Today, Medicare beneficiaries need protection from unlimited out-of-pocket prescription drug costs.

John C. Rother, policy director of AARP, was quoted today in the New York Times as saying:

Another possibility is for Medicare to provide catastrophic coverage for prescription drug expenses over a certain threshold, perhaps \$4,000 to \$6,000 a year, with no premium. This could be combined with additional help for low-income beneficiaries and a government-authorized drug discount card.

So reported the New York Times today as a quote from Mr. Rother, the policy director of AARP. What Mr. Rother states is exactly what this bill does.

How would this program work? There are two major components to our bill. First, all participating beneficiaries

would be protected from unlimited out-of-pocket drug expenses through a cap on their private expenditures. The annual out-of-pocket limit would depend on their income. That would go as follows: For annual income levels below 200 percent of poverty, the annual expense would be no more than \$1,500. That is a little more than a \$100-a-month cap on out-of-pocket expenses. For those with annual income levels 200 percent to 400 percent of poverty, it would be capped at \$3,500—no more, regardless of the need. For those incomes between 400 percent and 600 percent of poverty, out-of-pocket expenses would be capped at \$5,500—no more. And for those who wanted to subscribe—this is a voluntary program, open to all Medicare beneficiaries—with incomes above 600 percent of poverty, their out-of-pocket expenses would be capped at 20 percent of their income.

Again, to give some relevancy to help understand those numbers, the 2002 Federal poverty level is \$8,860 for an individual and \$11,940 per couple. Beneficiaries with the lowest incomes would have their out-of-pocket expenses on prescription drugs limited, as I said, to about \$100 a month. And almost half of all Medicare beneficiaries live on incomes lower than 200 percent of poverty.

The second part of our program would be that every beneficiary would be able to choose to enroll or not to enroll in a discount drug card program, giving them access to privately negotiated discounts on prescription drugs.

Who would administer this program? The Secretary of Health and Human Services would administer the program through the Centers for Medicare and Medicaid Services, CMMS. The Secretary would negotiate with private companies to deliver the benefits. What that means is no new Federal bureaucracy, no new Government program to administer these benefits.

I would like to point out that two-thirds of all seniors already have some type of private prescription drug coverage that they like and want to keep. Seniors would not be forced to drop supplemental coverage, and employers would be encouraged to retain and even improve existing coverage under our plan.

Our bill would allow employer-sponsored plans—all employer-sponsored plans: Medicare supplemental plans, Medicare+Choice plans—pharmaceutical benefit managers—PBMs—pharmacists, and even States working with private companies to deliver the benefits.

By structuring our program this way, we do not create an expensive and new, expansive Government bureaucracy or the subsequent redtape that follows. We would use the market system in place.

These private market tools, such as consumer choice and competition to control costs without limiting innovation, are critical to the future development and innovation of prescription drugs.

How would seniors participate? Seniors would enroll with an approved provider and pay an annual fee of \$25, which would be waived for beneficiaries with incomes less than 200 percent of poverty, individuals with incomes of less than \$17,720. Once beneficiaries had met their out-of-pocket limit on prescription drug expenses, they would pay a small copayment of no more than 10 percent of the cost of each prescription drug. Seniors would not have to pay monthly premiums for deductibles.

When would the program start? Our program would take effect January 1, 2004. Other bills that were considered would not have taken effect until 2005 or even later. And our benefit is permanent; we do not sunset the program.

Why do we structure the program this way? Any realistic Medicare prescription drug proposal must not only be affordable for seniors, but it must also be affordable to the taxpayers, future generations of Americans who are going to have to pay for this program. Why is that important? It is very important because if we begin a program and obligate and commit the next generations of Americans to this program, then we owe them. We have a responsibility of giving them all the facts and structuring a program that is accountable and responsible.

Let's examine something carefully. Projected Federal deficits now are seen for at least the next 2 years and probably longer. So as opposed to a couple of years ago when we looked out onto the horizon and saw surpluses as far as the eye could see, we are now in a different dynamic, a different environment. No one really knows how long we will be in deficit, so any new Federal program and entitlement that is added, someone must pay for that.

We are not operating under a new budget resolution, so, as of October 1, we will no longer be subject to budget caps. The two previous prescription drug bills we debated did not attain the 60 votes needed today in order to overcome a point of order raised because both violated the budget resolution cap of spending no more than \$300 billion over the next 10 years. That was an important point. Both of the bills we debated that did not attain those 60 votes needed were in excess of the \$300 billion cap that the Budget Committee of the Senate, this Senate, this body, voted for last year. But after October 1, there are no caps because we are not operating under a budget.

Finally, the underlying Medicare Program is still in danger of becoming insolvent. Let me pass on an interesting number. When Medicare was passed in 1965, Part A hospital costs for 1990 were projected to be \$9 billion. In 1990, Medicare Part A actually spent \$67 billion.

So from the projection, in 1965, out 25 years, as to how much Medicare Part A would cost, all the actuaries said then—all the smart people, all the medical care people—we would be spending, including inflation, and the

rates of increase in costs—all the dynamics that are part of health care—\$9 billion in 1990 when, in fact, we spent \$67 billion in 1990.

We should pay attention to this number. I do not know of a Federal program—especially entitlement programs—that did not go far beyond any projections, partly because we always, for the political benefit, understate the numbers. But the numbers I have just recited are real numbers.

We ask, why should we be concerned about costs? I see a lot of young people sitting in the galleries. You better be concerned about some costs. You better be very concerned about what we do on prescription drugs because if we do not pay attention, and we are not concerned and enact an accountable, responsible, affordable program, I do not know how you are going to afford it—because you are going to pay for it. You will be paying for my prescription drug costs.

So we must act in a responsible, accountable way. Each of us who has the high privilege of serving in this body is but a passing, fleeting steward of your interests and the interests of this country. That is our highest responsibility.

According to a preliminary actuarial analysis—we are getting CBO scores on our amendment—our proposal would cost less than \$200 billion over the next 10 years. In fact, the numbers are coming in at around \$160 billion. That stays within the \$300 billion budget resolution that this body, this Senate, voted for last year. The Congressional Budget Office will give us those exact numbers by the end of the day.

We have a tremendous opportunity to pass a responsible bill, to provide all Medicare beneficiaries with a permanent prescription drug benefit that would start January 1, 2004. We have that now within our grasp.

The debate we have had over the last 4 days has been good debate, relevant debate, important debate. All sides, all perspectives have had an opportunity to lay this out, as we should, as we are embarking upon this great new entitlement program. And we need this program. Make no mistake, this program is necessary. We need to deal with this issue.

This amendment that we offer today is not perfect. However, what we offer today is a real-world solution to a real-world problem.

Our amendment will give beneficiaries the protection they need most. And we focus on those who need it most, those who are without prescription drug insurance, those who are at the bottom of the social-economic ladder, those who have to make hard choices about their lives.

We can do this. We must do this. But it must be in a way that is accountable and responsible.

As the New York Times editorial phrased it this morning:

The most important short-term priority should be the needs of the fairly narrow, and politically uninfluential, band of Americans

who have very low incomes and very high drug prices.

They have said it accurately. They have stated it correctly. They have focused on those who need it most. This amendment does that.

Mr. President, I am grateful for an opportunity to propose this amendment and debate it. We will have a vote on it tomorrow. I know a number of my colleagues wish to speak on this amendment.

So I yield the floor to my cosponsor on this amendment, who has worked long, hard, diligently, and understands the issue as well as anyone in the Senate. I am very proud we have teamed up, along with a number of our other colleagues, to present something we think is important for our country that is workable, doable, and responsible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank the co-author of this amendment, the Senator from Nebraska, for the great work he has done; and, by the way, that both of our staffs have done in coming up with an amendment that we think is fiscally responsible and that meets the needs of those seniors who need it the most.

We have heard a lot of examples during the House debate, and during the Senate debate, about those seniors who are having to choose between paying rent and paying for prescription drugs, or paying their food bills and being able to pay their drug bills. We have heard about a lot of heartbreaking stories. Those are real stories that are out there. We have those stories in my home State of Nevada. We get letters from those people all the time.

I got an e-mail a few weeks ago from a lady who sent this e-mail at 11:20 p.m. West Coast Time. She was up thinking—and probably looking through her medical bills—and just crying out for help, asking if I would be willing to take a moral stand to help seniors who need the help the most? Our amendment does exactly that. It helps those seniors who need help the most.

But this morning, I was also thinking about our responsibility to our children and the next generation of young people coming up who are going to be working for a living and paying taxes.

Will Medicare and Social Security be there for them? Will this country be there for them? Somebody has to pay for all of these programs that we are talking about.

People have not wanted to means test Medicare and Social Security because they believed that they have earned this benefit, that they have paid in for this benefit.

Realistically speaking, this new prescription drug benefit would not be earned by anybody that is going to get it, at least early on. Frankly, it is a straight giveaway to seniors. It is taking it out of the pocket of younger people who are paying into the system

now and putting it into the pocket of older people who, while they were working and paying taxes, paid for a Medicare program that did not have a prescription drug benefit.

All of us feel a great responsibility to our parents and our grandparents, to take care of them in their golden years. But we must do this in a way that does not put such a burden on young people in our society that they cannot prosper.

Why should their tax rates have to be so high just because we in the Senate wanted to get reelected, so we voted for things that just kept spending these young people's money? Ultimately, they will have no choice but to pay high taxes because politicians pay attention to the senior citizens because senior citizens vote. We need to pay strict attention to what we are doing here and whose money we are doing it with.

Once we add a benefit to Medicare, we will not be cutting that benefit in the future. So whatever we do, we better do in a fiscally responsible fashion.

Senator HAGEL and the rest of the team that has put this amendment together believes that we have done exactly that: We have provided help to those seniors who need it, but we have done it in a fiscally responsible manner.

I want to talk a little bit about the amendment and how it works. Senator HAGEL has covered some of this, but I want to reemphasize a couple points and to use a chart for those who need to see it. I am kind of a visual learner and need a chart to understand things sometimes, to actually be able to see the numbers on a piece of paper so I can put them in my head.

The way our bill works, first of all, is that we cap—this is catastrophic coverage—we cap the amount of out-of-pocket, expenses a senior citizen is going to have to pay. We do that based on income. The people who are have the lowest income get the most help. It goes up from there based on your income level. That seems to make sense if you think about it. Should a person like Ross Perot, who would qualify for this benefit, get the same help as somebody who makes \$15, \$16, \$17,000 a year—a senior citizen? Should they get the same level of help? I think most people would say they should not get the same level of help.

Our bill says that if you are lower income, you are going to get more help. It also says that the sicker you are, the more help you get because those seniors who are very sick or who have a chronic condition such as heart disease, diabetes—and we will talk about a few examples later—pay much more per year in prescription drug costs and our plan limits their out-of-pocket spending. Those are the people our bill actually helps more than the leading Democrat proposal or the so-called tripartisan proposal.

For people who make \$17,720 or less a year, up to 200 percent of poverty and

below, we cap their out-of-pocket expenses at \$1,500. This is a little over half of the seniors in this country. If you make between \$17,721 and \$35,440 per year, your out-of-pocket expenses are capped at \$3,500, and it scales up from there.

Once again, our program is completely voluntary. I have heard that in 1987 the Senate passed, and actually enacted into law in 1988, a catastrophic drug benefit plan. We hear people—and I am not sure if they were referring to our plan or not—saying seniors opposed the 1988 plan so much, that they repealed it the next year. They were not opposed to it because of the catastrophic coverage, they were opposed to it because one, they were forced to join; and, two, their Medicare premiums went up. Ours is a voluntary program, and it only has an annual enrollment fee of \$25 per year. That is strictly to take care of administrative costs. We figure about \$25 per year is what is necessary to handle these costs per enrollee.

When you pay that fee and sign up for the program, you will get a drug discount card. You will be able to sign up for various plans in the area, and pharmaceutical benefit managers will have a list of pharmacies that are participating. They will have a formulary or a list of drugs that are offered. You will go through those, and you will say: I have this disease, or, I like that particular formulary; maybe I will get together with some of my fellow seniors or I will get together with my doctor and say, Which one of these plans do you recommend? Then you will sign up for that plan that best meets your needs. It is the competition between the plans and the volume buying that will allow the average senior to save somewhere between 25 and 40 percent on the drugs they buy with this drug discount card.

Right upfront, they save 25 to 40 percent. Then, we cap their out-of-pocket expenses. So it is a two-pronged approach. We believe that because the senior pays initially out of pocket—about \$100, \$120 a month for the low-income seniors—that they will shop for their drugs and take advantage of the lower prices that are being offered as a result of competition between the participating entities.

I want to give a couple of real-life examples of those cases we always hear about—those cases that tug at our heartstrings.

James is a 68-year-old man who has an income of about \$16,000 per year. He is being treated for diabetes. These are the various medications he is taking: Glucophage, Glyburide, Neurontin, Protonix, Lescol, and Zolof. He has monthly prescription drug costs of \$478.04, and a yearly cost of \$5,736.48—so James is paying out of his own pocket over \$5,700 right now. Medicare doesn't cover anything.

To compare the various plans, first of all, under the Graham-Miller plan, James' out-of-pocket expenses would

be \$2,940.00. Under the tripartisan plan, he would pay \$2,341.65. Under the Hagel-Ensign plan, he would pay \$1,923.65. So for the low- to moderate-income person who has a serious disease, the Hagel-Ensign plan gives that person more help than any of the other bills. And example after example has been heard on this floor about has been this type of a case.

If you don't like this one, we will give you the next one. Doris is a 75-year-old and has an income of around \$17,000 a year. She suffers from diabetes, hypertension, and high cholesterol, which is not unusual for a senior. Her medications are Lipitor, Glucophage, Insulin, Coumadin, and Monopril, for a total cost of \$304.03 a month, and \$4,648.36 a year.

Once again, here is how Doris would fare under the various plans. Under the Graham-Miller plan, the leading Democrat plan, she would pay \$2,220.00 a year out of pocket; under the tripartisan plan, she would pay \$2,086.36 a year; and, under our plan, she would pay \$1,714.84 a year. Once again, this person does better under the Hagel-Ensign plan more so than either of the other two plans which were voted on and failed to get the 60-vote point of order.

To reemphasize, the plan we have all worked on together, including Senator GRAMM of Texas, provides a Medicare prescription drug benefit in a much more fiscally responsible way and takes into account future generations.

There is a third example I want to talk about. Betty, who is a 66-year-old, has an income of \$15,500 per year. She is being treated for breast cancer. She is still receiving low-dose radiation therapy with Nolvadex. Her medication profile is as follows: Morphine, Paxil, Dexamethasone, Aciphex, Trimethoprim, benzamide, and Nolvadex—monthly total of \$668.33 and \$8,019.96 per year.

These are three real-life cases from Nevada. The names have been changed to protect their privacy.

Betty's medications, under the three different proposals, once again: Under the Graham-Miller plan, the leading Democrat plan, she would pay \$3,180.00 out-of-pocket expense; under the tripartisan plan, \$2,570.00; and under the Hagel-Ensign plan, \$2,152.00 out-of-pocket expense.

The person who is the sickest, who is moderate to low income, is the person our plan benefits more than any of the other plans. That is why we think our plan is superior, because when we hear about people, when they go on the talk shows, when they talk in front of seniors groups, when we are hearing all these horror stories, these last three examples are the type of people about whom they are talking.

So if my colleagues really want to help those seniors who need it the most, they should support our plan. The other thing is—and I will conclude with this—that we have had two other plans voted down today. The two plans that were voted down, because they did not get the 60-vote point of order, are

pretty much dispensed with at this point. Senators should ask themselves if they want to get a bill done this year. If they do, this is your best chance of doing it.

If we pass this plan in a bipartisan fashion, lay aside the politics—and we said we are going to put seniors ahead of politics, and ahead of being a Republican, or ahead of being a Democrat—we can pass a plan now. We should put seniors ahead of a political issue in this November's election. This Hagel-Ensign bill is the bill that offers that opportunity for people.

So I encourage my colleagues to support our bill. It will be voted on tomorrow. We have a great chance and a great opportunity for the American people, and especially for those seniors and disabled people who are on Medicare, to really get the help that they need.

Mr. President, I ask unanimous consent to add Senator ALLARD as a cosponsor of amendment No. 4315.

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

Mr. ENSIGN. I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I am not going to speak very long, but I know my colleagues, the Senator from Nebraska and the Senator from Nevada, put forward their plan. I thought I would make a few points in regard to it. I commend them for their effort. They are trying to do something that is extremely difficult. They are trying to be both responsible in a plan in terms of how much they will provide, in terms of helping people who need help, but at the same time, they are trying to be as fiscally, I guess they would say responsible—I would say as minimal as possible. I would say, yes, if you just look at the plan and say which one should cost the least, the Hagel-Ensign plan is there.

If you look at all the other things we do in the budget and then say we don't have any money for this, repeal of the estate tax comes to mind, which I believe both of my colleagues have supported—and most have supported—and ask if it is an either/or proposition if you want to be fiscally responsible, which would people choose? A more generous plan. I think that cost us \$600 billion in the President's budget to make that permanent. Putting together a generous plan and not repealing the estate tax, or repealing the estate tax and having this minimal plan, my guess is that 80 or 90 percent of the American people would reject the plan put forward by my colleagues from Nebraska and Nevada.

I guess if I had to think of the rubric of the plan, they are trying to be compassionate conservatives. It is a hard thing to do, a difficult thing to do. I respect their real effort to do it.

If my colleagues think this is a generous or adequate plan, it clearly is not. In fact, some have argued that this would be a step backward. That is

not CHUCK SCHUMER, Democrat of New York, but it is AARP. I will read some excerpts from the AARP letter on this plan sent to Senator HAGEL on July 23. I ask unanimous consent that it be printed in the RECORD.

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

DEAR SENATOR HAGEL: Enacting a comprehensive prescription drug benefit in Medicare this year remains the top priority for AARP. Our members are counting on the Senate to pass a meaningful drug benefit that is available and affordable to all beneficiaries. Our members were promised in the last election that a comprehensive drug benefit would be a priority, and we are counting on you to make good on that promise this year.

We appreciate the intent of your bill, S. 2736, the "Medicare Rx Drug Discount and Security Act of 2002," to provide a prescription drug discount card and stop-loss protection to Medicare beneficiaries. However, in addition to our substantive objections, we are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches. We believe Congress should focus its efforts on enactment of a more comprehensive drug benefit this year.

In addition to the timing of your proposal, AARP has concerns about the approach taken in your bill, including:

Catastrophic coverage—While AARP has not opposed income-relating premiums, income-relating the Medicare benefit changes the nature of the program. This would set an extremely dangerous precedent in Medicare. Further, the stop-loss levels set in the bill do not provide enough protection for lower income beneficiaries. A low-income couple could spend 25 percent of their income just for drugs before this plan offered assistance. Thirdly, there are a number of issues involved in using tax returns to determine program eligibility levels, and we believe other options should be explored.

Discount card—While AARP supports the use of a discount card program as a building block for a Medicare prescription drug benefit, your proposal lacks the necessary specifications to guaranty the level of discount, what level of discount would be passed to beneficiaries, and the degree of consumer protections required of plans.

Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries and we look forward to working with you on legislation that our members can support.

Sincerely,

WILLIAM D. NOVELLI,
Executive Director and CEO.

Mr. SCHUMER. Let me quote from the letter to Senator HAGEL:

Our members are counting on the Senate to pass a meaningful drug benefit that is available and affordable to all beneficiaries.

AARP goes on to say that while they appreciate the intent of S. 2736—this is their quote—they are

... concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful, comprehensive approaches.

That is exactly the problem. I think when seniors from one end of this country to the other hear the exact specifics of the Hagel plan, they are going

to be shocked. I think they even probably think that the most generous of the plans—the Graham-Miller-Kennedy plan—doesn't go far enough in terms of help that they need. To hear this one—and I will get into some of the details—I think they would say: Gee whiz, what the heck did they do? If we went home and said we passed a prescription drug benefit and passed the Hagel-Ensign bill, most of our constituents would say—correctly—no, you didn't, and don't you claim that you did because you are not helping the vast majority of people who desperately need the help.

I will go on with the AARP letter. They are worried about the catastrophic nature of the Hagel-Ensign bill. Quoting them:

While AARP has not opposed income-relating premiums, income-relating the Medicare benefit changes the nature of the problem. This would set up an extremely dangerous precedent in Medicare.

That is exactly right. Anybody who thinks this bill is helping middle-class people hasn't read it. The vast majority of our constituents who struggle with the cost of drugs, who may be making \$20,000 or \$25,000 and paying a couple thousand dollars—not \$6,000, but \$2,000—are left out in the cold by this bill. They are far more typical than the examples my good colleague from Nevada has brought up in his chart.

So to think that this is comprehensive, to think that it covers most, is wrong. We do have a choice. It is a value choice. How much are we willing to spend to help people? You cannot have it both ways. You cannot say we are passing a comprehensive prescription drug benefit and not spend the money for it. These drugs are wonderful, but they are expensive, and you cannot avoid that conundrum. You have to decide which side of the fence you are on.

With some regret, and I say it in admiration for their bold essay, the Hagel-Ensign amendment says we are on the side not of providing broad, comprehensive coverage but, rather, doing a little bit. And, again, as I said, put into the context of all the other things we spend money on, put in the context of the desire on the other side to continue with tax cuts, which takes their budget and puts it in a warped and pretzel-like way, it is not what the American people want.

So I am going to conclude with this quote:

Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries, and we look forward to working with you on legislation that our members can support.

What AARP said to my colleagues I say as well. Let me just go over some of these things. This is the Hagel bill. Senior citizens with an income of \$9,000—in parts of my State, that is not enough to pay rent, we would make that senior citizen with a \$9,000 income pay \$1,500 before the benefit outlined in

the Hagel-Ensign bill—before they got any help at all. Now, is that fair? Is that right? Even taking the basic philosophy of Hagel-Ensign—and I disagree with it, but I respect it, helping the very poor who need the help—when you have a \$9,000 income in most parts of America, you cannot afford to pay \$1,500 in prescription drugs. You will never get there. That will be 17 percent of somebody's income. That is wrong.

Now, my friend from Nevada took one side of the line. I am going to take the other side of the line. He used a \$17,000 example. Let's say you go to \$18,000 in income. Nobody is rich on \$18,000, whether you live in Nebraska, Nevada, or in Manhattan. It is harder in Manhattan than anywhere else. Your standard of living is different with the same income level there.

Listen to this: A senior making \$18,000 would have to pay \$3,500 before they receive any help. That is not the kind of benefit the American people are asking for whether they be senior citizens or younger people with parents. That is 20 percent of their income. If your income is \$18,000, you pay \$3,500 first? What they would say in New York is: Forget about it. What they would say to the rest of the country is: Please go back and try to do a little better.

Even a senior citizen with an income of \$35,000—once you are at \$35,000 and you are a senior citizen, hopefully your kids are out of the house and you are not doing that badly, although, again, in parts of New York, \$35,000 does not stretch too far when you have an average rental payment of \$1,000 a month or \$800 a month. That eats a lot of it, and then you take taxes and other expenses. That person would have to pay \$5,500, 16 percent of their income, before they got any help.

My guess is that 98 percent of all senior citizens at that level of income—hardly a very high level—would not qualify for this program at all. The number who pay that huge amount for prescription drugs—and that is the amount they would need before the program begins—is small.

I would not call this insurance. I would not call it Medicare. If it would become law, poor senior citizens would still be choosing between food on the table and the medicines they need to survive. That senior citizen who is making \$9,000 and paying \$1,500 for their much-needed prescription drugs is still choosing between food on the table and medicine.

Middle-class senior citizens who are willing to pay a little more in copayments and monthly payments would not get a benefit that they would find worthwhile at all. It would not affect most of them.

To all of my colleagues, this bill is more fiscally tight, stingier, if you will, than the House Republican bill. It is more inadequate than either of the two bills voted for in the Senate. I do not know a single organization of the elderly or the disabled that supports it,

and I do not believe it deserves the support of the Senate.

The fight for a real Medicare prescription drug benefit does not end today. In fact, I argue that we made some progress today. Fifty-two votes for the Graham-Miller-Kennedy bill is a lot of progress, and, in fact, should we adjust the Budget Act next year, that 52 votes might be adequate to actually pass the bill. Once we forget these notions of spending money on things that virtually nobody wants, except a small rarefied few, we will be able to do it.

We made progress today. I am not despairing. I compliment the Senator from Georgia, as well as the Senator from Florida and the Senator from Massachusetts, who will be here shortly, for putting together a proposal that I think does much more of both: It is still fiscally within our means but really is broad and comprehensive and deals with people's needs.

To vote for Hagel-Ensign I think would be a cop-out. In fact, the argument was made by my friends—again, I salute the sincerity of their effort; I really do. This is an honest proposal and I thank them for that, but they admitted themselves: We will not do much after this.

I would rather go back to the drawing board and try to pass something that far better meets the American people's needs, such as the bill proffered by the Senators from Florida, Georgia, and Massachusetts. I urge my colleagues to defeat this amendment, and let's keep working on this issue until we get it right.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I am not going to get into an argument with our dear friend from New York. I will say, I think in New York if you make \$9,000 a year, you qualify for Medicaid. So you are completely covered.

I also have to say, if we are going to take the approach the Senator from New York takes, and that is "how much are they willing to spend to help you," then we get into a debate not about what works, not about what is feasible, not about what we can afford, but who is willing to spend more money?

In truth, we have already been in that debate. I want to show my colleagues this, because this is frightening to me.

In 1999, just before he left office, President Clinton proposed a comprehensive drug benefit—let me start earlier. We had, through a legislative act of Congress, a bipartisan commission appointed with Senator BREAU as chairman. I was on that commission. Part of what we did is we put together a proposal to modernize Medicare through the use of competitive marketplace forces.

For example, if you have a cane with four little legs on it and you buy it

through Medicare, the average Medicare cost is \$40. The VA, which has never been thought of as the world's most efficient buyer, buys it for \$15. The Breaux commission put together a proposal to modernize Medicare and to use some of those savings to help people get coverage for pharmaceuticals, and the way they got it was opting into a more cost-effective system.

That proposal actually saved money because reforms in Medicare save more money than providing the pharmaceuticals cost within this more competitive environment.

President Clinton, who had us all down to the White House, looked us in the eye and said: Don't let this process fail because of you. I was one of the members of this commission. President Clinton looked us right in the eye and said: Don't let it fail because of you. And then all four of his appointees voted no at the last minute. We needed 11 out of the 17 to make a recommendation to Congress, and we only got 10.

At that point, incredibly, providing pharmaceuticals not only did not cost money, it was part of a reform program where the savings we would have gotten with Medicare reform would have paid for the pharmaceutical benefit.

That is where the debate started, and we failed to act because of one vote on the bipartisan commission, when all four of the President's appointees voted no. In fact, they had a press conference at the White House denouncing the plan before we had the vote.

At that point, at the end of his administration, President Clinton said: We can have a comprehensive benefit for \$168 billion. That was in 1999 just as President Clinton was ending his term.

Then Congress in 2000 had a proposal. Former Senator Robb from Virginia was the author of that proposal, and it cost \$242 billion. If you went back and looked at that debate, everybody who was for that plan said: We can solve this problem. If you will just give us \$242 billion, we can solve the problem.

Then you will remember the budget debate we had last year, the Baucus amendment. I could quote 20 Democrat Senators who said: We can provide all the benefits we need for \$311 billion.

I could quote Senator BAUCUS, I could quote the distinguished majority leader, but it is never fair using people's words against them. I do not do it, but I could.

In the budget debate last year, \$311 billion would have done everything we wanted to do. This year in the budget we said: No, that is not enough. That is being tight fisted with the elderly. We do not want \$311 billion. In the budget we said \$500 billion. The budget did not pass, but that is what the budget had.

Now we come to the floor with a proposal that says: We cannot spend \$500 billion; that is being tight fisted with our seniors. How dare we to have thought of \$311 billion? What was wrong with Senator Robb's tightness at \$242 billion? Was Bill Clinton a person who did not love the elderly at \$168 bil-

lion? What a heartless man he was. Today, we said: No, it is going to take \$600 billion—not \$311 billion but \$600 billion.

Mr. SCHUMER. Will my colleague yield?

Mr. GRAMM. Let me finish this point, and I will be happy to yield.

Mr. SCHUMER. I thank the Senator.

Mr. GRAMM. The \$600 billion would not pay for a real program. It starts in 2005. It ends in 2010. So if one does not live until 2005, they get no benefits; if they live past 2010, they get no benefits—and it still cost \$600 billion.

Now, where do we think we are going? Where does all of this end? We are asking people to look and see who cares the most. And you can measure that by how much money they are willing to spend.

Where does this end? Will it not go on forever? I am going to yield to the Senator, but let me make this point to sort of bring it together.

Forget this red in the chart. That was about this bill that I was talking about when I made the chart. Just look at the yellow on this chart. I want to try to impress this one figure on people's minds. Today, Medicare, which has an unfunded liability in present value terms of \$17 trillion—when you discount it above the present value of the revenues we are going to collect, today it is taking 2 percent of the economy. If we do not pass any drug benefit and we just leave Medicare as it is, by 2030 it is going to take 4 percent of the economy. Today the payroll tax for Medicare and Social Security is 15.3 percent. If left unchanged, meaning we do not cut it and we do not increase it, the payroll tax will have to more than double by 2030 to over 30 cents out of every dollar earned by every worker to pay for Social Security and Medicare. That is without a prescription drug benefit.

Some people estimate that if the bill had been adopted that we sustained a point of order against today, this would go not from 2 percent of the economy to 4 percent but from 2 percent to 6 percent. We would literally be looking at over 40 cents out of every dollar earned by every worker to pay for Social Security and Medicare.

I understand all of these people who want these benefits are writing these letters saying we do not love them enough—that \$170 billion is not enough. They say these people who want to spend \$600 billion love us more. Of course, they are going to love us even more next year with \$900 billion. There will be lots of love next year.

The point is, does anybody care if young workers 28 years from today are paying 40 cents out of every dollar they earn on Medicare and Social Security? How much love can we afford? That, I think, is a critical point.

So I beg my colleagues, let us not get in the business where we measure a program simply by how much it costs.

Others I am sure want to speak, but I am going to talk about how this pro-

gram gets you a lot for every dollar you spend. I am happy to yield.

Mr. SCHUMER. I thank my colleague.

First, our colleague from Texas has been on the floor a whole lot lately on all of the various issues which we have been debating. He has always been a great warrior and a great debater, but since he announced his retirement, he is a happier warrior. Every argument he makes, he has a twinkle in his eye. I compliment him for that. It is a pleasure to listen to him, as much as I disagree with him. I do not know if this would happen to the rest of us if we also announced we would not be here, we would be much happier in our arguments, but I want to make three points and ask them to form the question.

First, I ask my colleague from Texas if he knew that the Medicare level in New York is \$599, which is \$7,200 a year. I ask him if he knew that.

Mr. GRAMM. If I were from New York, I would be trying to change that.

Mr. SCHUMER. Well, we will, maybe with the help of the Senator from Texas. In any case, that person in the example does not qualify.

The second question I ask my colleague is this. I like his chart. It sort of fits my argument because that last number is \$600 billion. As I understand it, if we did not make the estate tax repeal permanent, something my colleague from Texas has fought very long and hard over, that would be about \$670 billion, as I understand it. That is how much it would cost over the same 10-year period. So we are not talking about the ability of the Government to pay this; we are talking about size of government. That is one of the great debates we have. But it is not that my colleague says we cannot afford it; rather, he is using it for different purposes.

At least to me, when I go from one end of my State to the other, the number of people who ask for estate tax repeal is much smaller than the number who ask for a comprehensive prescription drug plan for Medicare.

So I ask my colleague, aside from the ideological and philosophical argument about size of government and all of that—on which we have had nice debates on both the floor and in our various committees that we share—but certainly within the contemplation of my good friend from Texas, if we did not take that money for estate tax reduction, we could put it into this program; am I right about that? This is a simple value choice.

Mr. GRAMM. I am going to answer that point. Was there a third point?

Mr. SCHUMER. Yes. The third point is this: When we compared the programs, the \$168 billion, the \$242 billion, and the \$311 billion, that was apples and oranges, as I understand it. The benefit I remember from the Robb program that my friend from Texas pointed out did not have the same level of benefit, the same generosity of benefit, as the plan proffered by the Senators

from Florida, Georgia, and Massachusetts. So we are really comparing apples and oranges.

It is not that anybody thought the original plans did everything, it was just the amount of money they were willing to spend, and in fact, as I recall it, the Robb plan was sort of objective because people thought for the amount of money it cost compared to the amount of benefit, it was not quite worth it, at least in political terms, using politics in the finer sense in terms of people's value choices.

Those are my three questions to my colleague, and I welcome the answers he will give with the same twinkle in his eye.

Mr. GRAMM. Let me begin with No. 3 first. We are comparing apples and apples. In 2001, in the political bidding war we were in then, \$311 billion represented a sufficient number of apples to engage successfully in the bidding contest. Today, it is \$600 billion and heading up. My point is that, beginning with the chairman of the Finance Committee and the majority leader, we had Members saying last year that \$311 billion would provide a wonderful program. The problem is, this year it is \$600 billion, and that is a wonderful program. And it is not apples and oranges, it is a lot more apples.

Secondly, I think where my colleague is leading on the death tax thing is kind of a circular argument. If you are willing to take away people's money, the only limit you get as to how much you can spend on Medicare or anything else is the amount of money that can be extracted without destroying the productivity of society.

The point I had made earlier was that you are already committed under the existing program to take 30 cents out of every dollar everybody earns to pay for Social Security and Medicare. If you adopted your program, by some estimates you would be paying 40 cents out of every dollar that people earn, and the question is: Is that something that the economy can bear, and is that fair to young people?

In terms of the death tax, we have a very different view of the death tax. Nobody in my family ever paid any death tax, and nobody ever bequeathed anybody anything because they did not have anything. But when somebody works a lifetime to build up a farm or a family business, the view of the Senator is that that belongs to the Government and my view is it belongs to the people who build it up. They build it up for their family, and it is not right for us to force their family to sell off their business or sell off their farm or sell off their life's work to give the Government 55 cents out of every dollar they earn.

It is a perfectly legitimate position to say they ought to have to do that, but it is not something of which I am supportive. I think it is fundamentally wrong.

There are other people who want to speak.

Mr. SCHUMER. I am not yielding but thanking him for the answers.

Mr. GRAMM. Let me also say one thing that has happened about which I am worried. Many of my Democrat colleagues, knowing that this tax cut that we adopted is temporary—because of this quirk in the budget, unless something changes it goes away in 10 years—almost seem determined to spend and spend and spend until we have to take the tax cut away.

I remind my colleagues, throughout American history the highest sustainable tax rate that we have been able to sustain over long periods of time was taking 19 cents, on average, of every dollar created in the economy. When we adopted the tax cut last year, the Government was taking 22 cents out of every dollar produced in the economy. That was a record high that only had one year higher. That was 1944 at the peak of the war effort. I hope people do not believe we should go back to a 22-percent tax burden.

The final point I make, the Senator acts as if death taxes would pay for Medicare. We all know Medicare is funded by payroll taxes. If you are working in some factory somewhere—I don't imagine you are watching this debate, but if you are and say you are taking a coffee break and this is the only thing they have on in the factory—don't think that some rich guy is going to be forced to sell off his farm to pay for your Medicare. You are going to have to pay for it with higher payroll taxes. Don't be confused.

Now, I have talked longer than I had intended. Let me make a couple of points. First, I read a quote, from John C. Rother, policy director of AARP. In recognizing that the two big plans would be defeated, he said: Another possibility is for Medicare to provide catastrophic coverage for prescription drug expenses over a certain threshold.

And he notes also that we could have a Government-authorized discount card.

Now, let me make my points about this bill and stop. First, I had virtually nothing to do with writing this bill. Two Senators have been principal authors of it. I recognized, in simply looking at it, that it was the best plan around. They came up with it.

Why is it the best plan around? First, it is within budget. Now, it is hardly some insignificant amount of money. Somewhere between \$140 and \$170 billion is what this costs. That is a lot of money.

What it does is provides the most help to people who fall into two categories: A, you don't have very much income; and B, you have high drug bills. I submit those are the people who need the help the most.

The problem with the other two proposals—let me make my criticism bipartisan—the problem with the other two proposals is that they spend 80 percent of their money helping people who don't need help. When you take the view that the Government ought to

have a program that pays at least 25 percent of the drug bill for Bill Gates and Ross Perot—that it is not a universal program unless they are covered—you are going to end up spending huge amounts of money paying for people who don't need the help. You end up paying for the roughly two-thirds of people who already have health insurance for pharmaceuticals, because you substitute the taxpayer for the private insurance policy they already have as part of their retirement program.

The point I am trying to make is you are spending 80 cents on people who either almost have the benefit or don't need it to get 20 cents on the target to people who do need it.

The advantage of the Hagel-Ensign bill is that it puts every dollar on the target. This is what it says. Again, you can spend more money; God knows you can spend more money. But just listen to what it does. Let me take a retired couple. If their income is \$23,000, they would have to pay roughly \$100 a month in drug bills themselves, but at slightly above \$100 a month this program kicks in and they get full payment except, possibly, a very small, little copayment per prescription.

Now, our colleague from New York said a huge number of seniors, 80 percent I think he said, would reject this program. I don't believe it. My mama's drug bill is \$400 a month. She does not want help in 2005. She does not know if she will be alive in 2005. She wants help now.

The advantage of this program is that it provides help right now. What it would mean in her case is she would have to pay a little over \$100 a month and now she is paying \$400 a month.

Now, if your income goes up, then the deductible goes up. For example, if you are making \$46,000 a year, your deductible is \$3,500. If you are retired, most retirees who make \$46,000 a year own their own home. What this bill says is, if your expenses on pharmaceuticals get up really high, the Government is going to come in and help you. If you make \$69,000, you have to spend \$5,500 to get the payment by the Government. So it is tied to your income.

And for Bill Gates and people who are very wealthy, they have to spend 20 percent of their income on pharmaceuticals. Bill Gates will never get a benefit and he shouldn't. He doesn't need it, and he doesn't want it. He might not even take it.

That is not the only help you get, by the way, because immediately this program would let private companies contract through Medicare to represent Medicare beneficiaries in negotiating for their pharmaceuticals. So each of these companies would compete in buying the drugs you buy. You would buy from whoever could sell them to you the cheapest, and it is estimated that they would save you somewhere between 25 percent and 40 percent of the cost of your drug bill.

In my mama's case, this would mean spending much less than \$400 a month—

it is estimated that these companies, because they have more buying power, would get the best price. She goes to the same pharmacy because it is the one convenient to her house. These companies could go all over the country to find her drugs and buy them the cheapest. They could save her \$100 on average just simply by being competitive.

Remember I told you about the cane with four legs on it—Dr. FRIST, you have seen them—lots of people have them in hospitals. Medicare pays \$40 for that cane on average. The VA buys that cane for \$15 because they go out and engage in competitive bidding. These companies would do the same thing. Then, anything above \$100 per month, the Federal Government would pay.

If you said to my mother and anybody else's mother: Would you rather have the Government pay the whole thing? The answer would be yes. She would rather the Government pay the whole thing. But the point is, this is a reasonable, responsible program that would help real people.

Finally, Senator ENSIGN has presented three or four times—you can never do it enough—cases of people who have real high drug bills, and remarkably he has shown that his program is cheaper for them than these very expensive programs. Before somebody runs down here to the floor to answer me and says: How is it possible? We spend \$600 billion and Senator ENSIGN spends \$170 billion and you are saying it is cheaper? You are saying it is cheaper under Senator ENSIGN's program. How can that be when he doesn't spend as much money?

The answer is very simple. He doesn't cover everybody. If you do not have high pharmaceutical bills—and in any given year a substantial number of seniors do not—and if you do not have moderate income, he helps you get competitive purchase of your drugs, which saves you between 25 percent and 40 percent. But the Government does not pay if you do not fall in this category of people. You don't get help under those circumstances.

Now you say everybody should get help. The point is, this bill helps the people who need the help the most. This is a good proposal.

I remind my colleagues, we are at an impasse here. There are some people already talking about spending more money to break the logjam. The logical thing to do now, if we want to act this year, is to take this proposal and adopt it. That will help people who need the help most and help them now. Then we can come back next year. We can look at the budget situation, we can see where we are, and in the process we can supplement this if we want to.

Let me give you one example because Senator ENSIGN has done it better than I could possibly do it. This is somebody who lives in Nevada. He calls her Betty Smith. She is 66 years old. She has an income of \$15,000 per year. She is being treated for a whole bunch of things.

Her drug bill is \$8,000 a year. My mother's drug bill is \$4,600 a year and, thank God, she doesn't have these kinds of problems. So it is easy to believe an \$8,000 bill.

Here is the point. Look at the Hagel-Ensign bill under exactly this situation. Your income is \$15,500 and you are being treated for breast cancer and you are taking all these drugs and you have a \$8,000 bill, so you are spending over half of your income on drugs. This is literally somebody. We all talk about this cliché of people being forced to choose between medicine and food. I hope her children are helping her. If they aren't, they ought to be. But she would literally—if she didn't have any children, didn't have anybody helping her—she would literally be choosing between eating and drugs.

Now, here are the three bills. Two of them we voted on, and one we are about to vote on. The point that Senator ENSIGN has made is that under the bill that costs \$600 billion and covers everybody, this lady would have to pay \$3,180 a year. Under the tripartisan bill, she would have to pay \$2,570 a year. But under the Hagel-Ensign bill, she would pay \$2,152. In other words, for a lady who is very sick and who has a very moderate income, she would be better off under this plan.

But for people who say how is that possible when it only spends \$170 billion, the way it is possible is it is focused to help exactly people like this lady. It does not take the view that we have to provide the Government program for everybody. It just helps people who need the help. And it provides this system of competitive purchase for everybody.

So, I urge my colleagues, do not get into this business about saying this cannot be as good as that because that costs so much more money. Some of the best things in life are not necessarily the most expensive. Remember, we are going to have to pay for it. Not "we" being Members of the Senate. We are not going to pay for it. We don't pay for anything. We are going to be covered by the Government insurance program when we get out of here. But that blue collar worker on that assembly line is going to have to pay for it.

I congratulate my colleagues. This bill ought to be adopted. There is a budget point of order against it but not because it is over budget. It is because we wrote in the budget that the bill had to come out of the Finance Committee. The Finance Committee refused to report a bill, so no bill could come out of the Finance Committee. So every bill had a budget point of order. If it had gone through the Finance Committee, no point of order would have lied against this bill. However, if the Graham-Kennedy bill had gone through the Finance Committee, two points of order would still have lied against the it, a section 302 and a section 311 point of order, as well as the tripartisan bill.

But this bill is not subject to a point of order because it spends too much

money. It is subject to a point of order because the Finance Committee was not allowed to do its job.

So I hope people will look at this and decide we can help a lot of people, and we can do it right now. The purchasing discounts would start immediately. We do not have to wait until 2005. And this is something we can afford. We could come back and do more next year if we had the money.

I appreciate my colleagues listening, and I commend this program to them.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BROWNBACK. Mr. President, I ask the sponsor of the amendment to yield to me 10 minutes to debate the issue.

Mr. HAGEL. I yield to the Senator from Kansas 10 minutes off our time, Mr. President.

Mr. NELSON of Florida. Might I inquire of the Chair how much time is remaining on this side?

The PRESIDING OFFICER. Sixteen and a half minutes.

Mr. NELSON of Florida. Mr. President, I would like to be recognized at the appropriate time.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I thank my colleague from Nebraska for allowing me the time and for his proposal. I think it is an outstanding proposal and one that we can do and one that we can afford and one that can provide benefits to some people who really need this help and need it now. It is something I think we could build on in the future.

Remember now, we are talking about a group of people who do not have pharmaceutical benefits and need them, people with low income but above Medicaid; low income, and this is taking a big portion of their income. They have to have these pharmaceutical drug benefits. They need it. Here is a proposal where we can do it.

If I can just make an observation at the outset: This process cries to go back to the Finance Committee and come out of the Finance Committee. This has not been taken through the Finance Committee. It clearly should have been. This is the largest—this will be the largest new entitlement program that I will have voted on since I have been in the Congress, either the House or the Senate, by far. I think at the end of the day, when the dollars are tallied up, you are looking at a multi-trillion-dollar program because once we start a benefit, we do not stop it. This is something that we will start, and will do, and it is going to continue for a number of years. It is something we need to do.

But if you are going to start, at the end of the day, a trillion-dollar program in all probability, you need to take it through the right process. It needs to come through the committee that looks at the numbers and figures out how to pay for it.

To just pass a benefit and say we are going to do it, and we will figure out how to pay for it after the bills come due, is the height of irresponsibility on our part.

I have two charts. I do not want to overburden everyone with lines on a chart, but I want to point out, this is where we are today with these various proposals. This black line represents the total income for Medicare. I call this chart "The Great Medicare Accounting Scandal" because I do not think we are accounting for the real cost of these programs.

We are being critical of people—and rightfully so—in corporate America for not accounting for real costs and for sliding things around saying: Well, OK, we will capitalize this, but it should have been a direct expenditure and expense. We are criticizing them—and rightfully so—for doing that.

What are we doing here? What are we doing here on our accounting? The black line is the amount of money we have coming into Medicare. The red line is the Graham-Kennedy benefit proposal. You can see, in year 1 of the benefit, in the year 2005, the expenditures are more than the income we have coming in from Medicare. In the first year out of the box, you are spending more money than you have coming in in Medicare. That does not count the accumulation that you are going to have up until 2010, when the program, theoretically, ends. But, of course, it does not.

We do not terminate benefit programs. It is going to continue past 2010, into 2011, which is the first year the baby boomers start retiring. So you have this group of soon-to-be seniors—72 million baby boomers—in America. Count myself amongst them. That is kind of the big lump in the python coming through, the pig in the python, in the demographic charts in the United States, starting in 2011, where the program is supposed to end in 2010. Of course, it isn't going to happen.

On this chart, where would this red line be in the year 2011, when you start getting this large group of retirees coming into the system? It is going to be much higher and be an accounting scandal for us.

So how are you going to pay for this? You are either going to cut benefits, which I do not think we are going to do, you are going to raise payroll taxes, which I would think would be the wrong thing to do—we already load so much on people working in the system—or are you going to try to take this from somewhere else in the system, or raise the deficit? Probably you are going to do all of those things, other than cutting benefits. But we are not talking about that in this system right now.

Look here, on this chart, at the various other proposals that we have.

The purple line shows the total expenditures today, without a benefit. The Hagel-Ensign proposal is shown by the green line.

Of the proposals that are coming forward—and I think we need to have a prescription drug benefit—this is the most responsible one that we can handle and that we can do. And we, clearly, should do something.

The process cries out for us, right now, to do something now and not just to have something for campaigns. Here is the Democrat proposal. Here is the Republican proposal. But you cannot take those as prescription drugs. That is not income to you. You cannot eat promises. That is what we have sitting out there now. And that is where it seems the debate is heading, unless we can take it back to the Finance Committee and have a legitimate process, one where we would come out with a benefit that people can afford and need to have today.

This one has been a very disappointing discussion, to me, in the sense that there is a clear compromise that sits out there that is available to do, and we could cobble together different proposals of any of these bills and figure out how to make it work, and get a bipartisan proposal that we would all support, that would include a prescription drug benefit.

That sits out there to be had. That can take place. Instead, we are just saying, no, we are going to take it through this different process. We are going to bypass the Finance Committee on the most expensive entitlement program that I will have voted on as a Member of this body. We are going to bypass the normal process. We will just have a political debate on it that I do not think is edifying for the body and is not the right way to go.

On the particular proposal, the Hagel-Ensign proposal, of which I am pleased to support, I also note that it is supported by AARP. Unlike my colleague from New York, who said the AARP does not support it, in today's New York Times, John Rother, policy director of AARP, said this:

Another possibility is for Medicare to provide catastrophic coverage for prescription drug expenses over a certain threshold, perhaps \$4,000 to \$6,000 a year, with no premium. This could be combined with additional help for low-income beneficiaries and a government-authorized drug discount card.

That is not my speech supporting Hagel-Ensign. That is from the policy director of AARP in the New York Times today. He is saying: Look, you have the parties. Each have a proposal. They are at a standoff on this proposal. What could we get done so we can move this forward for the benefit of seniors in America? And he describes the Hagel-Ensign proposal. That is what we should do.

That is the type of proposal we need to move forward. It would be an appropriate proposal for us to move forward, so we can provide a benefit, we can get it done now, and provide it to people who need it now. They do not need promises. They need action by us. And they could have the action. This is something we need to do, and we need to do it this way today.

This chart shows the various lines depicting where the assets in the proposals go. You can see the current projected Medicare trust fund assets, and also the projected Medicare trust fund assets under Graham-Kennedy. You can see where we are taking this proposal. This line is going south, fast, if you get a benefit that you cannot afford.

I ask a rhetorical question of all my colleagues: Would we rather encounter the first wave of baby boomer retirees with \$660 billion in the Medicare trust fund or would we rather encounter retirees having spent all but \$250 billion? That is what these lines point out.

We know we have the baby boomer generation hitting in 2011. They start jumping into the retirement pool in 2011. We want to face them with some money built up at that point in time and still have a prescription drug benefit like what is in Hagel-Ensign, or even the tripartisan bill. We can get there with more assets in the bank and still provide today a prescription drug benefit for those who need it today. And they need it today.

I really think we should set our Republican and Democrat caps aside and say we can provide this to people who need it today. For the 27 percent of the public who do not have a prescription drug benefit of some type, who are in a low-income category, who need this, we provide a discount drug card or discount card, such as in the Hagel-Ensign proposal. We do that today and still save some money for when the baby boomers start retiring in 2011.

I hope we will all look at that and say that is the right thing to do, to provide that benefit. It is the responsible thing to do. And as we look to our future, it is the right thing for workers coming up in this system so that they are not stuck with this huge lug on their shoulders when the baby boomers retire.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. BROWNBACK. Thank you, Mr. President, very much. And I thank my colleague from Nebraska for yielding time to me.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I rise to speak in opposition to the amendment. I want the Senator from Nebraska to know of my personal affection and respect for him. There are certain people in a body to whom you just naturally gravitate and you naturally like, and he is certainly one of them.

I rise in opposition, not because he does not have an excellent, substantive proposal, but I would offer my objection as has been articulated by the AARP today in a letter to Senator HAGEL in which they state:

In addition to our substantive objections, we are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches.

That is what I want to discuss today. What this Nation is begging for is a comprehensive approach, not a piecemeal approach. What the senior citizens of this Nation are yearning for is that we modernize Medicare to provide a prescription drug benefit.

If any of us were designing a Medicare system, which is a health insurance system for senior citizens, funded by the Federal Government, if we were devising it today in the year 2002 instead of the year 1965, when it was enacted, would we include prescription drug benefits? The answer to that is, obviously, yes.

Medicare was set up in 1965 when the condition of health care was centered around acute care in hospitals. But with the miracles of modern medicine, with the advent of prescription drugs that can increase the quality of our lives, that can take care of chronic ailments and that, indeed, add to what we would say, in the street vernacular, is preventive maintenance, then, clearly, if we were designing a health insurance system funded by the Federal Government for senior citizens today it would clearly include prescription drugs.

That is the question that is before this body. But because of the rules of the Senate, we have to get 60 votes in order to pass anything here which, with competing plans, makes it very difficult.

Although I think the Senator from Nebraska has some excellent ideas, it is injected in this debate at the wrong time because in the words of the AARP, as articulated in their letter today:

We are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful, comprehensive approaches.

We have to keep trying. We have just been unable to get the 60 votes on two different substantive approaches to prescription drugs in the votes that occurred earlier today. We have to keep trying to forge a compromise. The compromise is not this scaled-down version.

I wish to speak about the substantive alternatives that are here. One of the alternatives, as suggested by what has been voted out of the other body, the House of Representatives, utilizes the private sector and private sector insurance companies in which they offer the prescription drug benefit.

I had a little bit of experience as the elected insurance commissioner of Florida for 6 years before coming here. I point out that you can get some glimpse of the enthusiasm of insurance companies to offer this prescription drug benefit if you look to the States.

For example, 4 years ago, the State of Nevada passed a prescription drug benefit. It was to be offered by private insurance companies. Within 2 years after the passage of that law, not one insurance company had come forth to offer that prescription drug benefit.

On the basis of that experience, that is certainly not what we want to be of-

fering to senior citizens of our country on something that is so important to them, a benefit that would be illusory, that would not be there. That is why we ought, in whatever compromise we strike, to come closer to the Graham-Miller approach, which is a substantial reworking of Medicare, and the prescription drug benefit becomes a part of Medicare. Then it is my hope, once we can find that illusive consensus, we can go on and add additional improvements.

The health care providers of this country are hurting because they are not getting reimbursed for their Medicare procedures at a rate that is commensurate with what they should be reimbursed. One of the items we are going to discuss—and hopefully we would be able to take this base bill and amend it—is an increase of those Medicare reimbursements so that we are taking care of the Medicare beneficiaries, the senior citizens, and we are also helping those who are providing the services, the health care providers, by increasing their Medicare reimbursement.

When we do that, I hope we will also look at some of the practices that because doctors are getting squeezed, in large part squeezed by insurance companies, sometimes regular insurance companies, some called HMOs, which are insurance companies, and because doctors are getting squeezed, they are trying to find ways to keep their income up.

Lo and behold, down in my State of Florida, there is a group of doctors now saying to all of their patients: We are not going to see you anymore unless you pay us an entrance fee of \$1,500 per patient per year. But by the way, we still want to take your Medicare reimbursement.

That is simply the beginning of the end for Medicare, because the logical extension of that is that only those who are wealthy enough to afford that entrance fee—in the case of Florida, \$3,000 per year per couple—are going to get the access to the doctor they want, that doctor who is being reimbursed by the Federal Government for the services performed for those senior citizens.

That is wrong. It should be changed. It ought to be illegal and yet the Department of HHS has said it is not illegal. So we are going to have to change the law so that a doctor cannot receive reimbursement from Medicare if they are saying to those patients: I will not see you unless you pay me \$1,500 a year as an entrance fee into concierge care.

I hope we strike the major compromise, that it is closer to the Graham-Miller bill, that we address Medicare reimbursements because the doctors and other health care providers need it, and that we add the amendment I just talked about which would prevent doctors from limiting patients to seeing them unless they pay an entrance fee while at the same time getting their Medicare reimbursement.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, could the Chair tell me how much time this side has remaining?

The PRESIDING OFFICER. Twelve minutes fifty seconds.

Mr. HAGEL. And how much time does the other side have remaining?

The PRESIDING OFFICER. Five minutes fifty-seven seconds.

Mr. HAGEL. I thank the Chair.

Mr. President, I allocate 5 minutes of our remaining time to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I know time is now precious and we are down to a few minutes. I will skip a lot of things I was going to say since there has been a lot of redundancy.

My good friend from New York was on the floor and was talking about the relative significance of the inheritance tax and how it wasn't really all that meaningful. I am sure the occupant of the chair would agree because he was one of the rare Democrats who stood up and said we should repeal that unfair tax on money that has already been spent. Also, with the farm crisis we have had out West in my State, I have yet to find one person out there who wasn't more concerned about losing his farm because of the very unfair death tax than even the farm bill. But that is not what we are here to talk about.

I think something the Senator from Texas, Mr. GRAMM, said has to be repeated over and over; that is, this Hagel-Ensign bill is a lot less expensive and does a better job, but there is one major reason. We have a saying out in Oklahoma that "if it ain't broke, don't fix it." That is exactly what the situation is.

We have a lot of people who don't need additional coverage now. If they don't need it, why provide it? Why get into some very large program?

Now, we have had two programs that have been rejected today. The first would not do for seniors what it said it would do, and it would have cost a lot more than we can afford, and it would not have included a lot of the drugs the seniors need. That program, as well as costing too much and not covering enough medications, would sunset in 2010. That means in 2010, people who have been relying on the Medicare prescription drug benefit would have had their coverage taken away. We know better than that.

I remember one of the best speeches that should be required reading for all young people, called "A Rendezvous With Destiny," by Ronald Reagan. He said:

The closest thing to immortality on the face of this earth is a Government benefit or program once started.

We all know that is the way it would work out and we would end up with some very large, spiraling cost program that we could not get rid of. It is not responsible, reasonable, and it is

not the best we can do for seniors. I am glad it did not pass.

Then we were given a chance to consider a second option, the tripartisan plan. I thought it was too expensive, but I supported it. It is very much like what the House passed. It is something we can go to conference on and have something effective come out of it. Once a person's drug costs reach a higher fixed limit, the Government would have paid 90 percent of the additional cost. Many colleagues supported it, as I did; but it was defeated.

Now we have a chance to give seniors a real prescription drug benefit. This legislation is a responsible, long-term, comprehensive plan which truly takes into account the needs and the situation of individual seniors. Several fellow cosponsors have already spoken to the specifics of the plan, such as low premiums, low overall costs on catastrophic coverage. I will tell you what it means to the people who sent us here.

Senator GRAMM talked about some individuals without identifying them. I will identify the people. The Hendersons are from Okmulgee County, a short distance from where I live in Oklahoma. I told them I was going to use their case. They wrote me to tell me about their struggle with prescription drugs. They had a unique problem—one was a heart problem and one was a cancer problem. The Hendersons have a yearly household income of \$24,000 and they spend \$9,000 of that on prescription drugs in a single year. The Hendersons' income falls between the 200 percent and 400 percent above the national poverty level. That national poverty level for couples is \$11,940 a year.

Under our bill, an out-of-pocket limit on the cost of prescription drugs for people with a similar income to the Hendersons is set at \$3,500. If they were between 100 and 200 percent of poverty, that would come down to \$1,500. But in the case of the Hendersons, they would have to pay that maximum, and then a copay of 10 percent of the cost of these drugs. Calculate that out. While the remaining cost of the Hendersons' drugs is \$5,500, their copays would be no more than \$550, and under this bill the Hendersons would pay a total of \$4,050 a year for prescription drugs, when they are now paying \$9,000 a year. This bill cuts their drug costs by more than half.

The Hendersons, under the Democrat plan, would have faced uncertainty on three fronts: First of all, uncertainty about which drugs were covered, since only two drugs in each therapeutic class would be covered; secondly, uncertainty about how much the prescriptions would cost since the \$10, \$40, and \$60 copayments in the plan were virtually done away with through amendments; and, three, uncertainty about how long their benefits would last even if it didn't sunset. They would not know this. Uncertainty is there.

I believe the Hagel plan is real assistance, and I strongly support it. I believe this is the alternative that is left and the most responsible one.

I thank the Chair.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I yield myself 4 minutes.

Madam President, first of all, I want to speak to my colleague from Oklahoma. My mother grew up in Oklahoma, and I have a great affinity for that State. I have a lot of relatives there.

But I was quite surprised to hear the comment that "if it ain't broke, don't fix it," when we are referring to Medicare. When we look at the Medicare system and the inability to cover prescription drugs for our seniors, when we look at the explosion in the price of the prescription drugs, I would say it is very tough to find a system that is more broken than our inability today to provide low-cost prescription drugs, whether it be through Medicare or whether it be a small business or a farmer trying to get coverage for their family. This system is broken. That is why we are here. It needs to be fixed.

I rise in opposition to the Hagel amendment. I appreciate the desire of my colleagues to find an alternative, but I certainly am concerned that this does not begin to address what it is that seniors in this country are needing or asking them to do. There seems to have been a lot of confusion about where AARP is regarding this issue. So I will read a letter sent to the author of the amendment on July 23—today—which says:

DEAR SENATOR HAGEL: Enacting a comprehensive prescription drug benefit in Medicare this year remains the top priority for AARP. Our members are counting on the Senate to pass a meaningful drug benefit that is available and affordable to all beneficiaries. Our members were promised in the last election that a comprehensive drug benefit would be a priority, and we are counting on you to make good on that promise this year.

We appreciate the intent of your bill, S. 2736, the "Medicare Rx Drug Discount and Security Act of 2002," to provide a prescription drug discount card and stop-loss protection to Medicare beneficiaries. However, in addition to our substantive objections, we are concerned that by offering this scaled-back proposal today, you would effectively derail bipartisan discussion and compromise on more meaningful comprehensive approaches. We believe Congress should focus its efforts on enactment of a more comprehensive drug benefit this year.

In addition to the timing of your proposal, AARP has concerns about the approach taken in your bill, including:

Catastrophic coverage—While AARP has not opposed income-relating premiums, income-relating the Medicare benefit changes the nature of the program. This would set an extremely dangerous precedent in Medicare. Further, the stop-loss levels set in the bill do not provide enough protection for lower income beneficiaries. A low-income couple could spend 25 percent of their income just for drugs before this plan offered assistance. Thirdly, there are a number of issues in-

involved in using tax returns to determine program eligibility levels, and we believe other options should be explored.

Discount card—While AARP supports the use of a discount card program as a building block for a Medicare prescription drug benefit, your proposal lacks the necessary specifications to guaranty the level of discount, what level of discount would be passed to beneficiaries, and the degree to consumer protections required of plans.

Given these concerns, AARP opposes your amendment. We remain fully committed to developing a comprehensive drug benefit for all Medicare beneficiaries and we look forward to working with you on legislation that our members can support.

This is signed by the executive director and CEO of AARP. I simply wanted to enter that into the RECORD to make it clear that AARP joins us in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. HAGEL. Madam President, I ask unanimous consent that Senators FRIST and NICKLES be added as cosponsors of amendment No. 4315. I yield the remainder of our time to the distinguished Senator from Tennessee.

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

Mr. FRIST. Madam President, how much time remains on our side?

The PRESIDING OFFICER. Six minutes twenty-four seconds.

Mr. FRIST. And the time on the other side?

The PRESIDING OFFICER. One minute.

Mr. FRIST. Madam President, will you notify me when I have 1 minute remaining.

I rise in support of the Hagel-Ensign Medicare Prescription Drug Discount and Security Act of 2002. I do so after a long day of debate, discussion, and votes on bills which attempt to reach out with affordable prescription drug coverage for our seniors.

Over the course of the day's debate, we have touched upon what matters most to seniors. That is what I want to address in the next 3 or 4 minutes.

What do seniors who are listening today—38 million Medicare potential recipients who are seniors today and another 5 or 6 million individuals with disabilities—what do they want regarding prescription drug coverage? I think it is three things. The first issue is that seniors want security. They want peace of mind. When you are 65, 70, 75, 80 years of age, the most frightening thought is that in those final years of your life you develop something—whether it is heart disease, chronic lung disease, emphysema, or lymphoma—and all of a sudden you face high prescription drug costs which are skyrocketing. We know this is an issue—we have been talking about that all week long. In essence, paying for prescription drugs bankrupts you in terms of what you can afford and, even worse than that, what your children may be able to afford. The beauty of this particular bill is that it addresses that peace of mind, that security.

The second issue I hear as I talk to seniors as I travel around Tennessee,

and it has been discussed a lot on the floor today, is that, with regard to prescription drugs, seniors want help now. They listen to the debate, and both of the bills discussed earlier today have some very good, substantive issues to them, are comprehensive, and each have pluses and minuses. But the defect that both bills have that the Hagel-Ensign bill does not have is this bill takes effect, in essence, right now. That is what seniors want.

Seniors who are listening may think: Why talk about a bill taking place in 2006 or 2005? I do not even know if I am going to be around 3 or 2 years from now. What they really want is help now. Those who need it want it now. The message they tell me is to do it now. Again, the Hagel-Ensign bill takes effect next year, not 2 years and not 3 years from now.

The third factor this bill does is it addresses prescription drugs in a responsible way. We are not in a world today or in a country today where you can just throw unlimited money and say it will be taken care of by the next generation or by my family 5 years from now. This is especially true when we have a doubling of the number of seniors, the demographic change, the move of the baby boomers coming online in 2008 and 2010. Seniors tell me, whatever you do, do it responsibly. Do it in a way that is just not over a 3-year period, 4-year period and it disappears, you take the benefit away or raise taxes exorbitantly. Do it in a way that can be sustained over time. Do it responsibly.

That is what the Hagel-Ensign bill does. One of the most beautiful aspects of this bill is that we can do it now, and we can do it responsibly. We talk big figures. The dollar figure was \$160 billion. It is a lot of money, but it is not the \$800 billion or the \$1 trillion or even the \$370 billion of the tripartisan plan. It takes effect now, giving peace of mind in capping how much money a senior is going to have to pay out of pocket if there is a catastrophe or if a senior develops a disease which requires the miracle medications that are out there today, and it does it in a responsible way.

How does the bill work? We have been through the details. The first issue I mentioned was peace of mind, security, and savings. Instead of what seniors are doing now—going to a pharmacy, placing a prescription on the table, and paying a retail price that nobody in this body, most employer-sponsored plans do not have to—they will be able to go in to a pharmacy with a card that they put on the table and take advantage of mass negotiations.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. FRIST. I thank the Chair.

Madam President, seniors can take this card in and get discounts, resulting in savings to seniors right now.

Catastrophic coverage gives security, peace of mind. Using marketplace tools is important as we look ahead because

it takes advantage of the marketplace in negotiating discounts that are not available today.

Madam President, I close with the statement that I believe the Hagel-Ensign bill brings to a head much of the discussion today in that it reaches out and gives seniors the security they want. It does it now. It does it in a way that is responsible. It is affordable for seniors, affordable for taxpayers, and is permanent.

Madam President, I yield the floor.

Ms. STABENOW. Madam President, can you give us an indication of the time remaining to each side?

The PRESIDING OFFICER. The Senator from Michigan controls 1 minute. The Senator from Nebraska controls 5 seconds.

Ms. STABENOW. Does the Senator from Nebraska wish to take his 5 seconds?

Mr. HAGEL. I want the Senator from Michigan to have my 5 seconds.

Ms. STABENOW. I was looking forward to what the Senator might say in 5 seconds.

Mr. HAGEL. Madam President, the Senator from Michigan has a more difficult case to make. She needs more time.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I will simply say in closing that AARP, representing seniors, and other senior organizations across this country do not believe this, in fact, is a good deal. There is no question they want action now, but it has to be real and meaningful.

Discount cards are available now. In many cases, they do not work at all or they are very limited. It is important we be responsible.

I would argue there is a broader responsibility in the Senate. When we debate whether or not the tax cut geared to the wealthiest individuals in the country will be extended another 10 years, we are debating an amount of money that is more than four times any comprehensive Medicare plan that we will have before us.

This is a question of priorities. It is a question of what we believe, as Americans, should be our values and how we act on those in terms of our priorities, and I argue that doing the right thing with the real Medicare benefit is what our seniors are asking for and it is what they deserve. I urge my colleagues to vote no on the Hagel amendment.

The PRESIDING OFFICER. All time has expired.

The Senator from West Virginia.

A TRUE COMMITMENT TO HOMELAND SECURITY

Mr. BYRD. Madam President, the Senate will soon have before it the fiscal year 2002 supplemental appropriations conference report. This legislation provides for the defense of this Nation, both at home and abroad.

Specifically, the bill provides \$14.4 billion for the Department of Defense. It allocates \$5.5 billion to New York to complete the promise made to provide \$20 billion to help recover from the terrorist attacks on September 11. Another \$1 billion is for Pell grants, \$417 million for veterans' medical care, \$400 million for election reform grants, and \$2.1 billion for foreign affairs.

The bill also provides \$205 million for Amtrak. Amtrak is an integral piece of the Nation's transportation network. For many rural communities, Amtrak represents the only public transportation connection to the rest of the Nation. But without the funding contained in this bill, that connection is in danger of being severed. Because of growing financial pressures, Amtrak needs an infusion of funding soon or else it faces bankruptcy. The \$205 million included in this supplemental appropriations bill will stave off bankruptcy and give the passenger railroad, which is under new management, time to craft sound plans for the future.

Most importantly, this bill provides \$6.7 billion for homeland security, including \$3.85 billion for the Transportation Security Administration. That is why this funding bill is so important. This funding will take steps now—without delay—to plug the holes in our Nation's defenses here at home. Congress has not hesitated when it comes to funding homeland security efforts. In two supplemental bills—the one approved shortly after the attacks and the one before the Senate today—Congress has invested \$15 billion to protect Americans from another terrorist attack and to better respond should, God forbid, another attack occur.

The funding initiatives shaped by Congress have helped to hire more border patrol agents, increase the scrutiny of cargo shipments at our seaports, and accelerate the purchase of vaccines against smallpox. We have funded critical training and equipment purchases for local police, fire, and medical personnel. We have helped to train doctors and local health departments to detect and treat a biological or chemical weapons attack.

The money allocated in December has helped to hire more than 2,200 INS border agents and Customs inspectors on the northern and southern borders. The INS is now implementing a system for tracking foreign students in this country—a system funded in the first supplemental bill. The Nation's police, fire and medical personnel are getting better training and equipment for detecting and responding to potential biological, chemical or nuclear attacks. The FBI is hiring hundreds of new agents. 750 more food inspectors and investigators are being hired. The number of ports with Food and Drug Administration investigators is being doubled. 324 additional protective personnel are being hired to protect our

nuclear weapons complex, and additional resources are being spent on efforts to destroy or secure nuclear materials overseas.

The legislation that will soon be before the Senate today will accomplish even more. It will accelerate the purchase of bomb-detecting machines at airports and provide much-needed resources at the local level. The funding will strengthen port and border security; tighten protections at our nuclear facilities; and better ensure the safety of food and drinking water supplies.

The legislation provides \$701 million for first responder programs, \$343 million above the President's request. This conference report, which will be voted on tomorrow morning, includes \$150 million for firefighters, with the funds going directly to the local fire departments. In the spring, when the firefighter grants that Congress allocated in the \$40 billion supplemental where made available, more than 18,000 fire departments across the country applied for assistance totaling more than \$3 billion. Yet only \$360 million was available to meet the demand. The administration did not request any additional funding for this program. However, the need is clear. Our first responders want to be prepared to respond to attack; Congress and the President need to provide the necessary resources so those first responders will be ready.

And in this supplemental bill, State and local governments will receive \$100 million to improve interoperability of communications equipment for fire, police, and emergency medical technicians. The inability of local police and fire departments to communicate with each other when responding to the World Trade Center attack has been identified as a major Achilles' heel in a defense of our homeland. The funding in this legislation will help to eliminate that inability and to develop uniform standards for interoperable State and local law enforcement, firefighting and emergency medical communications equipment. The administration requested no funding for this important need.

Another \$54 million, \$22 million above the President's request, will strengthen the Federal Emergency Management Agency's search and rescue teams. Currently, there are 28 FEMA search and rescue teams around the country that can be deployed to major disasters to assist local first responders in search and rescue operations. This funding will be used to upgrade equipment and training for responding to events involving a biological, chemical, radiation or nuclear attack.

One of the major weaknesses in our homeland security is the virtually nonexistent protections at the Nation's ports. Cargo containers are piled up by the thousands at ports, depots, and huge outdoor warehouses. American ports are home to oil refiners, chemical plants, and nuclear facilities. A hijacked vessel that crashes into a port

could be used to ignite volatile fuels or gases and produce an explosion that equals one caused by hundreds, maybe thousands of tons of dynamite. American ports receive 16,000 cargo containers per day and 6 million containers each year, but less than five percent of those containers are inspected. That means a terrorist has at least a 95 percent chance of sneaking weapons of mass destruction into the United States. That is not acceptable.

Congress, through this supplemental legislation, provides \$739 million for port security programs, \$465 million above the President's request. This conference report includes \$125 million for port security grants through the Transportation Security Administration. Last fall, Congress approved \$93 million of unrequested funds for port security grants. DOT received \$692 million of applications for the \$93 million we provided. The administration did not request additional funding for this purpose.

Another \$528 million in this bill is for the Coast Guard for port and maritime security, \$273 million above the President's request. Increased funds would be used to expedite vulnerability assessments at our Nation's ports, rather than follow the administration's slower plan to do the assessments over the next 5 years. The money would add two new maritime safety and security teams; purchase a total of 6 homeland security response boats; and expand aviation assets as well as the shore facilities to support them. Another \$39 million would help the Customs Service to target and inspect suspect shipping containers at overseas ports before they reach American ports. The administration requested no funds for these activities.

Another major concern is the security of the Nation's nuclear facilities. The U.S. Department of Energy needs funds for this effort, but the Office of Management and Budget chose not to forward the Department's request to Congress. This legislation recognizes the need, heeds the warnings, and provides \$235 million to improve security of the nuclear weapons stockpile, national nuclear labs, and nuclear weapons plants. Funds are included to establish a "911" system for local first responders to call when confronted with nuclear hazards, enhanced funding for the National Center for Combating Terrorism, expansion of radiological search teams, and establishment of a National Capital Area Response Team at Andrews Air Force Base.

Just a few weeks ago, the White House warned of a possible terrorist attack on the Nation's banking system. It was a vague threat, but the potential for a terrorist organization to use computers and technology to short-circuit our financial system is clear. That is why this conference report includes \$147 million—\$128 million above the administration's request—for cyber security to help deal with the threat to Federal and private information systems.

Our long and porous land borders represent a daunting challenge in terms of homeland security. The Immigration and Naturalization Service and the Customs Service are already hiring more than 2,200 agents and inspectors with the funding Congress allocated in December. This legislation on which we will vote tomorrow, takes the next step, providing \$120 million for border security, including \$32 million for Immigration and Naturalization Service construction to improve facilities on our Nation's borders and \$25 million for better equipment.

When it comes to security at the Nation's airports, no one should doubt Congress' commitment. I note that, earlier today, the U.S. Secretary of Transportation testified at a hearing and charged that Congress is hamstringing his new Transportation Security Administration. Secretary Mineta has complained about a lack of flexibility in Congressional funding. Before the Transportation Secretary takes shots at Congress, I wish he would consider the facts. I hope that he will. This legislation provides \$3.85 billion for the Transportation's Security Administration. The conference report provides \$471 million for unrequested airport security efforts, including \$150 million to ensure that all small and medium airports have funds to implement the FAA's new airport security guidelines and that large airports have some additional funding to meet those requirements. \$225 million is provided above the President's request for explosives detection equipment and \$42 million is provided to improve the security of the FAA air traffic control system. In light of the recent tragedies at the Los Angeles International Airport, when a man walked to an airline ticket counter and started shooting, Congress provides \$17 million to improve airport terminal security. In addition, \$15 million is provided for improved air to ground communications for the air marshals. If there is a problem on a plane, the security personnel on the ground need to know about it.

The Transportation Secretary has charged that less flexibility translates into less security at our airports. Well, last fall, when Congress approved the \$40 billion emergency supplemental, we gave the administration flexibility. The President had the authority to allocate \$20 billion and he gave \$1.3 billion to the Transportation Security Administration. But did that flexibility lead to efficient government? Not necessarily. The Transportation Secretary, while pointing a finger at Congress, ignores the fact that his hand-picked Under Secretary of Transportation Security promptly spent \$418,000 to refurbish his personal office in what I am told is a beautiful mahogany. That must be one of the most stunning offices in the entire Department of Transportation. I would suggest that the Secretary's finger pointing be flexible, and that he turn his finger to his own department. Try that,

Mr. Secretary. He cannot in good conscience charge Congress with the inefficient operations of the Transportation Security Administration when its own personnel have wasted money and opportunity, missed their own internal deadlines for improving airport security, and failed to provide adequate budget information to Congress. Instead of looking for someone to blame for failures, the Transportation Secretary should be working internally to fashion a much more efficient and responsive Transportation Security Administration.

Another area of focus for this Congress is nuclear non-proliferation. We have heard a great deal of discussion about the potential for a "dirty bomb"—a small nuclear device no larger than a briefcase that, if exploded, can contaminate a broad area with radiation for many years. The best way to stop a dirty bomb is to minimize the opportunity for terrorists to get their hands on nuclear material. This supplemental bill includes \$100 million to protect fissile material abroad, purchase radiation detectors, and establish international standards for securing fissile material.

The Department of Defense will receive, through this legislation, \$14.4 billion for its activities around the world. There can be no doubt as to the commitment of Congress to the men and women in the Armed Forces. We will always ensure that they have the resources and equipment necessary to fulfill their mission to protect American interests throughout the world.

However, the Secretary of Defense, in the Administration's supplemental request, asked for authorities that are currently invested in other Cabinet secretaries and in the Congress. The Defense Secretary asked for the authority to spend \$100 million in foreign countries as he sees fit. Congress said no. The Defense Secretary asked for the authority to pay bounties for the death of those he deems to be terrorists. Congress said no. The Defense Secretary asked for the authority to spend \$30 million to indigenous groups around the world who arguably are assisting in the war on terrorism. Congress said no.

The Framers of the Constitution crafted a delicate balance between the legislative, executive, and judicial branches of the Federal Government. These new authorities for the Secretary of Defense would jeopardize that balance. Congress should not give this Secretary—or any other Secretary—extraordinary authority for the sole purpose of making the Secretary's job easier.

If the President signs this bill, he will have 30 days to decide whether to designate over \$5.1 billion as an emergency. If he does not make the emergency designations, the funds cannot be spent. Within the \$5.1 billion, there is nearly \$2.5 billion for homeland security. If the President does not make the emergency designation, he will

block nearly \$2.5 billion in homeland security investments, many of which I have just outlined. Firefighters. Police officers. Port security. Border security. Airport security. Search and rescue teams. Food safety. Drinking water safety. All these and more are involved. I hope that the President will join with Congress in this bipartisan approach to homeland security. I hope that he will declare these items to be an emergency, and make these important investments immediately to protect the American people from terrorist attacks.

In addition, if the President decides not to make the emergency designation, he also will block funding for the National Guard and Reserves. He will block funding for election reform. He will block funding for combating AIDS, tuberculosis, and malaria overseas. He will block flood prevention and mitigation; embassy security; aid to Israel and disaster assistance to Palestinians; wildfire suppression; emergency highway repairs; and veterans health care.

These critical appropriations for the American people have been delayed for months, sometimes as a result of administration intervention. The time has come for its speedy passage and the President's signature.

The Senate Appropriations Committee held 5 days of hearings on this bill and benefited greatly by hearing testimony from our Nation's first-responder, terrorism experts, mayors, Governors and Cabinet officials—from seven departments and from the Director of FEMA. We have produced a fair and balanced bill that fills many of the gaps in our homeland defense that were identified in our hearings.

I want to thank, once again, my friend and the Ranking Member of the Appropriations Committee, the Senior Senator from Alaska, Senator TED STEVENS, for his cooperation, for his leadership along the way in the conduct of the hearings, the markup of the bill, in the debate on the floor. I also want to thank our House counterparts, Appropriations Committee Chairman C.W. "BILL" YOUNG and Ranking Member DAVID OBEY for their cooperation and commitment to completing action on the legislation. I would be recreant if I did not thank the staffs who have worked so hard to finish this bill. On the Republican side, I thank Steve Cortese and Andy Givens and all of the professional and subcommittee staffs. On the Democratic side, I thank the Committee Staff Director, Terry Sauvain, my Deputy Staff Director Charles Kieffer, Edie Stanley, and Nancy Olkewicz, and all of the professional and subcommittee staffs for their long, long hours and days and weekends. Their tireless efforts have resulted in legislation, this legislation that we will vote on tomorrow, legislation that will help to protect American lives.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, before the President pro tempore of the Senate leaves the floor, I would like to say on behalf of the people of Nevada and the country how much we appreciate the work he did on homeland security.

Knowing the Congress has gone to the effort—and the Senator from West Virginia held hearings and called in Cabinet members to find out what was needed by each entity—and then the disappointment was, as far as I am concerned, when we got the supplemental request from the President, these matters were not found.

I say to the Senator from West Virginia, based on information obtained about how this should be obtained, by having congressional oversight hearings to determine what was needed, and then move forward together so people in West Virginia, Washington, and around the rest of the country are going to receive as a result of the action that will be taken by the Senate tomorrow, I hope there are no games played.

When the bill goes to the President, I hope he doesn't play around and try to send us a message about vetoing the bill.

This is so important for the country. We would not have this legislation but for the Senator from West Virginia. Of course, I have to include Senator STEVENS, who was very deliberate and sat through those hearings, as did the Senator from West Virginia. This is a bipartisan bill. A large chunk of it is based on the needs of this country for homeland security.

Mr. BYRD. Madam President, I thank the very distinguished Democratic whip for his observations.

Senator REID is a member of the Appropriations Committee in the Senate. So he partook of the action on this bill all along the way. He was present in the hearings that this Appropriations Committee held early in the year on this bill. I believe it was April.

This bill is not the first occasion in which the Senate Appropriations Committee has taken the lead in acting to strengthen our homeland security. This committee led the way last year.

The Appropriations Committee in the Senate appropriated \$4 billion above the President's request last year. Of course, I know we are accused of spending money, but that is the money we are spending for the security of the American people for their homeland, their homes, their schools, their churches, and their children. That is the money we are spending. Last year we exceeded the President's request for homeland security by \$4 billion. That was done in a bipartisan fashion. It wasn't done just by Democrats on the committee. But the Republican members of that committee joined all the way. The President threatened last year to veto that bill.

Does the Senator remember that? The President said last year he would veto that bill because it contained \$4 billion more than he requested last year.

This year that bill came to the floor with the solid support of the Republicans and Democrats on that committee. It was unanimously supported. It increased the homeland security part above the President's request by \$3 billion.

As we have gone through the process—it was a long, dragged-out effort when it came to working with the other body on the conference. We finally had to yield and come down from the \$3 billion to \$1.4 billion in additional money over the President's request for homeland security.

Again, all the way, I am proud to say, we have a bipartisan group in that committee that walks step by step and shoulder to shoulder to my colleague, Senator STEVENS, and I. We don't have any quarrels. We don't have any differences. We don't have any partisan discussions. We don't have any partisan bickering, nor do the members on the committee.

The distinguished Senator from Utah, Mr. BENNETT, is a member of that committee. I served with his father. I believe his father sat right here. I believe his father sat right there in that chair when the son, in whom his father was well pleased, was around these premises and knew a great deal about the Congress and worked in the Congress. He worked in his precincts.

We don't have any middle aisle in our committee. It was a joint effort on the part of Republicans and Democrats in close ranks and voting to support monies for the security of the American people. These are moneys that are in this conference report.

When it comes to homeland defense, this Appropriations Committee has been right out front. I am very proud of the way we have been able to do our work and work together. It has been a long time since this committee started on this bill. I guess the budget was sent up here last February. It has been all that long time.

Here we are in July with the conference report that we will be voting on tomorrow morning.

I thank the distinguished Senator.
I yield the floor.

CHANGES TO THE 2002 APPROPRIATIONS COMMITTEE ALLOCATIONS AND THE BUDGETARY AGGREGATES

Mr. CONRAD. Mr. President, section 314 of the Congressional Budget Act, as amended, requires that chairman of the Senate Budget Committee to adjust the budgetary aggregates and the allocation for the Appropriations Committee by the amount of appropriations designated as emergency spending pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. The conference report to H.R. 4775, the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, provides \$29.886 billion

in designated emergency funding 2002 for a variety of activities, including homeland security and the war on terrorism, which is estimated to result in \$7.783 billion in outlays in 2002.

Pursuant to section 302 of the Congressional Budget Act, I hereby revise the 2002 allocation provided to the Senate Appropriations Committee in the concurrent budget resolution in the following amounts.

TABLE 1.—REVISED ALLOCATION FOR APPROPRIATIONS COMMITTEE, 2002
(In millions of dollars)

	Budget authority	Outlays
Current Allocation:		
General Purpose Discretionary	704,240	692,717
Highways	0	28,489
Mass Transit	0	5,275
Conservation	1,760	1,473
Mandatory	358,567	350,837
Total	1,064,567	1,078,791
Adjustments:		
General Purpose Discretionary	29,886	7,783
Highways	0	0
Mass Transit	0	0
Conservation	0	0
Mandatory	0	0
Total	29,886	7,783
Revised Allocation:		
General Purpose Discretionary	734,126	700,500
Highways	0	28,489
Mass Transit	0	5,275
Conservation	1,760	1,473
Mandatory	358,567	350,837
Total	1,094,453	1,086,574

Pursuant to section 311 of the Congressional Budget Act, I hereby revise the 2002 budget aggregates included in the concurrent budget resolution in the following amounts.

TABLE 2.—REVISED BUDGET AGGREGATES, 2002
(In millions of dollars)

	Budget authority	Outlays
Current allocation: Budget Resolution	1,680,564	1,645,999
Adjustments: Emergency Spending	29,886	7,783
Revised allocation: Budget Resolution	1,710,450	1,653,782

Prepared by SBC Majority staff on 7-23-02.

The PRESIDING OFFICER. The Senator from Nevada.

UNANIMOUS CONSENT REQUEST— H.R. 3210

Mr. REID. Madam President, when I today read Congress Daily, as I often do, I was stunned. I was stunned as a result of what the President said in his radio address.

I have to acknowledge that I didn't wait around and listen to it Saturday. But I read about it here.

Let me read what the President said on Saturday. I say this with total sincerity. I am so disappointed in the President. I am sure others think that what he has done is hypocrisy. I will not use that word.

I am just terribly disappointed in the President.

This is what he said. The headline is: BUSH URGES CONGRESS TO SEND HIM TERRORIST REINSURANCE BILL.

President Bush made another plug for enactment of a terrorism reinsurance bill, noting in his radio address over the weekend, "Until Congress sends a bill to my desk,

some buildings will not be able to get coverage against terrorist attacks, and many new buildings will not be built at all. Commercial development is stalling, and workers are missing out on those jobs. This year alone, the lack of terrorism insurance has killed or delayed more than \$8 billion in commercial property financing. Congress should pass a terrorism insurance bill without unnecessary measures."

Can you imagine giving an address to the American people about Congress needing to do something on terrorism insurance?

Rather than wasting time on the radio address, why doesn't he call the Republican leadership in the Senate and ask: Why don't you let us go to conference?

Almost everything we have done with this terrorism insurance, we have had to fight the minority every step of the way. We fought to get it on the floor. We tried to do it even last year, right after the events of September 11, and we were stopped from doing so.

I have been on this floor maybe 10 or 12 times offering a unanimous consent request that we be allowed to go forward with the conference.

Just to remind everybody, we were told by the leadership that all we needed to do is change the ratio. Senator DASCHLE—and he has that right—decided the ratio should be 3 to 2. We were told: Make it 4 to 3, and we will go right to conference. That was weeks ago. We changed: OK, if that is what you want, then we will be happy to do that. We changed it to 4 to 3.

Then we are told: Well, there are two people in the minority who want that third spot, and they can't work that out.

So, as a result of that, as the President has indicated, there is no question about it, there is work being held up in Nevada and all over the country because they cannot get terrorism insurance. We cannot go to conference because you will not let us.

Last week, we were told: Give us 24 hours to resolve this. I have said here, for this unanimous consent agreement that I have been seeking for several days: I will put it in my desk and do it again. No more. No more. This is the last. As far as I am concerned, terrorism insurance is dead.

The industry, obviously, does not care enough to put enough pressure on the minority so that we can go to conference. If the role were reversed, and we, the Democrats, were holding up the appointing of conferees on a terrorism insurance bill, our phones would be ringing. We would have petitions. We would have demonstrations. But because it is the insurance industry, which is a little closer to the minority than we are, nothing happens. Day after day after day goes on, and I guess they expect me and Senator DASCHLE to come and offer this unanimous consent request.

No more. They can do it. In the meantime, terrorism insurance is dead. Nothing is going to happen. The House is going out Thursday.

So, as far as I am concerned, this bill is dead. I am not putting the unanimous consent request in my desk anymore; I am putting it in the garbage can. And we will wait and see what happens.

I think it is too bad. But maybe there has been something that has happened in the last few hours that will change their minds. Maybe my statement now will change their minds.

So I ask unanimous consent—I better take it out of the garbage so I can read it; and then I will put it right back, as soon as I finish—that the Senate proceed to the immediate consideration of Calendar No. 252, H.R. 3210, the House-passed terrorism insurance bill; that all after the enacting clause be stricken, and the text of S. 2600, as passed in the Senate, be inserted in lieu thereof, the bill, as thus amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with the ratio of 4 to 3, all without intervening action or debate.

The PRESIDING OFFICER (Mr. DAYTON). Is there objection?

The Senator from Utah.

Mr. BENNETT. Mr. President, reserving the right to object, let me say to my friend from Nevada that his words are well-taken. His passion is understood. At least as far as I am concerned, his determination to get this bill through is fully shared.

However, on behalf of the ranking member of the Banking Committee, Senator GRAMM, and reserving his rights, as I am sure the Senator from Nevada has from time to time reserved the rights of some of his colleagues, I must object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST— H.R. 3694

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 381, H.R. 3694, and that the Jeffords-Reid-Smith-Inhofe amendment, which is at the desk, be considered and agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Utah.

Mr. BENNETT. Mr. President, I am told that the amendment is still under review on this side of the aisle; therefore, I must again object.

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, I thank the Senator from Utah. He is absolutely correct. I, on an occasion or two, have represented Senators here, doing

things that sometimes I did not personally agree with. But I do hope that we can move forward on both matters.

I was serious about everything that I said on the terrorism insurance bill. On the matter dealing with highway funding, it is very important we get this done for a lot of different reasons. One reason is to prepare for the bill that is coming up next year, of which everyone has an interest. It is the bill we do every 5 or 6 years to fund highway projects around the country. It is money that collected during the 5-year period from the gas taxes. We need to make sure we have the ability to meet as many of the demands of the country as we can.

So I appreciate the Senator working on his side to get that cleared.

I have another unanimous consent request.

UNANIMOUS CONSENT AGREEMENT—H.R. 4775

Mr. REID. Mr. President, I ask unanimous consent that the previous order with respect to the conference report accompanying H.R. 4775, the supplemental appropriations bill, be modified to provide that the debate time commence at the conclusion of the debate with respect to the Hagel amendment to S. 812; with the debate time on the conference report remaining as provided for under the previous order; that upon the use of the time, without further intervening action or debate, the Senate proceed to vote on adoption of the conference report; that upon disposition of the conference report, there be 5 minutes for debate prior to a vote in relation to the Hagel amendment, with the time equally divided and controlled between Senators Hagel and Kennedy or their designees, provided further that the previous provisions relating to the Hagel amendment remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Mr. President, I am happy to say on this occasion there is none.

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

Mr. REID. Mr. President, debate will begin on the Hagel amendment at 11 a.m. Under the previous order, there will be 2 hours of debate. At 1 p.m., the Senate will take up the supplemental conference report with 30 minutes of debate. The first vote tomorrow will be at 1:30, approximately, to be followed by a vote with respect to the Hagel amendment. There will be two votes then at 1:30 tomorrow.

I appreciate everyone working with us. We will be able to get a lot of work done in committees. The Appropriations Committee—Senator BYRD's committee—is reporting out, I think, four appropriations bills tomorrow morning.

We have a lot to do. This will allow us to do that without being broken up for votes.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

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 last 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 in November 2000 in Bloomington, MN. Cecil John Reiners, 57, attacked a Hispanic man for speaking Spanish at work. Witnesses told police that Reiners, the business owner, was upset when a 23 year-old employee was speaking Spanish with two others at a break table. Reiners went to the warehouse with a wood post and severely beat the victim, who was treated for severe skull fractures and clots at the hospital. "All I wanted was for that Mexican to leave my property," Reiners said. Mr. Reiners was later convicted of felony first-degree assault in connection with the incident.

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 and changing current law, we can change hearts and minds as well.

CIVILIZATION NEED NOT DIE

Mr. MURKOWSKI. Mr. President, in the more than 10 months since the attacks of September 11, 2001, all of us have been trying to bring context and understanding to the new world challenges we are confronting. It is at times such as this that the Senate needs wisdom and clarity to bring such context to our times.

Often in the past, the Senate turned to one of its most distinguished colleagues for vision and wisdom. That person, Daniel Patrick Moynihan, understood history and the actors and actions that make history.

Recently, I came across the Harvard University commencement speech that our former colleague, Senator Moynihan, gave this year, on the 58th anniversary of D-Day. I think all of my colleagues will benefit from reading Pat's remarkable speech, for it gives historical context to the times in which we are living.

I, for one, miss hearing Pat's insights into life. All of us who served with Pat

are better Senators because of the wisdom he imparted to all of us.

I ask unanimous consent that former Senator Pat Moynihan's Harvard commencement speech be printed in the RECORD.

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

COMMENCEMENT ADDRESS, JUNE 6TH, 2002

(By Daniel Patrick Moynihan)

A while back it came as something of a start to find in *The New Yorker* a reference to an article I had written, and I quote, "In the middle of the last century." Yet persons my age have been thinking back to those times and how, in the end, things turned out so well and so badly. Millions of us returned from the assorted services to find the economic growth that had come with the Second World War had not ended with the peace. The Depression had not resumed. It is not perhaps remembered, but it was widely thought it would.

It would be difficult indeed to summon up the optimism that came with this great surprise. My beloved colleague Nathan Glazer and the revered David Riesman wrote that America was "the land of the second chance" and so indeed it seemed. We had surmounted the depression; the war. We could realistically think of a world of stability, peace—above all, a world of law.

Looking back, it is clear we were not nearly so fortunate. Great leaders preserved—and in measure extended—democracy. But totalitarianism had not been defeated. To the contrary, by 1948 totalitarians controlled most of Eurasia. As we now learn, 11 days after Nagasaki the Soviets established a special committee to create an equivalent weapon. Their first atomic bomb was acquired through espionage, but their hydrogen bomb was their own doing. Now the Cold War was on. From the summer of 1914, the world had been at war, with interludes no more. It finally seemed to end with the collapse of the Soviet Union and the changes in China. But now . . .

But now we have to ask if it is once again the summer of 1914.

Small acts of terror in the Middle East, in South Asia, could lead to cataclysm, as they did in Sarajevo. And for which great powers, mindful or not, have been preparing.

The eras are overlapping.

As the United States reacts to the mass murder of 9/11 and prepares for more, it would do well to consider how much terror India endured in the second half of the last century. And its response. It happens I was our man in New Delhi in 1974 when India detonated its first nuclear device. I was sent in to see Prime Minister Indira Gandhi with a statement as much as anything of regret. For there was nothing to be done; it was going to happen. The second most populous nation on earth was not going to leave itself disarmed and disregarded, as non-nuclear powers appeared to be. But leaving, I asked to speak as a friend of India and not as an official. In twenty years time, I opined, there would be a Moghul general in command in Islamabad, and he would have nuclear weapons and would demand Kashmir back, perhaps the Punjab.

The Prime Minister said nothing; I dare to think she half agreed. In time, she would be murdered in her own garden; next, her son and successor was murdered by a suicide bomber. This, while nuclear weapons accumulated which are now poised.

Standing at Trinity Site at Los Alamos, J. Robert Oppenheimer pondered an ancient Sanskrit text in which Lord Shiva declares, "I am become Death, the shatterer of worlds." Was he right?

At the very least we can come to terms with the limits of our capacity to foresee events.

It happens I had been a Senate observer to the START negotiations in Geneva, and was on the Foreign Relations Committee when the treaty, having been signed, was sent to us for ratification. In a moment of mischief I remarked to our superb negotiators that we had sent them to Geneva to negotiate a treaty with the Soviet Union, but the document before us was a treaty with four countries, only two of which I could confidently locate on a map. I was told they had exchanged letters in Lisbon [the Lisbon Protocol, May 23, 1992]. I said that sounded like a Humphrey Bogart movie.

The hard fact is that American intelligence had not the least anticipated the implosion of the Soviet Union. I cite Stansfield Turner, former director of the CIA in Foreign Affairs, 1991. "We should not gloss over the enormity of this failure to forecast the magnitude of the Soviet crisis . . . The corporate view missed by a mile."

Russia now faces a near-permanent crisis. By mid-century its population could well decline to as few as 80 million persons. Immigrants will press in; one dares not think what will have happened to the nuclear materials scattered across 11 time zones.

Admiral Turner's 1991 article was entitled "Intelligence for a New World Order." Two years later Samuel Huntington outlined what that new world order—or disorder—would be in an article in the same journal entitled "The Clash of Civilizations." His subsequent book of that title is a defining text of our time.

Huntington perceives a world of seven or eight major conflicting cultures, the West, Russia, China, India, and Islam. Add Japan, South America, Africa. Most incorporate a major nation-state which typically leads its fellows.

The Cold War on balance suppressed conflict. But the end of the Cold War has brought not universal peace but widespread violence. Some of this has been merely residual proxy conflicts dating back to the earlier era. Some plain ethnic conflict. But the new horrors occur on the fault lines, as Huntington has it, between the different cultures.

For argument's sake one could propose that Marxism was the last nearly successful effort to Westernize the rest of the world. In 1975, I stood in Tiananmen Square, the center of the Middle Kingdom. In an otherwise empty space, there were two towering masts. At the top of one were giant portraits of two hirsute 19th century German gentlemen, Messrs. Marx and Engels. The other displayed a somewhat Mongol-looking Stalin and Mao. That wasn't going to last, and of course, it didn't.

Hence Huntington: "The central problem in the relations between the West and the rest is . . . the discordance between the West's—particularly America's—efforts to promote universal Western culture and its declining ability to do so."

Again there seems to be no end of ethnic conflict within civilizations. But it is to the clash of civilizations we must look with a measure of dread. The Bulletin of the Atomic Scientists recently noted that "The crisis between India and Pakistan, touched off by a December 13th terrorist attack on the Indian Parliament marks the closest two states have come to nuclear war since the Cuban Missile Crisis." By 1991, the minute-hand on their doomsday clock had dropped back to 17 minutes to midnight. It has since been moved forward three times and is again seven minutes to midnight, just where it started in 1947.

The terrorist attacks on the United States of last September 11 were not nuclear, but

they will be. Again to cite Huntington, "At some point . . . a few terrorists will be able to produce massive violence and massive destruction. Separately, terrorism and nuclear weapons are the weapons of the non-Western weak. If and when they are combined, the non-Western weak will be strong."

This was written in 1996. The first mass murder by terrorists came last September. Just last month the vice president informed Tim Russert that "the prospects of a future attack . . . are almost certain. Not a matter of if, but when." Secretary Rumsfeld has added that the attack will be nuclear.

We are indeed at war and we must act accordingly, with equal measures of audacity and precaution.

As regards precaution, note how readily the clash of civilizations could spread to our own homeland. The Bureau of the Census lists some 68 separate ancestries in the American population. (Military gravestones provide for emblems of 36 religions.) All the major civilizations. Not since 1910 have we had so high a proportion of immigrants. As of 2000, one in five school-age children have at least one foreign-born parent.

This, as ever, has had bounteous rewards. The problem comes when immigrants and their descendants bring with them—and even intensify—the clashes they left behind. Nothing new, but newly ominous. Last month in Washington an enormous march filled Pennsylvania Avenue on the way to the Capitol grounds. The marchers, in the main, were there to support the Palestinian cause. Fair enough. But every five feet or so there would be a sign proclaiming "Zionism equals Racism" or a placard with a swastika alongside a Star of David. Which is anything but fair, which is poisonous ad has no place in our discourse.

This hateful equation first appeared in a two-part series in Pravda in Moscow in 1971. Part of Cold War "agit prop." It has since spread into a murderous attack on the right of the State of Israel to exist—the right of Jews to exist!—a world in which a hateful Soviet lies has mutated into a new and vicious anti-Semitism. Again, that is the world we live in, but it is all the more chilling when it fills Pennsylvania Avenue.

It is a testament to our First Amendment freedoms that we permit such displays, however obnoxious to our fundamental ideals. But in the wake of 9/11, we confront the fear that such heinous speech can be a precursor to violence, not least here at home, that threatens our existence.

To be sure, we must do what is necessary to meet the threat. We need to better understand what the dangers are. We need to explore how better to organize the agencies of government to detect and prevent calamitous action.

But at the same time, we need take care that whatever we do is consistent with our basic constitutional design. What we do must be commensurate with the threat in ways that do not needlessly undermine the very liberties we seek to protect.

The concern is suspicion and fear within. Does the Park Service really need to photograph every visitor to the Lincoln Memorial? They don't, but they will. It is already done at the Statue of Liberty. In Washington, agencies compete in techniques of intrusion and exclusion. Identity cards and X-ray machines and all the clutter, plus a new life for secrecy. Some necessary; some discouraging. Mary Graham warns of the stultifying effects of secrecy on inquiry. Secrecy, as George Will writes, "renders societies susceptible to epidemics of suspicion."

We are witnessing such an outbreak in Washington just now. Great clamor as to what the different agencies knew in advance of the 9/11 attack; when the President was

briefed; what was he told. These are legitimate questions, but there is a prior issue, which is the disposition of closed systems not to share information. By the late 1940s the Army Signal Corps had decoded enough KGB traffic to have a firm grip on the Soviet espionage in the United States and their American agents. No one needed to know about this more than the President of the United States. But Truman was not told. By order, mind, of Omar Bradley, Chairman of the Joint Chiefs of Staff. Now as then there is police work to be done. But so many forms of secrecy are self-defeating. In 1988, the CIA formally estimated the Gross Domestic Product of East Germany to be higher than West Germany. We should calculate such risks.

The "What-ifs" are intriguing. What if the United States had recognized Soviet weakness earlier and, accordingly, kept its own budget in order, so that upon the breakup of the Soviet Union a momentous economic aid program could have been commenced? What if we had better calculated the forces of the future so that we could have avoided going directly from the "end" of the cold War to a new Balkan war—a classic clash of civilizations—leaving little attention and far fewer resources for the shattered Soviet empire?

Because we have that second chance Riesenman and Glazer wrote about. A chance to define our principles and stay true to them. The more then, to keep our system open as much as possible, without purposes plain and accessible, so long as we continue to understand what the 20th century has surely taught, which is that open societies have enemies, too. Indeed, they are the greatest threat to closed societies, and, accordingly, the first object of their enmity.

We are committed, as the Constitution states, to "the Law of Nations," but that law as properly understood. Many have come to think that international law prohibits the use of force. To the contrary, like domestic law, it legitimates the use of force to uphold law in a manner that is itself proportional and lawful.

Democracy may not prove to be a universal norm. But decency would do. Our present conflict, as the President says over and again, is not with Islam, but with a malignant growth within Islam defying the teaching of the Q'uran that the struggle to the path of God forbids the deliberate killing of noncombatants. Just how and when Islam will rid itself of current heresies is something no one can say. But not soon. Christianity has been through such heresy—and more than once. Other clashes will follow.

Certainly we must not let ourselves be seen as rushing about the world looking for arguments. There are now American armed forces in some 40 countries overseas. Some would say too many. Nor should we let ourselves be seen as ignoring allies, disillusioning friends, thinking only of ourselves in the most narrow terms. That is not how we survived the 20th century.

Nor will it serve in the 21st.

Last February, some 60 academics of the widest range of political persuasion and religious belief, a number from here at Harvard, including Huntington, published a manifesto: "What We're Fighting For: A Letter from America."

It has attracted some attention here; perhaps more abroad, which was our purpose. Our references are wide, Socrates, St. Augustine, Franciscus de Victoria, John Paul II, Martin Luther King, Jr., Alexander Solzhenitsyn, the Universal Declaration of Human Rights.

We affirmed "five fundamental truths that pertain to all people without distinction," beginning "all human beings are born free and equal in dignity and rights."

We allow for our own shortcomings as a nation, sins, arrogance, failings. But we assert we are no less bound by moral obligation. And finally, . . . reason and careful moral reflection . . . teach us that there are times when the first and most important reply to evil is to stop it.

But there is more. Forty-seven year ago, on this occasion, General George C. Marshall summoned our nation to restore the countries whose mad regimes had brought the world such horror. It was an act of statesmanship and vision without equal in history. History summons us once more in different ways, but with even greater urgency. Civilization need not die. At this moment, only the United States can save it. As we fight the war against evil, we must also wage peace, guided by the lesson of the Marshall Plan—vision and generosity can help make the world a safer place.

Thank you.

ADDITIONAL STATEMENTS

SUSAN G. KOMEN BREAST CANCER FOUNDATION

• Mrs. HUTCHISON. Mr. President, I am pleased to pay tribute to the Susan G. Komen Breast Cancer Foundation, which is celebrating its 20th anniversary. The organization literally grew from a shoebox full of names in Dallas, TX, to the Nation's largest private source of funding for breast cancer research and community-based outreach programs.

Our current U.S. Ambassador to the Republic of Hungary, the Hon. Nancy Brinker, is the founder of the Komen Foundation. As a founding member of the organization, I can recall the very first meeting we held in Nancy's living room. She is a woman of conviction, with talent and energy to match. While it is too soon to tell, I believe the establishment and launching of the Komen Foundation will be Nancy Brinker's most remarkable legacy to humankind.

When her older sister Suzy died of breast cancer at the age of 36, Nancy set out to keep the promise she had made to Suzy: to do everything in her power to eradicate breast cancer as a life-threatening disease. Today, 20 years after the Komen Foundation's inception, we recognize the "Power of Promise" Nancy made that day.

I am proud to have worked for the Komen Foundation in the Senate, and mark today's celebration by noting the truly great things people can do when they answer a call, see a need, and set out to make things different.

Twenty years ago, breast cancer was a term rarely spoken in public, and a subject that almost never appeared in newspapers or magazines. There were no self-help books and those who survived the disease did not readily share their stories. What is worse, breast cancer was viewed as a certain death sentence. Few treatment options existed at the time, and those that did were drastic and disfiguring.

At its inception, the Komen Foundation began to educate people and help

them recognize the seriousness of breast cancer in our society. People began giving of themselves as volunteers and as financial donors so that research into new breast cancer treatments, screening, and educational outreach efforts could be funded.

The Komen Foundation boasts over 100 affiliate groups in cities across the U.S., three European affiliates and a cadre of 75,000 dedicated volunteers, many of whom are survivors. In the past two decades, the Foundation has raised more than \$450 million for research, education, screening and treatment programs—many of which reach into traditionally medically underserved areas. The Komen Race for the Cure had over 112 races this year with 1.2 million runners and walkers participating. Each race event is an occasion of hope and survivor pride for participants and their supporters.

On the 20th Anniversary of the Komen Foundation, let us all renew our promise in the fight against breast cancer so that one day we will have something miraculous to celebrate: the end of breast cancer as a life-threatening disease.●

CONGRATULATING MONTANA WRESTLERS

• Mr. BAUCUS. Mr. President, today I rise to congratulate the outstanding wrestlers from my home State of Montana who won the Amateur Athletic Union Grand Nationals Wrestling Championships in Shreveport, LA, this past June. This was the first year in which Montana has sent an organized team to the competition, and on behalf of all Montanans, I want to say how proud we are of these athletes and their historic success.

In order to win the title, Team Montana, competed in Greco-Roman, Freestyle and Sombo disciplines, which are the three international disciplines of wrestling. Led by Stan Moran of Wolf Point, MT, the team was composed of athletes 5–35 years old, including World Champion Josh Charette; World Silver medalist Rob Charette; and World Bronze medalist Stan Moran, Jr. This is Josh Charette's third consecutive World Open Championship. Josh is currently representing Montana at the Olympic Training Center in the Judo discipline, where he is preparing for the 2004 Olympic Games in Athens.

Although these outstanding athletes are in the spotlight, I also want to take a moment to comment on the strength of the wrestling community in Montana. Whether it is this recent success at the AUU Grand Nationals Wrestling Championships or the success of Montana State University—Northern's wrestling program, Montana's entire wrestling community has a record that it can be very proud of. I know that such success comes only with focus and determination, and I want to commend the families, coaches, and wrestlers who have fostered an environment of excellence.

Again, I applaud these Montana wrestlers for their hard work and dedication to their respective disciplines. I wish them continued success in all their endeavors.●

GREAT LAKES SCIENCE CENTER

● Mr. LEVIN. Mr. President, I am proud to congratulate the Great Lakes Science Center on 75 years of service to Michigan and the Great Lakes region. This center provides the scientific information needed for restoring, enhancing, managing, and protecting wildlife and their habitat in the Great Lakes. Despite the importance of the Great Lakes, too few resources are devoted to researching and monitoring the ecosystem health. However, the Great Lakes Science Center has been at work for nearly eight decades—through the rise and fall of numerous species like lake trout, alewife, white fish, and sturgeon.

After the collapse of the cisco fishery in Lake Erie in 1925, the Great Lakes Science Center, which was then called the Great Lakes Biological Laboratory, was created to study the causes of this collapse. Though the fisheries in the Great Lakes continued to suffer, it was not until 1950 that biological research was truly supported. At that time the Great Lakes were experiencing one of the worst disasters possible—the invasion of sea lamprey. The sea lamprey, which moved into the Great Lakes through the Welland Canal and spread throughout the Great Lakes, destroyed the lake trout and lake whitefish commercial fisheries. After testing over 4,000 chemicals, the Great Lakes Science Center found the compound that is still being used today to destroy the lamprey.

In 1965, the center moved to its newly constructed headquarters on the North Campus of the University of Michigan at Ann Arbor. The center has been active in all areas of Great Lakes research including algal blooms, invasive species, near-shore habitat, fishery genetics and DDT levels in fish. The work of the dedicated staff has helped bring back the sturgeon and lake trout.

Today, the Great Lakes Science Center has 107 staff members, 5 field stations, 1 vessel base, and 3 vessel base-field station combinations throughout the Great Lakes. I am proud of the long and distinguished history of the Great Lakes Science Center, and I wish all of the researchers at the Science Center great success for the next 75 years.●

MESSAGE FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2990. An act to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes.

H.R. 3048. An act to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska.

H.R. 3258. An act to amend the Federal Lands Policy and Management Act of 1976 and the Mineral Leasing Act to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of rights-of-way granted, issued, or renewed under these Acts.

H.R. 3401. An act to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of un conveyed lands comprising the Center, and for other purposes.

H.R. 3645. An act to amend title 38, United States Code, to provide for improved procurement practices by the Department of Veterans Affairs in procuring health-care items.

H.R. 3892. An act to amend title 28, United States Code, to make certain modifications in the judicial discipline procedures, and for other purposes.

H.R. 3917. An act to authorize a national memorial to commemorate the passengers and crew of Flight 93 who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes.

H.R. 3969. An act to enhance United States public diplomacy, to reorganize United States international broadcasting, and for other purposes.

H.R. 4558. An act to extend the Irish Peace Process Cultural and Training Program.

H.R. 4870. An act to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes.

H.R. 4903. An act to ensure the continuity for the design of the 5-cent coin, establishing the coin Design Advisory Committee, and for other purposes.

H.R. 4940. An act to amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes.

H.R. 5055. An act to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge.

H.R. 5318. An act to posthumously award congressional gold medals to government workers and others who responded to the attack on the World Trade Center and the Pentagon and perished and to people aboard United Airlines flight 93 who helped resist the hijackers and caused the plane to crash, to require the Secretary of the Treasury to mint coins in commemoration of the Spirit of America, recognizing the tragic events of September 11, 2001, and for other purposes.

H.R. 5145. An act to designate the facility of the United States Postal Service located at 3135 First Avenue North in St. Petersburg, Florida, as the "William C. Cramer Post Office Building".

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 352. Concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment" as prepared by the Western Governor's Association, the Department of Agriculture, the Department of the Interior, and other stakeholders, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a national assessment of prescribed burning practices to minimize risks of escape.

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the

Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

H. Con. Res. 439. Concurrent resolution honoring Corinne "Lindy" Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus.

The message further announced that the House has agreed to the amendment of the Senate to the bill, H.R. 3487, to amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

The message also announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 13. A joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2990. An act to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3048. An act to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska; to the Committee on Energy and Natural Resources.

H.R. 3258. An act to amend the Federal Lands Policy and Management Act of 1976 and the Mineral Leasing Act to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of rights-of-way granted, issued, or renewed under these Acts; to the Committee on Energy and Natural Resources.

H.R. 3401. An act to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of un conveyed lands comprising the Center, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3645. An act to amend title 38, United States Code, to provide for improved procurement practices by the Department of Veterans Affairs in procuring health-care items; to the Committee on Veterans' Affairs.

H.R. 3892. An act to amend title 28, United States Code, to make certain modifications in the judicial discipline procedures, and for other purposes; to the Committee on the Judiciary.

H.R. 3917. An act to authorize a national memorial to commemorate the passengers and crew of Flight 93 who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3969. An act to enhance United States public diplomacy, to reorganize United States international broadcasting, and for

other purposes; to the Committee on Foreign Relations.

H.R. 4558. An act to extend the Irish Peace Process Cultural and Training Program; to the Committee on Foreign Relations.

H.R. 4870. An act to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4903. An act to ensure the continuity for the design of the 5-cent coin, establishing the Coin Design Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4940. An act to amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5055. An act to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge; to the Committee on Veterans' Affairs.

H.R. 5138. An act to posthumously award congressional gold medals to government workers and others who responded to the attacks on the World Trade Center and the Pentagon and perished and to people aboard United Airlines Flight 93 who helped resist the hijackers and caused the plane to crash, to require the Secretary of the Treasury to mint coins in commemoration of the Spirit of America, recognizing the tragic events of September 11, 2001, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5145. An act to designate the facility of the United States Postal Service located at 3135 First Avenue North in St. Petersburg, Florida, as the "William C. Cramer Post Office Building"; to the Committee on Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 352. Concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment" as prepared by the Western Governor's Association, the Department of Agriculture, the Department of the Interior, and other stakeholders, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a national assessment of prescribed burning practices to minimize risks of escape; to the Committee on Agriculture, Nutrition, and Forestry.

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2002" (Rept. No. 107-217).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2489: A bill to amend the Public Health Service Act to establish a program to assist

family caregivers in accessing affordable and high-quality respite care, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*Steven Robert Blust, of Florida, to be a Federal Maritime Commissioner for a term expiring June 30, 2006.

*Kathie L. Olsen, of Oregon, to be an Associate Director of the Office of Science and Technology Policy.

*Richard M. Russell, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

*Frederick D. Gregory, of Maryland, to be Deputy Administrator of the National Aeronautics and Space Administration.

*Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 2003.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

*Coast Guard nominations beginning George H. Teuton and ending Blake L. Novak, which nominations were received by the Senate and appeared in the Congressional Record on July 18, 2002.

(*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. ALLEN:

S. 2772. A bill to ensure continuity for the design of the 5-cent coin, establishing the Coin Design Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. BROWNBACK):

S. 2773. A bill to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the high Plains Aquifer and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROBERTS (for himself, Mr. ALLARD, Mr. MILLER, Mr. CRAIG, and Mr. CRAPO):

S. 2774. A bill to transfer to the Secretary of Homeland Security the functions of the Secretary of Agriculture relative to agricultural import and entry inspection activities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. CLINTON:

S. 2775. A bill to amend title XVI of the Social Security Act to provide that annuities paid by States to blind veterans shall be disregarded in determining supplemental security income benefits; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2776. A bill to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MILLER:

S. Con. Res. 130. A concurrent resolution expressing the sense of Congress that the Federal Mediation and Conciliation Service should exert its best efforts to cause the Major League Baseball Players Association and the owners of the teams of Major League Baseball to enter into a contract to continue to play professional baseball games without engaging in a strike, a lockout, or any coercive conduct that interferes with the playing of scheduled professional baseball games; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 2, a bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

S. 346

At the request of Mr. MURKOWSKI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 346, a bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into two circuits, and for other purposes.

S. 446

At the request of Mr. CRAPO, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 446, a bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes.

S. 812

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

S. 1020

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1020, a bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to medicare beneficiaries residing in rural areas.

S. 1339

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 2047

At the request of Mr. BREAUX, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2047, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

S. 2250

At the request of Mr. CORZINE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2250, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

S. 2394

At the request of Mrs. CLINTON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2394, a bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients.

S. 2480

At the request of Mr. KYL, his name was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

At the request of Mr. LEAHY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2480, *supra*.

S. 2512

At the request of Mr. HARKIN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2562

At the request of Mr. REID, the name of the Senator from New York (Mr.

SCHUMER) was added as a cosponsor of S. 2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2574

At the request of Mr. BROWNBAC, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2574, a bill to amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act.

S. 2608

At the request of Mr. HOLLINGS, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2608, a bill to amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development.

S. 2615

At the request of Mr. MURKOWSKI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2615, a bill to amend title XVII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals.

S. 2663

At the request of Mr. BREAUX, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2674

At the request of Mr. BROWNBAC, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2729

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2729, a bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

S. 2734

At the request of Mr. KERRY, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Nevada (Mr. REID), the Senator from Nevada (Mr. ENSIGN), the Senator from Missouri (Mr. BOND) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. 2736

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 2736, a bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs.

S. 2761

At the request of Mr. FEINGOLD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2761, a bill to amend the Internal Revenue Code of 1986 to provide that reimbursements for costs of using passenger automobiles for charitable and other organizations are excluded from gross income, and for other purposes.

S. RES. 239

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 239, a resolution recognizing the lack of historical recognition of the gallant exploits of the officers and crew of the S.S. Henry Bacon, a Liberty ship that was sunk February 23, 1945, in the waning days of World War II.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

S. RES. 293

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. Res. 293, a resolution designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. CON. RES. 119

At the request of Mr. BURNS, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. Con. Res. 119, a concurrent resolution honoring the United States Marines killed in action during World War II while participating in the 1942 raid on Makin Atoll in the Gilbert Islands and expressing the sense of Congress that a site in Arlington National Cemetery, near the Space Shuttle Challenger Memorial at the corner of Memorial and Farragut Drives, should be provided for a suitable monument to the Marine Raiders.

S. CON. RES. 121

At the request of Mr. HUTCHINSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Con. Res. 121, a concurrent resolution expressing the sense of Congress that there should be established a National Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

AMENDMENT NO. 4304

At the request of Mr. ALLARD, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of amendment No. 4304 intended to be proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

AMENDMENT NO. 4309

At the request of Mr. DAYTON, his name was added as a cosponsor of amendment No. 4309 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

AMENDMENT NO. 4310

At the request of Mr. ALLARD, his name was added as a cosponsor of amendment No. 4310 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. BROWNBACK):

S. 2773. A bill to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill that has significance for the entire Great Plains region of our Nation. The High Plains Aquifer, which is comprised in large part by the Ogallala Aquifer, extends under eight states: Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming. It is experiencing alarming declines in its water levels. This aquifer is the source of water for farmers and communities throughout the Great Plains region. The legislation I am introducing today is intended to ensure that sound and objective science is available with respect to the hydrology and geology of the High Plains Aquifer.

This bill, the "High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling and Monitoring Act," would direct the Secretary of the Interior to develop and carry out a comprehensive hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer. The Secretary is directed to work in conjunction with the eight High Plains Aquifer States in carrying out this program. The U.S. Geological Survey and the States will work in cooperation to further the goals of this program, with half of the available funds directed to the State component of the program.

I have appreciated the input and assistance of many in the High Plains Aquifer States in putting this legislation together. Last session, I introduced two bills relating to the High Plains Aquifer. One of these bills, S. 1537 would have established a mapping and monitoring program for the High Plains Aquifer. The bill I am introducing today revises and refines that program based on input from several of the State geologists and water management agency officials who would be in-

involved in implementing the program. Their assistance has been invaluable. As we conduct hearings on this legislation, I hope to receive further comment from them on the legislation, and I look forward to continuing to work with them as we proceed with this important legislation.

The second bill that I introduced last session, S. 1538, proposed that the Secretary of Agriculture provide incentive payments through the Farm Program to producers who were willing to conserve water by converting to less water-intensive crops or to dryland farming. In addition, the bill would have provided assistance to producers to make their irrigation systems more water efficient. I am pleased that the recently-enacted Farm Security and Rural Investment Act of 2002 establishes a ground and surface water conservation program which incorporates several of the concepts contained in S. 1538. It is to be funded in the amount of \$25 million for fiscal year 2002, \$45 million for fiscal year 2003, and \$60 million for each of fiscal years 2004 through 2007.

The Conference Report for the 2002 Farm Bill makes clear that "highest priority" is to be accorded the High Plains region in the funding and implementation of this program. I expect that the new program will yield substantial benefits to the High Plains region in addressing ground water depletion by providing cost-share payments, incentive payments, and loans to producers to improve irrigation systems, enhance irrigation efficiencies, convert to the production of less water-intensive crops or dryland farming, improve water storage through measures such as water banking and groundwater recharge, mitigate the effects of drought, and institute other measures as determined by the Secretary.

A reliable source of groundwater is essential to the well-being and livelihoods of people in the Great Plains region. Local towns and rural areas are dependent on the use of groundwater for drinking water, ranching, farming, and other commercial uses. Yet many areas overlaying the Ogallala Aquifer have experienced a dramatic depletion of this groundwater resource. The problem we are confronting is that the aquifer is not sustainable, and it is being depleted rapidly. This threatens the way of life of all who live on the High Plains. The bill I am introducing today would help ensure that the relevant science needed to address this problem is available so that we will have a better understanding of the resources of the High Plains Aquifer. I ask that my colleagues join me in supporting this legislation.

I ask unanimous consent that the text of the bill and the section-by-section be printed in the RECORD.

I also ask unanimous consent that a letter from the State Geologist of Kansas, written on behalf of the State geological surveys of the eight High Plains Aquifer States, endorsing the legislation be printed in the RECORD.

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

S. 2773

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 "High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling and Monitoring Act".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) ASSOCIATION.—The term "Association" means the Association of American State Geologists.

(2) DIRECTOR.—The term "Director" means the Director of the United States Geological Survey.

(3) FEDERAL COMPONENT.—The term "Federal component" means the Federal component of the High Plains Aquifer Comprehensive Hydrogeologic Characterization, Mapping, Modeling and Monitoring Program described in section 3(c).

(4) HIGH PLAINS AQUIFER.—The term "High Plains Aquifer" is the groundwater reserve depicted as Figure 1 in the United States Geological Survey Professional Paper 1400-B, title "Geohydrology of the High Plains Aquifer in Parts of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming."

(5) HIGH PLAINS AQUIFER STATES.—The term "High Plains Aquifer States" means the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas and Wyoming.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) STATE COMPONENT.—The term "State component" means the State component of the High Plains Aquifer Comprehensive Hydrogeologic Characterization, Mapping, Modeling and Monitoring Program described in section 3(d).

SEC. 3. ESTABLISHMENT

(a) PROGRAM.—The Secretary, working through the United States Geological Survey, and in cooperation with the State geological surveys and the water management agencies of the High Plains Aquifer States, shall establish and carry out the High Plains Aquifer Comprehensive Hydrogeologic Characterization, Mapping, Modeling and Monitoring Program, for the purposes of the characterization, mapping, modeling, and monitoring of the High Plains Aquifer. The program shall undertake on a county-by-county level or at the largest scales and most detailed levels determined to be appropriate on a state-by-state and regional basis: (1) mapping of the hydrogeological configuration of the High Plains Aquifer; and (2) with respect to the High Plains Aquifer, analyses of the current and past rates at which groundwater is being withdrawn and recharged, the net rate of decrease or increase in High Plains Aquifer storage, the factors controlling the rate of horizontal and vertical migration of water within the High Plains Aquifer, and the current and past rate of loss of saturated thickness within the High Plains Aquifer. The program shall also develop, as needed, regional data bases and groundwater flow models.

(b) FUNDING.—The Secretary shall make available fifty percent of the funds available pursuant to this Act for use in carrying out the State component of the program, as provided for by subsection (d).

(c) FEDERAL PROGRAM COMPONENT.—

(1) PRIORITIES.—The program shall include a Federal component, developed in consultation with the Federal Review Panel provided for by subsection (e), which shall have as its priorities—

(A) coordinating Federal, State, and local, data, maps, and models into an integrated physical characterization of the High Plains Aquifer;

(B) supporting State and local activities with scientific and technical specialists; and

(C) undertaking activities and providing technical capabilities not available at the State and local levels.

(2) **INTERDISCIPLINARY STUDIES.**—The Federal component shall include interdisciplinary studies that add value to hydrogeologic characterization, mapping, modeling and monitoring for the High Plains Aquifer.

(d) **STATE PROGRAM COMPONENT.**—

(1) **PRIORITIES.**—The program shall include a State component which shall have as its priorities hydrogeologic characterization, mapping, modeling, and monitoring activities in areas of the High Plains Aquifer that will assist in addressing issues relating to groundwater depletion and resource assessment of the Aquifer. Priorities under the State component shall be based upon the recommendations of State panels representing a broad range of users of hydrogeologic data and information, which shall be appointed by the Governor of the State or the Governor's designee.

(2) **AWARDS.**—Twenty percent of the Federal funds available under the State component shall be equally divided among the State geological surveys of the High Plains Aquifer States to carry out the purposes of the program provided for by this Act. The remaining funds under the state component shall be competitively awarded to State or local agencies or entities in the High Plains Aquifer States, including State geological surveys, State water management agencies, institutions of higher education, or consortia of such agencies or entities. Such funds shall be awarded by the Director only for proposals that have been recommended by the State panels referred to in subsection (d)(1), subjected to independent peer review, and given final recommendation by the Federal Review Panel established under subsection (e). Proposals for multi-state activities must be recommended by the State panel of at least one of the affected States.

(e) **FEDERAL REVIEW PANEL.**—

(1) **ESTABLISHMENT.**—There shall be established a Federal Review Panel to evaluate the proposals submitted for funding under the State component under subsection (d)(2) and to recommend approvals and levels of funding. In addition, the Federal Review Panel shall review and coordinate the Federal component priorities under subsection (c)(1), Federal interdisciplinary studies under subsection (c)(2), and the State component priorities under subsection (d)(1).

(2) **COMPOSITION AND SUPPORT.**—Not later than three months after the date of enactment of this Act, the Secretary shall appoint to the Federal Review Panel: (1) two representatives of the United States Geological Survey, at least one of which shall be a hydrologist or hydrogeologist; and (2) three representatives of the geological surveys and water management agencies of the High Plains Aquifer States from lists of nominees provided by the Association and the Western States Water Council, so that there is representation of both the State geological surveys and the State water management agencies. Appointment to the Panel shall be for a term of three years. The Director shall provide technical and administrative support to the Federal Review Panel. Expenses for the Federal Review Panel shall be paid from funds available under the Federal component of the program.

(f) **LIMITATION.**—The United States Geological Survey shall not use any of the Federal funds to be made available under the State component for any fiscal year to pay

indirect, servicing, or program management charges. Recipients of awards granted under subsection (d)(2) shall not use more than eighteen percent of the Federal award amount for any fiscal year for indirect, servicing, or program management charges.

SEC. 4. PLAN.

The Secretary, acting through the Director, shall, with the participation and review of the Association, the Western States Water Council, the Federal Review Panel, and the State panels, prepare a plan for the High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling and Monitoring Program. The plan shall address overall priorities for the program and a management structure and program operations, including the role and responsibilities of the United States Geological Survey and the States in the program, and mechanisms for identifying priorities for the Federal component and the State component.

SEC. 5. REPORTING REQUIREMENTS.

(a) **REPORT ON PROGRAM IMPLEMENTATION.**—One year after the date of enactment of this Act, and every two years thereafter through fiscal year 2011, the Secretary shall submit a report on the status of implementation of the program established by this Act to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the Governors of the High Plains Aquifer States.

(b) **REPORT ON HIGH PLAINS AQUIFER.**—One year after the date of enactment of this Act and every year thereafter through fiscal year 2011, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the Governors of the High Plains Aquifer States on the status of the High Plains Aquifer, including aquifer recharge rates, extraction rates, saturated thickness, and water table levels.

(c) **ROLE OF FEDERAL REVIEW PANEL.**—The Federal Review Panel shall be given an opportunity to review and comment on the reports required by this section.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2011 to carry out this Act.

SECTION-BY-SECTION HIGH PLAINS AQUIFER HYDROGEOLOGIC CHARACTERIZATION, MAPPING, MODELING AND MONITORING ACT

SEC. 1. SHORT TITLE

SEC. 2. DEFINITIONS

Defines the High Plains Aquifer States as the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas and Wyoming.

SEC. 3. ESTABLISHMENT

(a) **Program.** Directs the Secretary of the Interior, working through the U.S. Geological Survey, in cooperation with the State geological surveys and the water management agencies of the High Plains Aquifer States, to establish and carry out the High Plains Aquifer Comprehensive Hydrogeologic Characterization, Mapping, Modeling and Monitoring Program. The program is to undertake on a county-by-county level or at the most detailed level that is appropriate, mapping of the hydrogeological configuration of the High Plains Aquifer and analyses of several aspects of the hydrology and hydrogeology of the Aquifer, as specified.

(b) **Funding.** Requires the Secretary to make available fifty percent of the funds available pursuant to the Act for use in carrying out the State component of the program.

(c) **Federal Program Component.**

(1) **Priorities.** The program is to include a Federal component, developed in consultation with the Federal Review Panel, which shall have as priorities coordinating data, maps and models into an integrated physical characterization of the High Plains Aquifer, supporting State and local activities with scientific and technical specialists, and undertaking activities not available at State and local levels.

(2) **Interdisciplinary Studies.** The Federal component is to include interdisciplinary studies.

(d) **State Program Component.**

(1) **Priorities.** The program is to include a State component which shall have as priorities characterization, mapping, modeling, and monitoring activities that will assist in addressing issues relating to groundwater depletion and resource assessment of the Aquifer. Priorities are to be based on recommendations of State panels representing a broad range of users of data and information, which shall be appointed by the Governor of the State or the Governor's designee.

(2) **Awards.** Twenty percent of the funds available in the State component shall be equally divided among the State geological surveys of the High Plains Aquifer States. The remaining amounts shall be competitively awarded by the Director of the U.S. Geological Survey to State or local agencies or entities in the High Plains Aquifer States for proposals that have been recommended by the State panels, subject to independent peer review, and given final recommendation by the Federal Review Panel.

(e) **Federal Review Panel.**

(1) **Establishment.** Establishes a Federal Review Panel to evaluate proposals submitted for funding under the State component, to review and coordinate Federal component priorities, Federal interdisciplinary studies, and State component priorities.

(2) **Composition and Support.** The Secretary of the Interior is to appoint to the Federal Review Panel two representatives of the U.S. Geological Survey (at least one of which shall be a hydrologist or a hydrogeologist) and three representatives of the geological surveys and water management agencies of the High Plains Aquifer States from lists of nominees provided by the Association of American State Geologists and the Western States Water Council. There is to be representation of both the State geological surveys and the State water management agencies.

(f) **Limitation.**

The U.S. Geological Survey is not to use any of the Federal funds made available for the State components to pay indirect, servicing or program charges. Recipients of awards granted under subsection (d)(2) shall not use more than eighteen percent of the Federal award amount for indirect, servicing, or program management charges.

SEC. 4. PLAN

The Secretary, with the participation and review of the Association of American State Geologists, the Western States Water Council, the Federal Review Panel and the State panels, is directed to prepare a plan for the program.

SEC. 5. REPORTING REQUIREMENTS

(a) **Report on Program Implementation.** The Secretary is to submit a report one year after the date of enactment of this Act and every two years thereafter, on the status of implementation of the program to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House, and the Governors of the High Plains Aquifer States.

(b) **Report on High Plains Aquifer.** One year after the date of enactment the Act and

every year thereafter, the Secretary is to submit a report to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House, and the Governors of the High Plains Aquifer States, on the status of the High Plains Aquifer.

(c) Role of Federal Review Panel. The Federal Review Panel will be given an opportunity to review and comment on the reports.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated such sums as may be necessary to carry out the Act for fiscal years 2003 through 2011.

KANSAS GEOLOGICAL SURVEY,
OFFICE OF THE DIRECTOR,
Lawrence, KS, July 18, 2002.

Hon. JEFF BINGAMAN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: I am writing on behalf of the geological surveys of the eight High Plains states to endorse your proposed legislation. "High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling, and Monitoring Act."

This act will authorize scientific and technical analyses critical to extending and conserving the life of the nation's single largest groundwater resource. It is particularly noteworthy that the act is written to facilitate and ensure cooperation and collaboration among all of the affected geological surveys, state water agencies, and the local water user communities.

The High Plains aquifer is a complex system of geologic materials that vary vertically and across the region in its thickness, water storage and transport capacity, and ability to be recharged. Eight state geological surveys and the U.S. Geological Survey formed the High Plains Aquifer Coalition two years ago to advance the understanding of the subsurface distribution, character, and nature of the High Plains Aquifer that comprises the geologic deposits in the eight-state Mid-continent region. The distribution, withdrawal, and recharge of groundwater, and the interaction with surface waters are profoundly affected by the geology and the natural environment of the High Plains Aquifer in all eight states—New Mexico, Texas, Oklahoma, Colorado, Kansas, Nebraska, South Dakota, and Wyoming. The geological surveys, in consultation with the state and local water agencies and groups, have agreed on the need for comprehensive understanding of the subsurface configuration and hydrogeology of the High Plains Aquifer. This information is needed to provide state, regional, and national policymakers with the earth-science information required to make informed decisions regarding urban and agricultural land use, the protection of aquifers and surface waters, and the environmental well being of the citizens of this geologically unique region.

Water contained in the High Plains Aquifer must be considered a finite resource and thus warrants a different management approach than that used for more robust or readily recharged aquifers. Your proposed legislation addresses this issue in an effective and logical manner, and we believe it will receive broad support.

The "High Plains Aquifer Characterization, Mapping, Modeling, and Monitoring Act" is a necessary first step in a comprehensive program to adequately address issues of conservation, education, and agricultural economics in the High Plains Aquifer. We applaud your vision and leadership in introducing this legislation.

Sincerely,

M. LEE ALLISON,
STATE GEOLOGIST AND DIRECTOR,
Kansas Geological Survey Coordinator, High
Plains Aquifer Coalition.

By Mr. BINGAMAN:

S. 2776. A bill to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am pleased today to introduce legislation to protect several important archaeological sites in the Galisteo Basin in New Mexico. This bill identifies approximately two dozen sites in northern New Mexico which contain the ruins of pueblos dating back almost 900 years. When Coronado and other Spanish conquistadores first entered what is now New Mexico in 1541, they encountered a thriving Pueblo culture with its own unique tradition of religion, architecture and art, which was influenced through an extensive trade system. We know that these sites remain occupied up through the Pueblo revolt in 1680. After that, the sites were deserted, although we still don't know why they were abandoned, after over 700 years of continuous use.

Through these sites, we now have the opportunity to learn more not only about the history and culture of these Pueblos, but also about the first interaction between European and Native American cultures. The Cochiti Pueblo, in particular, is culturally and historically tied to these sites, which have tremendous historical and religious significance to the Pueblo. I am grateful for the continued support of the Pueblo de Cochiti for this legislation. This bill has strong local support, including the Santa Fe Board of County Commissioners, the City of Santa Fe, and the Archdiocese of Santa Fe. I would also like to thank the Archaeological Conservancy for its efforts over the past several years to identify and protect many of these sites, and in helping with this legislation.

Many of these archaeological sites are on Federal land administered by the Bureau of Land Management. BLM archaeologists have already provided extensive background research on many of these sites, and I was pleased that the agency supported a similar bill I introduced in the previous Congress.

Many of the archaeological sites identified in the bill are on non-Federal land. I would like to emphasize that the bill only authorizes voluntary participation, and there is no restriction or other limitation imposed on these lands. Because this is a sensitive issue, I have added language to this year's bill to explicitly state that the Secretary of the Interior has no authority to administer sites on non-Federal lands except to the extent provided for in a cooperative agreement entered into between the Secretary and the landowner. Similarly, the Secretary's authority to acquire lands is limited to willing sellers only.

In the three years since I first introduced this proposal, many irreplaceable archaeological resources have been lost, whether by vandalism, ero-

sion, or other means. Enactment of the Galisteo Basin Archaeological Sites Protection Act will allow us to take the first steps necessary to protect these resources and to allow for improved public understanding and interpretation of these sites.

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. 2776

Be it enacted in the Senate and the House of Representatives in the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Galisteo Basin Archaeological Sites Protection Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Galisteo Basin and surrounding area of New Mexico is the location of many well preserved prehistoric and historic archaeological resources of Native American and Spanish colonial cultures;

(2) these resources include the largest ruins of Pueblo Indian settlements in the United States, spectacular examples of Native American rock art, and ruins of Spanish colonial settlements; and

(3) these resources are being threatened by natural causes, urban development, vandalism, and uncontrolled excavations.

(b) PURPOSE.—The purpose of this Act is to provide for the preservation, protection, and interpretation of the nationally significant archaeological resources in the Galisteo Basin in New Mexico.

SEC. 3. ESTABLISHMENT OF GALISTEO BASIN ARCHAEOLOGICAL PROTECTION SITES.

(a) IN GENERAL.—The following archaeological sites located in the Galisteo Basin in the State of New Mexico, totaling approximately 4,591 acres, are hereby designated as Galisteo Basin Archaeological Protection Sites:

Name	Acres
Arroyo Hondo Pueblo	21
Burnt Corn Pueblo	110
Chamisa Locita Pueblo ..	16
Comanche Gap	764
Petroglyphs.	
Espinosa Ridge Site	160
La Cienega Pueblo & ..	126
Petroglyphs.	
La Cienega Pithouse Village.	179
La Cieneguilla	531
Petroglyphs/Camino Real Site.	
La Cieneguilla Pueblo	11
Lamy Pueblo	30
Lamy Junction Site	80
Las Huertas	44
Pa'ako Pueblo	29
Petroglyph Hill	130
Pueblo Blanco	878
Pueblo Colorado	120
Pueblo Galisteo/Las Madres.	
Pueblo Largo	60
Pueblo She	120
Rote Chert Quarry	5
San Cristobal Pueblo	520
San Lazaro Pueblo	360
San Marcos Pueblo	152
Upper Arroyo Hondo Pueblo.	12
Total Acreage	4,591

(c) AVAILABILITY OF MAPS.—The archaeological protection sites listed in subsection (b) are generally depicted on a series of 19 maps entitled "Galisteo Basin Archaeological Protection Sites" and dated July, 2002. The Secretary shall keep the maps on file and available for public inspection in appropriate offices in New Mexico of the Bureau of Land Management and the National Park Service.

(d) BOUNDARY ADJUSTMENTS.—The Secretary may make minor boundary adjustments to the archaeological protection sites by publishing notice thereof in the Federal Register.

SEC. 4. ADDITIONAL SITES.

(a) IN GENERAL.—The Secretary of the Interior (in this Act referred to as “Secretary”) shall—

(1) continue to search for additional Native American and Spanish colonial sites in the Galisteo Basin area of New Mexico; and

(2) submit to Congress, within three years after the date funds become available and thereafter as needed, recommendations for additions to, deletions from, and modifications of the boundaries of the list of archaeological protection sites in section 3 of this Act.

(b) ADDITIONS ONLY BY STATUTE.—Additions to or deletions from the list in section 3 shall be made only by an Act of Congress.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—(1) The Secretary shall administer archaeological protection sites located on Federal land in accordance with the provisions of this Act, the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), and other applicable laws in a manner that will protect, preserve, and maintain the archaeological resources and provide for research thereon.

(2) The Secretary shall have no authority to administer archaeological protection sites which are on non-Federal lands except to the extent provided for in a cooperative agreement entered into between the Secretary and the landowner.

(3) Nothing in this Act shall be construed to extend the authorities of the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Repatriation Act to private lands which are designated as an archaeological protection site.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Within three complete fiscal years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, a general management plan for the identification, research, protection, and public interpretation of—

(A) the archaeological protection sites located on Federal land; and

(B) for sites on State or private lands for which the Secretary has entered into cooperative agreements pursuant to section 6 of this Act.

(2) CONSULTATION.—The general management plan shall be developed by the Secretary in consultation with the Governor of New Mexico, the New Mexico State Land Commissioner, affected Native American pueblos, and other interested parties.

SEC. 6. COOPERATIVE AGREEMENTS.

The Secretary is authorized to enter into cooperative agreements with owners of non-Federal lands with regard to an archaeological protection site, or portion thereof, located on their property. The purpose of such an agreement shall be to enable to the Secretary to assist with the protection, preservation, maintenance, and administration of the archaeological resources and associated lands. Where appropriate, a cooperative agreement may also provide for public interpretation of the site.

SEC. 7. ACQUISITIONS.

(a) IN GENERAL.—The Secretary is authorized to acquire lands and interests therein within the boundaries of the archaeological

protection sites, including access thereto, by donation, by purchase with donated or appropriated funds, or by exchange.

(b) CONSENT OF OWNER REQUIRED.—The Secretary may only acquire lands or interests therein within the consent of the owner thereof.

(c) STATE LANDS.—The Secretary may acquire lands or interests therein owned by the State of New Mexico or a political subdivision thereof only by donation or exchange, except that State trust lands may only be acquired by exchange.

SEC. 8. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the archaeological protection sites are hereby withdrawn—

(1) from all forms of entry, appropriation, or disposal under the public land laws and all amendments thereto;

(2) from location, entry, and patent under the mining law and all amendments thereto; and

(3) from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

SEC. 9. SAVINGS PROVISIONS.

Nothing in this Act shall be construed—

(1) to authorize the regulation of privately owned lands within an area designated as an archaeological protection site;

(2) to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of privately owned lands; or

(3) to modify, enlarge, or diminish any authority of Federal, State, tribal, or local governments to manage or regulate any use of land as provided for by law or regulation.

(4) to restrict or limit a tribe from protecting cultural or religious sites on tribal lands.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENTE CONCURRENT RESOLUTION
130—EXPRESSING THE SENSE OF
CONGRESS THAT THE FEDERAL
MEDIATION AND CONCILIATION
SERVICE SHOULD EXERT ITS
BEST EFFORTS TO CAUSE THE
MAJOR LEAGUE BASEBALL
PLAYERS ASSOCIATION AND THE
OWNERS OF THE TEAMS OF
MAJOR LEAGUE BASEBALL TO
ENTER INTO A CONTRACT TO
CONTINUE TO PLAY PROFESSIONAL
BASEBALL GAMES WITHOUT
ENGAGING IN A STRIKE, A
LOCKOUT OR ANY COERCIVE
CONDUCT THAT INTERFERES
WITH THE PLAYING OF SCHEDULED
PROFESSIONAL BASEBALL
GAMES

Mr. MILLER submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions.

S. CON RES. 130

Whereas major league baseball is a national institution and is commonly referred to as “the national pastime”;

Whereas major league baseball and its players played a critical role in restoring America’s spirit following the tragic events of September 11, 2001;

Whereas major league baseball players are role models to millions of young Americans; and

Whereas while the financial issues involved in this current labor negotiation are significant, they pale in comparison to the damage that will be caused by a strike or work stoppage: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Federal Mediation and Conciliation Service, on its own motion and in accordance with section 203(b) of the Labor Management Relations Act, 1947 (29 U.S.C. 173(b)), should immediately—

(1) proffer its services to the Major League Baseball Players Association and the owners of the teams of Major League Baseball to resolve labor contract disputes relating to entering into a collective bargaining agreement; and

(2) use its best efforts to bring the parties to agree to such contract without engaging in a strike, a lockout, or any other coercion that interferes with the playing of scheduled professional baseball games.

Mr. MILLER. Mr. President, today I share with my colleagues a resolution that calls on the Federal Mediation and Conciliation Service to exert its best efforts to cause the Major League Baseball Players Association and the owners of the teams of Major League Baseball to enter into a contract to continue to play professional baseball games without engaging in any coercive conduct that interferes with the playing of scheduled professional baseball games.

Folks don’t agree on much around this place. But, I think we can all agree that baseball as we’ve known it, is in deep trouble.

Billion dollar owners and multi-million dollar players refusing to come together and do what’s right for the game.

Steroid use rampant, according to an article in Sports Illustrated.

And the best Senator DORGAN could get out of a June hearing from the Players Association Executive Director was for him to say “We’ll have a frank and open discussion” on the topic.

But the big problem is that the player’s labor contract expired last year and the negotiations on a new deal are going nowhere.

There have been eight different labor agreements and each time there was a work stoppage.

The last time the owners and players tried to renew their contract back in 1994, it took a 232-day shutdown of the game, including canceling the World Series for the first time in 90 years, to finally get an agreement.

Hall of Famer and U.S. Senator JIM BUNNING has an op-ed piece in this morning’s New York Times. He writes, “The last strike nearly killed the game. I am afraid the next one will.”

There are many problems. Only five out of thirty teams made a profit last season. That means 25 ended up in the red. The extreme ran from the Yankees collecting \$217.8 million and the Montreal Expos \$9.8 million.

The average player today, the average player, makes more than \$2 million a year.

Ever since Abner Doubleday invented the game, a game is played until one team wins. That was part of the enchantment of the game: theoretically it could go on forever. Unless, that is, a commissioner calls it off and goes to dinner.

Ever since baseball was declared as entertainment instead of a business in a 1922 Supreme Court decision that gave the owners exemptions from laws against collusion and other monopolistic activities, we have probably been headed to this day. These anti-trust exemptions give owners tremendous power and any proposals to change it, like Rep. JOHN CONYERS tried to do not too long ago, have gone nowhere.

And, we're not proposing that today, I'm not even sure I'm for that. I happen to think that it would kill the minor leagues.

And right now, these 160 teams are playing some of the purest baseball being played today.

So what do we do? Here's how I see it.

What would any of us do if we saw a loved one, someone you grew up with and loved like a member of your family, with a pistol in his hand, loaded with the safety off and aimed at their temple?

What if you had only a few seconds before that close personal friend blew his brains out? I'd try to stop him. And I think you would too. I'd lurch for the pistol and try to take it away from him by whatever force necessary. I'd do just about anything to save his life.

I could go on with this analogy, but I think you get the picture.

For sixty summers I've followed the game of baseball. I live for the early days of February when the catchers and pitchers report for spring training.

And when the World Series ends in the late fall, I might as well be hibernating in a cave during the winter, or serving in the Senate, because my life is so empty.

But, I digress. Back to saving the life of that good friend about to blow his brains out.

That's what this resolution attempts to do.

Its purpose is to inject the Federal Government, with all its persuasive powers, into this dispute. Hopefully, with the end result of preventing the baseball players from striking and shutting down major league baseball.

I want to save this game for those who love it as I do and for those who will come after us. I do not want to see our national pastime become our national once-upon-a-time.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4313. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table.

SA 4314. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4309 proposed by Mr. GRAHAM (for himself, Mr. MILLER, Mr. KENNEDY, and Mr. CORZINE) to the bill (S. 812) supra; which was ordered to lie on the table.

SA 4315. Mr. HAGEL (for himself, Mr. ENSIGN, Mr. LUGAR, Mr. GRAMM, Mr. INHOFE, Mr. SANTORUM, Mr. GREGG, Mr. FRIST, and Mr. NICKLES) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) supra.

TEXT OF AMENDMENTS

SA 4313. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —IMMUNOSUPPRESSIVE DRUG COVERAGE

SEC. 01. SHORT TITLE.

This title may be cited as the "Immunosuppressive Drug Coverage Act of 2002".

SEC. 02. PROVISION OF APPROPRIATE COVERAGE OF IMMUNOSUPPRESSIVE DRUGS UNDER THE MEDICARE PROGRAM.

(a) CONTINUED ENTITLEMENT TO IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPIENTS.—

(1) IN GENERAL.—Section 226A(b)(2) of the Social Security Act (42 U.S.C. 426-1(b)(2)) is amended by inserting "(except for coverage of immunosuppressive drugs under section 1861(s)(2)(J))" after "shall end".

(2) APPLICATION.—In the case of an individual whose eligibility for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) has ended except for the coverage of immunosuppressive drugs by reason of the amendment made by paragraph (1), the following rules shall apply:

(A) The individual shall be deemed to be enrolled in part B of the original medicare fee-for-service program under title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) for purposes of receiving coverage of such drugs.

(B) The individual shall be responsible for the full part B premium under section 1839 of such Act (42 U.S.C. 1395r) in order to receive such coverage.

(C) The provision of such drugs shall be subject to the application of—

(i) the part B deductible under section 1833(b) of such Act (42 U.S.C. 1395l(b)); and

(ii) the coinsurance amount applicable for such drugs (as determined under such part B).

(D) If the individual is an inpatient of a hospital or other entity, the individual is entitled to receive coverage of such drugs under such part B.

(3) ESTABLISHMENT OF PROCEDURES IN ORDER TO IMPLEMENT COVERAGE.—The Secretary of Health and Human Services shall establish procedures for—

(A) identifying beneficiaries that are entitled to coverage of immunosuppressive drugs by reason of the amendment made by paragraph (1); and

(B) distinguishing such beneficiaries from beneficiaries that are enrolled under part B of title XVIII of the Social Security Act for the complete package of benefits under such part.

(4) TECHNICAL AMENDMENT.—Subsection (c) of section 226A (42 U.S.C. 426-1), as added by section 201(a)(3)(D)(ii) of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296; 108 Stat. 1497), is redesignated as subsection (d).

(b) EXTENSION OF SECONDARY PAYER REQUIREMENTS FOR ESRD BENEFICIARIES.—Sec-

tion 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended by adding at the end the following new sentence: "With regard to immunosuppressive drugs furnished on or after the date of enactment of the Immunosuppressive Drugs Coverage Act of 2002, this subparagraph shall be applied without regard to any time limitation."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after the date of enactment of this Act.

SEC. 03. PLANS REQUIRED TO MAINTAIN COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.

(a) APPLICATION TO CERTAIN HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

"SEC. 2707. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.

"A group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide coverage of immunosuppressive drugs that is at least as comprehensive as the coverage provided by such plan or issuer on the day before the date of enactment of the Immunosuppressive Drug Coverage Act of 2002, and such requirement shall be deemed to be incorporated into this section."

(2) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

(b) APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 714. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.

"A group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide coverage of immunosuppressive drugs that is at least as comprehensive as the coverage provided by such plan or issuer on the day before the date of enactment of the Immunosuppressive Drug Coverage Act of 2002, and such requirement shall be deemed to be incorporated into this section."

(2) CONFORMING AMENDMENTS.—

(A) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(B) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Coverage of Immunosuppressive drugs."

(c) APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Coverage of immunosuppressive drugs.";

and

(2) by inserting after section 9812 the following:

“SEC. 9813. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.

“A group health plan shall provide coverage of immunosuppressive drugs that is at least as comprehensive as the coverage provided by such plan on the day before the date of enactment of the Immunosuppressive Drug Coverage Act of 2002, and such requirement shall be deemed to be incorporated into this section.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to plan years beginning on or after January 1, 2003.

SA 4314. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4309 proposed by Mr. GRAHAM (for himself and Mr. MILLER, Mr. KENNEDY, and Mr. CORZINE) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

Strike paragraph (2) of section 1860K(c) of the Social Security Act (as proposed to be added by section 202(a) of the amendment) and insert the following:

“(2) **BUDGET NEUTRALITY.**—Notwithstanding any other provision of this Act, this title, and the amendments made by the Medicare Outpatient Prescription Drug Act of 2002, shall take effect on the date of enactment of an Act that raises Federal revenues or reduces Federal spending by an amount sufficient to offset the Federal budgetary cost of implementing this title.”.

SA 4315. Mr. HAGEL (for himself, Mr. ENSIGN, Mr. LUGAR, Mr. GRAMM, Mr. INHOPE, Mr. SANTORUM, Mr. GREGG, Mr. FRIST, and Mr. NICKLES) proposed an amendment to amendment SA 4299 proposed by Mr. REID (for Mr. DORGAN (for himself, Mr. WELLSTONE, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, Mr. LEVIN, Mr. JOHNSON, Mr. MILLER, Mr. DURBIN, Mr. FEINGOLD, and Mr. HARKIN)) to the bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; as follows:

Strike the last word, and insert the following:

TITLE —VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM

SEC. 00. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This title may be cited as the “Medicare Rx Drug Discount and Security Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents of this title is as follows:

Sec. 00. Short title; table of contents.

Sec. 01. Voluntary Medicare Outpatient Prescription Drug Discount and Security Program.

“PART D—VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM

“Sec. 1860. Definitions.

“Sec. 1860A. Establishment of program.

“Sec. 1860B. Enrollment.

“Sec. 1860C. Providing enrollment and coverage information to beneficiaries.

“Sec. 1860D. Enrollee protections.

“Sec. 1860E. Annual enrollment fee.

“Sec. 1860F. Benefits under the program.

“Sec. 1860G. Requirements for entities to provide prescription drug coverage.

“Sec. 1860H. Payments to eligible entities for administering the catastrophic benefit.

“Sec. 1860I. Determination of income levels.

“Sec. 1860J. Appropriations.

“Sec. 1860K. Medicare Competition and Prescription Drug Advisory Board.”.

Sec. 02. Administration of Voluntary Medicare Outpatient Prescription Drug Discount and Security Program.

Sec. 03. Exclusion of part D costs from determination of part B monthly premium.

Sec. 04. Medigap revisions.

SEC. 01. VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM.

(a) **ESTABLISHMENT OF PROGRAM.**—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating part D as part E; and

(2) by inserting after part C the following new part:

“PART D—VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM

“DEFINITIONS

“SEC. 1860. In this part:

“(1) **COVERED OUTPATIENT DRUG.**—

“(A) **IN GENERAL.**—Except as provided in this paragraph, the term ‘covered outpatient drug’ means—

“(i) a drug that may be dispensed only upon a prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1927(k)(2); or

“(ii) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section or insulin described in subparagraph (C) of such section,

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered outpatient drug for a medically accepted indication (as defined in section 1927(k)(6)).

“(B) **EXCLUSIONS.**—

“(i) **IN GENERAL.**—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

“(ii) **AVOIDANCE OF DUPLICATE COVERAGE.**—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered if payment for such drug is available under part A or B for an individual entitled to benefits under part A and enrolled under part B.

“(C) **APPLICATION OF FORMULARY RESTRICTIONS.**—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered under a plan if the plan excludes the drug under a formulary and such exclusion is not successfully appealed under section 1860D(a)(4)(B).

“(D) **APPLICATION OF GENERAL EXCLUSION PROVISIONS.**—A prescription drug discount card plan or Medicare+Choice plan may exclude from qualified prescription drug coverage any covered outpatient drug—

“(i) for which payment would not be made if section 1862(a) applied to part D; or

“(ii) which are not prescribed in accordance with the plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860D(a)(4).

“(2) **ELIGIBLE BENEFICIARY.**—The term ‘eligible beneficiary’ means an individual who is—

“(A) eligible for benefits under part A or enrolled under part B; and

“(B) not eligible for prescription drug coverage under a State plan under the medicaid program under title XIX.

“(3) **ELIGIBLE ENTITY.**—The term ‘eligible entity’ means any—

“(A) pharmaceutical benefit management company;

“(B) wholesale pharmacy delivery system;

“(C) retail pharmacy delivery system;

“(D) insurer (including any issuer of a medicare supplemental policy under section 1882);

“(E) Medicare+Choice organization;

“(F) State (in conjunction with a pharmaceutical benefit management company);

“(G) employer-sponsored plan;

“(H) other entity that the Secretary determines to be appropriate to provide benefits under this part; or

“(I) combination of the entities described in subparagraphs (A) through (H).

“(4) **OUT-OF-POCKET EXPENSES.**—The term ‘out-of-pocket expenses’ means only those expenses for covered outpatient drugs that are incurred by the eligible beneficiary using a card approved by the Secretary under this part that are paid by that beneficiary and for which the beneficiary is not reimbursed (through insurance or otherwise) by another person.

“(5) **POVERTY LINE.**—The term ‘poverty line’ means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

“(6) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services.

“ESTABLISHMENT OF PROGRAM

“SEC. 1860A. (a) **PROVISION OF BENEFIT.**—The Secretary shall establish a Medicare Outpatient Prescription Drug Discount and Security Program under which the Secretary endorses prescription drug card plans offered by eligible entities in which eligible beneficiaries may voluntarily enroll and receive benefits under this part.

“(b) **ENDORSEMENT OF PRESCRIPTION DRUG DISCOUNT CARD PLANS.**—

“(1) **IN GENERAL.**—The Secretary shall endorse a prescription drug card plan offered by an eligible entity with a contract under this part if the eligible entity meets the requirements of this part with respect to that plan.

“(2) **NATIONAL PLANS.**—In addition to other types of plans, the Secretary may endorse national prescription drug plans under paragraph (1).

“(c) **VOLUNTARY NATURE OF PROGRAM.**—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program under this part.

“(d) **FINANCING.**—The costs of providing benefits under this part shall be payable from the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

“ENROLLMENT

“SEC. 1860B. (a) **ENROLLMENT UNDER PART D.**—

“(1) **ESTABLISHMENT OF PROCESS.**—

“(A) **IN GENERAL.**—The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Except as otherwise provided in this subsection, such process shall be similar to the process for enrollment under part B under section 1837.

“(B) REQUIREMENT OF ENROLLMENT.—An eligible beneficiary must enroll under this part in order to be eligible to receive the benefits under this part.

“(2) ENROLLMENT PERIODS.—

“(A) IN GENERAL.—Except as provided in this paragraph, an eligible beneficiary may not enroll in the program under this part during any period after the beneficiary's initial enrollment period under part B (as determined under section 1837).

“(B) SPECIAL ENROLLMENT PERIOD.—In the case of eligible beneficiaries that have recently lost eligibility for prescription drug coverage under a State plan under the medicaid program under title XIX, the Secretary shall establish a special enrollment period in which such beneficiaries may enroll under this part.

“(C) OPEN ENROLLMENT PERIOD IN 2003 FOR CURRENT BENEFICIARIES.—The Secretary shall establish a period, which shall begin on the date on which the Secretary first begins to accept elections for enrollment under this part, during which any eligible beneficiary may—

“(i) enroll under this part; or

“(ii) enroll or reenroll under this part after having previously declined or terminated such enrollment.

“(3) PERIOD OF COVERAGE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided under section 1838, as if that section applied to the program under this part.

“(B) ENROLLMENT DURING OPEN AND SPECIAL ENROLLMENT.—An eligible beneficiary who enrolls under the program under this part under subparagraph (B) or (C) of paragraph (2) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

“(4) PART D COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B OR ELIGIBILITY FOR MEDICAL ASSISTANCE.—

“(A) IN GENERAL.—In addition to the causes of termination specified in section 1838, the Secretary shall terminate an individual's coverage under this part if the individual is—

“(i) no longer enrolled in part A or B; or

“(ii) eligible for prescription drug coverage under a State plan under the medicaid program under title XIX.

“(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of—

“(i) the termination of coverage under part A or (if later) under part B; or

“(ii) the coverage under title XIX.

“(b) ENROLLMENT WITH ELIGIBLE ENTITY.—

“(1) PROCESS.—The Secretary shall establish a process through which an eligible beneficiary who is enrolled under this part shall make an annual election to enroll in a prescription drug card plan offered by an eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides.

“(2) ELECTION PERIODS.—

“(A) IN GENERAL.—Except as provided in this paragraph, the election periods under this subsection shall be the same as the coverage election periods under the Medicare+Choice program under section 1851(e), including—

“(i) annual coordinated election periods; and

“(ii) special election periods.

In applying the last sentence of section 1851(e)(4) (relating to discontinuance of a Medicare+Choice election during the first year of eligibility) under this subparagraph, in the case of an election described in such

section in which the individual had elected or is provided qualified prescription drug coverage at the time of such first enrollment, the individual shall be permitted to enroll in a prescription drug card plan under this part at the time of the election of coverage under the original fee-for-service plan.

“(B) INITIAL ELECTION PERIODS.—

“(i) INDIVIDUALS CURRENTLY COVERED.—In the case of an individual who is entitled to benefits under part A or enrolled under part B as of November 1, 2003, there shall be an initial election period of 6 months beginning on that date.

“(ii) INDIVIDUAL COVERED IN FUTURE.—In the case of an individual who is first entitled to benefits under part A or enrolled under part B after such date, there shall be an initial election period which is the same as the initial enrollment period under section 1837(d).

“(C) ADDITIONAL SPECIAL ELECTION PERIODS.—The Administrator shall establish special election periods—

“(i) in cases of individuals who have and involuntarily lose prescription drug coverage described in paragraph (3);

“(ii) in cases described in section 1837(h) (relating to errors in enrollment), in the same manner as such section applies to part B; and

“(iii) in the case of an individual who meets such exceptional conditions (including conditions provided under section 1851(e)(4)(D)) as the Secretary may provide.

“(D) ENROLLMENT WITH ONE PLAN ONLY.—The rules established under subparagraph (B) shall ensure that an eligible beneficiary may only enroll in 1 prescription drug card plan offered by an eligible entity for a year.

“(3) MEDICARE+CHOICE ENROLLEES.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization must enroll in a prescription drug discount card plan offered by an eligible entity in order to receive benefits under this part. The beneficiary may elect to receive such benefits through the Medicare+Choice organization in which the beneficiary is enrolled if the organization has been awarded a contract under this part.

“(4) CONTINUOUS PRESCRIPTION DRUG COVERAGE.—An individual is considered for purposes of this part to be maintaining continuous prescription drug coverage on and after the date the individual first qualifies to elect prescription drug coverage under this part if the individual establishes that as of such date the individual is covered under any of the following prescription drug coverage and before the date that is the last day of the 63-day period that begins on the date of termination of the particular prescription drug coverage involved (regardless of whether the individual subsequently obtains any of the following prescription drug coverage):

“(A) COVERAGE UNDER PRESCRIPTION DRUG CARD PLAN OR MEDICARE+CHOICE PLAN.—Prescription drug coverage under a prescription drug card plan under this part or under a Medicare+Choice plan.

“(B) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-Inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), or through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of an interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

“(C) PRESCRIPTION DRUG COVERAGE UNDER GROUP HEALTH PLAN.—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan (as defined by the Secretary), but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

“(D) PRESCRIPTION DRUG COVERAGE UNDER CERTAIN MEDIGAP POLICIES.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)) and if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

“(E) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

“(F) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

For purposes of carrying out this paragraph, the certifications of the type described in sections 2701(e) of the Public Health Service Act and in section 9801(e) of the Internal Revenue Code of 1986 shall also include a statement for the period of coverage of whether the individual involved had prescription drug coverage described in this paragraph.

“(5) COMPETITION.—Each eligible entity with a contract under this part shall compete for the enrollment of beneficiaries in a prescription drug card plan offered by the entity on the basis of discounts, formularies, pharmacy networks, and other services provided for under the contract.

“PROVIDING ENROLLMENT AND COVERAGE INFORMATION TO BENEFICIARIES

“SEC. 1860C. (a) ACTIVITIES.—The Secretary shall provide for activities under this part in the manner described in (and in coordination with) section 1851(d) to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding enrollment under this part and the prescription drug card plans offered by eligible entities with a contract under this part.

“(b) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in subsection (a) shall ensure that eligible beneficiaries are provided with such information at least 60 days prior to the first enrollment period described in section 1860B(c).

“ENROLLEE PROTECTIONS

“SEC. 1860D. (a) REQUIREMENTS FOR ALL ELIGIBLE ENTITIES.—Each eligible entity shall meet the following requirements:

“(1) GUARANTEED ISSUANCE AND NON-DISCRIMINATION.—

“(A) GUARANTEED ISSUANCE.—

“(i) IN GENERAL.—An eligible beneficiary who is eligible to enroll in a prescription drug card plan offered by an eligible entity under section 1860B(b) for prescription drug coverage under this part at a time during which elections are accepted under this part with respect to the coverage shall not be denied enrollment based on any health status-

related factor (described in section 2702(a)(1) of the Public Health Service Act) or any other factor.

“(ii) **MEDICARE+CHOICE LIMITATIONS PERMITTED.**—The provisions of paragraphs (2) and (3) (other than subparagraph (C)(i), relating to default enrollment) of section 1851(g) (relating to priority and limitation on termination of election) shall apply to eligible entities under this subsection.

“(B) **NONDISCRIMINATION.**—An eligible entity offering prescription drug coverage under this part shall not establish a service area in a manner that would discriminate based on health or economic status of potential enrollees.

“(2) **GRIEVANCE MECHANISM, COVERAGE DETERMINATIONS, AND RECONSIDERATIONS.**—

“(A) **IN GENERAL.**—With respect to the benefit under this part, each eligible entity offering a prescription drug card plan shall provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the eligible entity provides covered benefits) and enrollees with prescription drug card plans of the eligible entity under this part in accordance with section 1852(f).

“(B) **APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.**—Each eligible entity shall meet the requirements of paragraphs (1) through (3) of section 1852(g) with respect to covered benefits under the prescription drug card plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

“(C) **REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.**—In the case of a prescription drug card plan offered by an eligible entity that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

“(3) **APPEALS.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), each eligible entity offering a prescription drug card plan shall meet the requirements of paragraphs (4) and (5) of section 1852(g) with respect to drugs not included on any formulary in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

“(B) **FORMULARY DETERMINATIONS.**—An individual who is enrolled in a prescription drug card plan offered by an eligible entity may appeal to obtain coverage under this part for a covered outpatient drug that is not on a formulary of the eligible entity if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

“(4) **CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.**—Each eligible entity offering a prescription drug discount card plan shall meet the requirements of the Health Insurance Portability and Accountability Act of 1996.

“(b) **DISCLOSURE OF INFORMATION.**—

“(1) **INFORMATION.**—

“(A) **GENERAL INFORMATION.**—Each eligible entity with a contract under this part to provide a prescription drug discount card plan shall disclose, in a clear, accurate, and standardized form to each eligible bene-

ficiary enrolled in a prescription drug discount card program offered by such entity under this part at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such prescription drug coverage.

“(B) **SPECIFIC INFORMATION.**—In addition to the information described in subparagraph (A), each eligible entity with a contract under this part shall disclose the following:

“(i) How enrollees will have access to covered outpatient drugs, including access to such drugs through pharmacy networks.

“(ii) How any formulary used by the eligible entity functions.

“(iii) Information on grievance and appeals procedures.

“(iv) Information on enrollment fees and prices charged to the enrollee for covered outpatient drugs.

“(v) Any other information that the Secretary determines is necessary to promote informed choices by eligible beneficiaries among eligible entities.

“(2) **DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.**—Upon request of an eligible beneficiary, the eligible entity shall provide the information described in paragraph (3) to such beneficiary.

“(3) **RESPONSE TO BENEFICIARY QUESTIONS.**—Each eligible entity offering a prescription drug discount card plan under this part shall have a mechanism for providing specific information to enrollees upon request. The entity shall make available, through an Internet website and, upon request, in writing, information on specific changes in its formulary.

“(c) **ELIGIBLE ENTITIES OFFERING A DISCOUNT CARD PROGRAM.**—If an eligible entity offers a discount card program under this part, in addition to the requirements under subsection (a), the entity shall meet the following requirements:

“(1) **ACCESS TO COVERED BENEFITS.**—

“(A) **ASSURING PHARMACY ACCESS.**—

“(i) **IN GENERAL.**—The eligible entity offering the prescription drug discount card plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Secretary and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860D(a)(2) that ensure such convenient access.

“(ii) **USE OF POINT-OF-SERVICE SYSTEM.**—Each eligible entity offering a prescription drug discount card plan shall establish an optional point-of-service method of operation under which—

“(I) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

“(II) discounts under the plan may not be available.

The additional costs resulting from the inapplicability of discounts under subclause (II) shall not be counted as out-of-pocket expenses for purposes of section 1860F(b).

“(B) **USE OF STANDARDIZED TECHNOLOGY.**—

“(i) **IN GENERAL.**—Each eligible entity offering a prescription drug discount card plan shall issue (and reissue, as appropriate) such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860F(a) for the purchase of prescription drugs for which coverage is not otherwise provided under the prescription drug discount card plan.

“(ii) **STANDARDS.**—The Secretary shall provide for the development of national standards relating to a standardized format for

the card or other technology referred to in clause (i). Such standards shall be compatible with standards established under part C of title XI.

“(C) **REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.**—If an eligible entity that offers a prescription drug discount card plan uses a formulary, the following requirements must be met:

“(i) **PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.**—The eligible entity must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least 1 physician and at least 1 pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a physician or a practicing pharmacist (or both).

“(ii) **FORMULARY DEVELOPMENT.**—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

“(iii) **INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.**—The formulary must include drugs within each therapeutic category and class of covered outpatient drugs (although not necessarily for all drugs within such categories and classes).

“(iv) **PROVIDER EDUCATION.**—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

“(v) **NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.**—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

“(vi) **GRIEVANCES AND APPEALS RELATING TO APPLICATION OF FORMULARIES.**—For provisions relating to grievances and appeals of coverage, see paragraphs (2) and (3) of section 1860D(a).

“(D) **FRAUD, ABUSE, AND WASTE CONTROL.**—The committee shall take effect only after appropriate notice is made available to beneficiaries and physicians.

“(2) **COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.**—

“(A) **IN GENERAL.**—Each eligible entity offering a prescription drug discount card plan may have in place with respect to covered outpatient drugs—

“(i) an effective cost and drug utilization management program, including medically appropriate incentives to use generic drugs and therapeutic interchange, when appropriate; and

“(ii) quality assurance measures and systems to reduce medical errors and adverse drug interactions, including a medication therapy management program described in subparagraph (B).

Nothing in this section shall be construed as impairing an eligible entity from applying cost management tools (including differential payments) under all methods of operation.

“(B) **MEDICATION THERAPY MANAGEMENT PROGRAM.**—

“(i) **IN GENERAL.**—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to ensure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered outpatient drugs under the prescription drug discount card plan are appropriately used to achieve therapeutic goals

and reduce the risk of adverse events, including adverse drug interactions.

“(ii) ELEMENTS.—Such program may include—

“(I) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

“(II) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

“(III) detection of patterns of overuse and underuse of prescription drugs.

“(iii) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed pharmacists and physicians.

“(iv) CONSIDERATIONS IN PHARMACY FEES.—Each eligible entity offering a prescription drug discount card plan that includes a medication therapy management program shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

“(C) TREATMENT OF ACCREDITATION.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to prescription drug discount card plans under this part with respect to the following requirements, in the same manner as they apply to Medicare+Choice plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

“(i) Paragraph (1) (including quality assurance), including any medication therapy management program under paragraph (2).

“(ii) Subsection (c)(1) (relating to access to covered benefits).

“(iii) Subsection (g) (relating to confidentiality and accuracy of enrollee records).

“(D) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—Each eligible entity offering a prescription drug discount card plan shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered outpatient drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost generic drug covered under the plan that is therapeutically equivalent and bioequivalent.

“ANNUAL ENROLLMENT FEE

“SEC. 1860E. (a) AMOUNT.—

“(1) IN GENERAL.—Except as provided in subsection (c), enrollment under the program under this part is conditioned upon payment of an annual enrollment fee of \$25.

“(2) ANNUAL PERCENTAGE INCREASE.—

“(A) IN GENERAL.—In the case of any calendar year beginning after 2004, the dollar amount in paragraph (1) shall be increased by an amount equal to—

“(i) such dollar amount; multiplied by

“(ii) the inflation adjustment.

“(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A)(ii), the inflation adjustment for any calendar year is the percentage (if any) by which—

“(i) the average per capita aggregate expenditures for covered outpatient drugs in the United States for medicare beneficiaries, as determined by the Secretary for the 12-month period ending in July of the previous year; exceeds

“(ii) such aggregate expenditures for the 12-month period ending with July 2003.

“(C) ROUNDING.—If any increase determined under clause (ii) is not a multiple of \$1, such increase shall be rounded to the nearest multiple of \$1.

“(b) COLLECTION OF ANNUAL ENROLLMENT FEE.—

“(1) IN GENERAL.—Unless the eligible beneficiary makes an election under paragraph (2), the annual enrollment fee described in subsection (a) shall be collected and credited to the Federal Supplementary Medical Insurance Trust Fund in the same manner as the monthly premium determined under section 1839 is collected and credited to such Trust Fund under section 1840.

“(2) DIRECT PAYMENT.—An eligible beneficiary may elect to pay the annual enrollment fee directly or in any other manner approved by the Secretary. The Secretary shall establish procedures for making such an election.

“(c) WAIVER.—The Secretary shall waive the enrollment fee described in subsection (a) in the case of an eligible beneficiary whose income is below 200 percent of the poverty line.

“BENEFITS UNDER THE PROGRAM

“SEC. 1860F. (a) ACCESS TO NEGOTIATED PRICES.—

“(1) NEGOTIATED PRICES.—

“(A) IN GENERAL.—Subject to subparagraph (B), each prescription drug card plan offering a discount card program by an eligible entity with a contract under this part shall provide each eligible beneficiary enrolled in such plan with access to negotiated prices (including applicable discounts) for such prescription drugs as the eligible entity determines appropriate. Such discounts may include discounts for nonformulary drugs. If such a beneficiary becomes eligible for the catastrophic benefit under subsection (b), the negotiated prices (including applicable discounts) shall continue to be available to the beneficiary for those prescription drugs for which payment may not be made under section 1860H(b). For purposes of this subparagraph, the term ‘prescription drugs’ is not limited to covered outpatient drugs, but does not include any over-the-counter drug that is not a covered outpatient drug.

“(B) LIMITATIONS.—

“(i) FORMULARY RESTRICTIONS.—Insofar as an eligible entity with a contract under this part uses a formulary, the negotiated prices (including applicable discounts) for nonformulary drugs may differ.

“(ii) AVOIDANCE OF DUPLICATE COVERAGE.—The negotiated prices (including applicable discounts) for prescription drugs shall not be available for any drug prescribed for an eligible beneficiary if payment for the drug is available under part A or B (but such negotiated prices shall be available if payment under part A or B is not available because the beneficiary has not met the deductible or has exhausted benefits under part A or B).

“(2) DISCOUNT CARD.—The Secretary shall develop a uniform standard card format to be issued by each eligible entity offering a prescription drug discount card plan that shall be used by an enrolled beneficiary to ensure the access of such beneficiary to negotiated prices under paragraph (1).

“(3) ENSURING DISCOUNTS IN ALL AREAS.—The Secretary shall develop procedures that ensure that each eligible beneficiary that resides in an area where no prescription drug discount card plans are available is provided with access to negotiated prices for prescription drugs (including applicable discounts).

“(b) CATASTROPHIC BENEFIT.—

“(1) IN GENERAL.—Subject to paragraph (4) (relating to eligibility for the catastrophic benefit) and any formulary used by the prescription drug card program in which the eligible beneficiary is enrolled, the catastrophic benefit shall be administered as follows:

“(A) BENEFICIARIES WITH ANNUAL INCOMES BELOW 200 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose modified adjusted gross income (as defined in

paragraph (4)(E)) is below 200 percent of the poverty line, the beneficiary shall not be responsible for making a payment for a covered outpatient drug provided under this part to the beneficiary in a year to the extent that the out-of-pocket expenses of the beneficiary for such drug exceed \$1,500, unless the Secretary implements cost-sharing (as authorized under this part).

“(B) BENEFICIARIES WITH ANNUAL INCOMES BETWEEN 200 AND 400 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose modified adjusted gross income (as so defined) equals or exceeds 200 percent, but does not exceed 400 percent, of the poverty line, the beneficiary shall not be responsible for making a payment for a covered outpatient drug provided under this part to the beneficiary in a year to the extent that the out-of-pocket expenses of the beneficiary for such drug exceed \$3,500, unless the Secretary implements cost-sharing (as authorized under this part).

“(C) BENEFICIARIES WITH ANNUAL INCOMES BETWEEN 400 AND 600 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose modified adjusted gross income (as so defined) equals or exceeds 400 percent, but does not exceed 600 percent, of the poverty line, the beneficiary shall not be responsible for making a payment for a covered outpatient drug provided under this part to the beneficiary in a year to the extent that the out-of-pocket expenses of the beneficiary for such drug exceed \$5,500, unless the Secretary implements cost-sharing (as authorized under this part).

“(D) BENEFICIARIES WITH ANNUAL INCOMES THAT EXCEED 600 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose modified adjusted gross income (as so defined) equals or exceeds 600 percent of the poverty line, the beneficiary shall not be responsible for making a payment for a covered outpatient drug provided under this part to the beneficiary in a year to the extent that the out-of-pocket expenses of the beneficiary for such drug exceeds 20 percent of that beneficiary's income, unless the Secretary implements cost-sharing (as authorized under this part).

“(2) ANNUAL PERCENTAGE INCREASE.—

“(A) IN GENERAL.—In the case of any calendar year after 2004, the dollar amounts in paragraph (1) shall be increased by an amount equal to—

“(i) such dollar amount; multiplied by

“(ii) the inflation adjustment determined under section 1860E(a)(2)(B) for such calendar year.

“(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of \$1, such increase shall be rounded to the nearest multiple of \$1.

“(3) ELIGIBLE ENTITY NOT AT RISK FOR CATASTROPHIC BENEFIT.—

“(A) IN GENERAL.—The Secretary, and not the eligible entity, shall be at risk for the provision of the catastrophic benefit under this subsection.

“(B) PROVISIONS RELATING TO PAYMENTS TO ELIGIBLE ENTITIES.—For provisions relating to payments to eligible entities for administering the catastrophic benefit under this subsection, see section 1860H.

“(C) PROCEDURES FOR DETERMINING MODIFIED ADJUSTED GROSS INCOME.—

“(i) IN GENERAL.—The Secretary shall establish procedures for determining the modified adjusted gross income of eligible beneficiaries enrolled under this part.

“(ii) CONSULTATION.—The Secretary shall consult with the Secretary of the Treasury in making the determinations described in clause (i).

“(iii) DISCLOSURE OF INFORMATION.—Notwithstanding section 6103(a) of the Internal Revenue Code of 1986, the Secretary of the

Treasury may, upon written request from the Secretary, disclose to officers and employees of the Centers for Medicare & Medicaid Services such return information as is necessary to make the determinations described in clause (i). Return information disclosed under the preceding sentence may be used by officers and employees of the Centers for Medicare & Medicaid Services only for the purposes of, and to the extent necessary, in making such determinations.

“(D) DEFINITION OF MODIFIED ADJUSTED GROSS INCOME.—In this paragraph, the term ‘modified adjusted gross income’ means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

“(i) determined without regard to sections 135, 911, 931, and 933 of such Code;

“(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code; and

“(iii) increased by any amount received under title II or XVI.

“(4) ENSURING CATASTROPHIC BENEFIT IN ALL AREAS.—The Secretary shall develop procedures for the provision of the catastrophic benefit under this subsection to each eligible beneficiary that resides in an area where there are no prescription drug discount card plans offered that have been awarded a contract under this part.

“REQUIREMENTS FOR ENTITIES TO PROVIDE PRESCRIPTION DRUG COVERAGE

“SEC. 1860G. (a) ESTABLISHMENT OF BIDDING PROCESS.—The Secretary shall establish a process under which the Secretary accepts bids from eligible entities and awards contracts to the entities to provide the benefits under this part to eligible beneficiaries in an area.

“(b) SUBMISSION OF BIDS.—Each eligible entity desiring to enter into a contract under this part shall submit a bid to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

“(c) ADMINISTRATIVE FEE BID.—

“(1) SUBMISSION.—For the bid described in subsection (b), each entity shall submit to the Secretary information regarding administration of the discount card and catastrophic benefit under this part.

“(2) BID SUBMISSION REQUIREMENTS.—

“(A) ADMINISTRATIVE FEE BID SUBMISSION.—In submitting bids, the entities shall include separate costs for administering the discount card component, if applicable, and the catastrophic benefit. The entity shall submit the administrative fee bid in a form and manner specified by the Secretary, and shall include a statement of projected enrollment and a separate statement of the projected administrative costs for at least the following functions:

“(i) Enrollment, including income eligibility determination.

“(ii) Claims processing.

“(iii) Quality assurance, including drug utilization review.

“(iv) Beneficiary and pharmacy customer service.

“(v) Coordination of benefits.

“(vi) Fraud and abuse prevention.

“(B) NEGOTIATED ADMINISTRATIVE FEE BID AMOUNTS.—The Secretary has the authority to negotiate regarding the bid amounts submitted. The Secretary may reject a bid if the Secretary determines it is not supported by the administrative cost information provided in the bid as specified in subparagraph (A).

“(C) PAYMENT TO PLANS BASED ON ADMINISTRATIVE FEE BID AMOUNTS.—The Secretary shall use the bid amounts to calculate a benchmark amount consisting of the enrollment-weighted average of all bids for each

function and each class of entity. The class of entity is either a regional or national entity, or such other classes as the Secretary may determine to be appropriate. The functions are the discount card and catastrophic components. If an eligible entity's combined bid for both functions is above the combined benchmark within the entity's class for the functions, the eligible entity shall collect additional necessary revenue through one or both of the following:

“(i) Additional fees charged to the beneficiary, not to exceed \$25 annually.

“(ii) Use of rebate amounts from drug manufacturers to defray administrative costs.

“(d) CONTRACTS WITH THE SECRETARY.—

“(1) IN GENERAL.—The Secretary shall, consistent with the requirements of this part and the goal of containing medicare program costs, enter into at least 2 contracts in each area, unless only 1 bidding entity meets the terms and conditions specified by the Secretary under paragraph (2).

“(2) TERMS AND CONDITIONS.—The Secretary shall not enter into a contract with an eligible entity under this section unless the Secretary finds that the eligible entity is in compliance with such terms and conditions as the Secretary shall specify.

“(3) REQUIREMENTS FOR ELIGIBLE ENTITIES PROVIDING DISCOUNT CARD PROGRAM.—Except as provided in paragraph (4), in determining which of the eligible entities that submitted bids that meet the terms and conditions specified by the Secretary under paragraph (2) to enter into a contract, the Secretary shall consider whether the bid submitted by the entity meets at least the following requirements:

“(A) SAVINGS TO MEDICARE BENEFICIARIES.—The program passes on to medicare beneficiaries who enroll in the program discounts on prescription drugs, including discounts negotiated with manufacturers.

“(B) PROHIBITION ON APPLICATION ONLY TO MAIL ORDER.—The program applies to drugs that are available other than solely through mail order and provides convenient access to retail pharmacies.

“(C) LEVEL OF BENEFICIARY SERVICES.—The program provides pharmaceutical support services, such as education and services to prevent adverse drug interactions.

“(D) ADEQUACY OF INFORMATION.—The program makes available to medicare beneficiaries through the Internet and otherwise information, including information on enrollment fees, prices charged to beneficiaries, and services offered under the program, that the Secretary identifies as being necessary to provide for informed choice by beneficiaries among endorsed programs.

“(E) EXTENT OF DEMONSTRATED EXPERIENCE.—The entity operating the program has demonstrated experience and expertise in operating such a program or a similar program.

“(F) EXTENT OF QUALITY ASSURANCE.—The entity has in place adequate procedures for assuring quality service under the program.

“(G) OPERATION OF ASSISTANCE PROGRAM.—The entity meets such requirements relating to solvency, compliance with financial reporting requirements, audit compliance, and contractual guarantees as specified by the Secretary.

“(H) PRIVACY COMPLIANCE.—The entity implements policies and procedures to safeguard the use and disclosure of program beneficiaries' individually identifiable health information in a manner consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

“(I) ADDITIONAL BENEFICIARY PROTECTIONS.—The program meets such additional requirements as the Secretary identifies to

protect and promote the interest of medicare beneficiaries, including requirements that ensure that beneficiaries are not charged more than the lower of the negotiated retail price or the usual and customary price.

The prices negotiated by a prescription drug discount card program endorsed under this section shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

“(4) REQUIREMENTS FOR OTHER ELIGIBLE ENTITIES.—If an eligible entity is not offering the discount card plan then the entity must be licensed under State law to provide insurance benefits or shall meet the requirements of the Employee Retirement Income Security Act of 1974 that apply with respect to such plan. Such an entity shall not be required to meet the requirements of subsection (d)(3).

“(5) BENEFICIARY ACCESS TO SAVINGS AND REBATES.—The Secretary shall require eligible entities offering a discount card program to pass on savings and rebates negotiated with manufacturers to eligible beneficiaries enrolled with the entity.

“(6) NEGOTIATED AGREEMENTS WITH EMPLOYER-SPONSORED PLANS.—Notwithstanding any other provision of this part, the Secretary may negotiate agreements with employer-sponsored plans under which eligible beneficiaries are provided with a benefit for prescription drug coverage that is more generous than the benefit that would otherwise have been available under this part if such an agreement results in cost savings to the Federal Government.

“PAYMENTS TO ELIGIBLE ENTITIES FOR ADMINISTERING THE CATASTROPHIC BENEFIT

“SEC. 1860H. (a) IN GENERAL.—The Secretary may establish procedures for making payments to an eligible entity under a contract entered into under this part for—

“(1) no less than 90 percent of the costs of providing covered outpatient prescription drugs to beneficiaries eligible for the benefit under this part in accordance with subsection (b); and

“(2) costs incurred by the entity in administering the catastrophic benefit in accordance with section 1860G.

“(b) PAYMENT FOR COVERED OUTPATIENT PRESCRIPTION DRUGS.—

“(1) IN GENERAL.—Except as provided in subsection (c) and subject to paragraph (2), the Secretary may only pay an eligible entity for covered outpatient drugs furnished by the eligible entity to an eligible beneficiary enrolled with such entity under this part that is eligible for the catastrophic benefit under section 1860F(b).

“(2) LIMITATIONS.—

“(A) FORMULARY RESTRICTIONS.—Insofar as an eligible entity with a contract under this part uses a formulary, the Secretary may not make any payment for a covered outpatient drug that is not included in such formulary, except to the extent provided under section 1860D(a)(4)(B).

“(B) NEGOTIATED PRICES.—The Secretary may not pay an amount for a covered outpatient drug furnished to an eligible beneficiary that exceeds the negotiated price (including applicable discounts) that the beneficiary would have been responsible for under section 1860F(a) or the price negotiated for insurance coverage under the Medicare+Choice program under part C, a medicare supplemental policy, employer-sponsored coverage, or a State plan.

“(C) COST-SHARING LIMITATIONS.—An eligible entity may not charge an individual enrolled with such entity who is eligible for the catastrophic benefit under this part any copayment, tiered copayment, coinsurance, or other cost-sharing that exceeds 10 percent of

the cost of the drug that is dispensed to the individual.

“(3) PAYMENT IN COMPETITIVE AREAS.—In a geographic area in which 2 or more eligible entities offer a plan under this part, the Secretary may negotiate an agreement with the entity to reimburse the entity for costs incurred in providing the benefit under this part on a capitated basis.

“(c) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

“DETERMINATION OF INCOME LEVELS

“SEC. 1860I. (a) DETERMINATION OF INCOME LEVELS.—

“(1) IN GENERAL.—The Commissioner of Social Security shall determine income levels of eligible beneficiaries for purposes of this part.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the Commissioner of Social Security to make the determinations required by paragraph (1).

“(b) ENFORCEMENT OF INCOME DETERMINATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall—

“(1) establish procedures that ensure that eligible beneficiaries comply with sections 1860E(c) and 1860F(b); and

“(2) require, if the Secretary determines that payments were made under this part to which an eligible beneficiary was not entitled, the repayment of any excess payments with interest and a penalty.

“(c) QUALITY CONTROL SYSTEM.—

“(1) ESTABLISHMENT.—The Secretary shall establish a quality control system to monitor income determinations made by eligible entities under this section and to produce appropriate and comprehensive measures of error rates.

“(2) PERIODIC AUDITS.—The Inspector General of the Department of Health and Human Services shall conduct periodic audits to ensure that the system established under paragraph (1) is functioning appropriately.

“APPROPRIATIONS

“SEC. 1860J. There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund established under section 1841, an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part exceed the enrollment fees collected under section 1860E.

“MEDICARE COMPETITION AND PRESCRIPTION DRUG ADVISORY BOARD

“SEC. 1860K. (a) ESTABLISHMENT OF BOARD.—There is established a Medicare Prescription Drug Advisory Board (in this section referred to as the ‘Board’).

“(b) ADVICE ON POLICIES; REPORTS.—

“(1) ADVICE ON POLICIES.—The Board shall advise the Secretary on policies relating to the Medicare Outpatient Prescription Drug Discount and Security Program under this part.

“(2) REPORTS.—

“(A) IN GENERAL.—With respect to matters of the administration of the program under this part, the Board shall submit to Congress and to the Secretary such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of the program under this part. Each such report shall be published in the Federal Register.

“(B) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United

States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

“(c) STRUCTURE AND MEMBERSHIP OF THE BOARD.—

“(1) MEMBERSHIP.—The Board shall be composed of 7 members who shall be appointed as follows:

“(A) PRESIDENTIAL APPOINTMENTS.—

“(i) IN GENERAL.—Three members shall be appointed by the President, by and with the advice and consent of the Senate.

“(ii) LIMITATION.—Not more than 2 such members may be from the same political party.

“(B) SENATORIAL APPOINTMENTS.—Two members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Committee on Finance of the Senate.

“(C) CONGRESSIONAL APPOINTMENTS.—Two members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

“(2) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

“(3) COMPOSITION.—Of the members appointed under paragraph (1)—

“(A) at least one shall represent the pharmaceutical industry;

“(B) at least one shall represent physicians;

“(C) at least one shall represent medicare beneficiaries;

“(D) at least one shall represent practicing pharmacists; and

“(E) at least one shall represent eligible entities.

“(d) TERMS OF APPOINTMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), each member of the Board shall serve for a term of 6 years.

“(2) CONTINUANCE IN OFFICE AND STAGGERED TERMS.—

“(A) CONTINUANCE IN OFFICE.—A member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(B) STAGGERED TERMS.—The terms of service of the members initially appointed under this section shall begin on January 1, 2004, and expire as follows:

“(i) PRESIDENTIAL APPOINTMENTS.—The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

“(I) 2 years;

“(II) 4 years; and

“(III) 6 years.

“(ii) SENATORIAL APPOINTMENTS.—The terms of service of members initially appointed by the President pro tempore of the Senate shall expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of—

“(I) 3 years; and

“(II) 6 years.

“(iii) CONGRESSIONAL APPOINTMENTS.—The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

“(I) 4 years; and

“(II) 5 years.

“(C) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

“(D) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

“(e) CHAIRPERSON.—A member of the Board shall be designated by the President to serve as Chairperson for a term of 4 years, coincident with the term of the President, or until the designation of a successor.

“(f) EXPENSES AND PER DIEM.—Members of the Board shall serve without compensation, except that, while serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

“(g) MEETING.—

“(1) IN GENERAL.—The Board shall meet at the call of the Chairperson (in consultation with the other members of the Board) not less than 4 times each year to consider a specific agenda of issues, as determined by the Chairperson in consultation with the other members of the Board.

“(2) QUORUM.—Four members of the Board (not more than 3 of whom may be of the same political party) shall constitute a quorum for purposes of conducting business.

“(h) FEDERAL ADVISORY COMMITTEE ACT.—The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

“(i) PERSONNEL.—

“(1) STAFF DIRECTOR.—The Board shall, without regard to the provisions of title 5, United States Code, relating to the competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code.

“(2) STAFF.—

“(A) IN GENERAL.—The Board may employ, without regard to chapter 31 of title 5, United States Code, such officers and employees as are necessary to administer the activities to be carried out by the Board.

“(B) FLEXIBILITY WITH RESPECT TO CIVIL SERVICE LAWS.—

“(i) IN GENERAL.—The staff of the Board shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and, subject to clause (ii), shall be paid without regard to the provisions of chapters 51 and 53 of such title (relating to classification and schedule pay rates).

“(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of the Federal Supplemental Medical Insurance Trust Fund established under section 1841, and the general fund of the Treasury, such sums as are necessary to carry out the purposes of this section.”.

(b) CONFORMING REFERENCES TO PREVIOUS PART D.—

(1) IN GENERAL.—Any reference in law (in effect before the date of enactment of this

Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of enactment of this section, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this section.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) IMPLEMENTATION.—Notwithstanding any provision of part D of title XVIII of the Social Security Act (as added by subsection (a)), the Secretary of Health and Human Services shall implement the Voluntary Medicare Outpatient Prescription Drug Discount and Security Program established under such part in a manner such that benefits under such part for eligible beneficiaries (as defined in section 1860 of such Act, as added by such subsection) are available to such beneficiaries not later than the date that is 1 year after the date of enactment of this Act.

SEC. 02. ADMINISTRATION OF VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM.

(a) ESTABLISHMENT OF CENTER FOR MEDICARE PRESCRIPTION DRUGS.—There is established, within the Centers for Medicare & Medicaid Services of the Department of Health and Human Services, a Center for Medicare Prescription Drugs. Such Center shall be separate from the Center for Beneficiary Choices, the Center for Medicare Management, and the Center for Medicaid and State Operations.

(b) DUTIES.—It shall be the duty of the Center for Medicare Prescription Drugs to administer the Voluntary Medicare Outpatient Prescription Drug Discount and Security Program established under part D of title XVIII of the Social Security Act (as added by section 01).

(c) DIRECTOR.—

(1) APPOINTMENT.—There shall be in the Center for Medicare Prescription Drugs a Director of Medicare Prescription Drugs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Director shall be responsible for the exercise of all powers and the discharge of all duties of the Center for Medicare Prescription Drugs and shall have authority and control over all personnel and activities thereof.

(d) PERSONNEL.—The Director of the Center for Medicare Prescription Drugs may appoint and terminate such personnel as may be necessary to enable the Center for Medicare Prescription Drugs to perform its duties.

SEC. 03. EXCLUSION OF PART D COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.

Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended—

(1) by striking “attributable to the application of section” and inserting “attributable to—

“(1) the application of section”;

(2) by striking the period and inserting “; and”;

(3) by adding at the end the following new paragraph:

“(2) the Voluntary Medicare Outpatient Prescription Drug Discount and Security Program under part D.”.

SEC. 04. MEDIGAP REVISIONS.

Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

“(v) MODERNIZATION OF MEDICARE SUPPLEMENTAL POLICIES.—

“(1) PROMULGATION OF MODEL REGULATION.—

“(A) NAIC MODEL REGULATION.—If, within 9 months after the date of enactment of the Medicare Rx Drug Discount and Security Act of 2002, the National Association of Insurance Commissioners (in this subsection referred to as the ‘NAIC’) changes the 1991 NAIC Model Regulation (described in subsection (p)) to revise the benefit package classified as ‘J’ under the standards established by subsection (p)(2) (including the benefit package classified as ‘J’ with a high deductible feature, as described in subsection (p)(11)) so that—

“(i) the coverage for outpatient prescription drugs available under such benefit package is replaced with coverage for outpatient prescription drugs that complements but does not duplicate the benefits for outpatient prescription drugs that beneficiaries are otherwise entitled to under this title;

“(ii) a uniform format is used in the policy with respect to such revised benefits; and

“(iii) such revised standards meet any additional requirements imposed by the Medicare Rx Drug Discount and Security Act of 2002;

subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2004, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the ‘2004 NAIC Model Regulation’).

“(B) REGULATION BY THE SECRETARY.—If the NAIC does not make the changes in the 1991 NAIC Model Regulation within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, a regulation and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2004, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the ‘2004 Federal Regulation’).

“(C) CONSULTATION WITH WORKING GROUP.—In promulgating standards under this paragraph, the NAIC or Secretary shall consult with a working group similar to the working group described in subsection (p)(1)(D).

“(D) MODIFICATION OF STANDARDS IF MEDICARE BENEFITS CHANGE.—If benefits under part D of this title are changed and the Secretary determines, in consultation with the NAIC, that changes in the 2004 NAIC Model Regulation or 2004 Federal Regulation are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of standards previously established in the same manner as they applied to the original establishment of such standards.

“(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in the benefit packages classified as ‘A’ through ‘I’ under the standards established by subsection (p)(2) (including the benefit package classified as ‘F’ with a high deductible feature, as described in subsection (p)(11)) shall be construed as providing coverage for benefits for which payment may be made under part D.

“(3) APPLICATION OF PROVISIONS AND CONFORMING REFERENCES.—

“(A) APPLICATION OF PROVISIONS.—The provisions of paragraphs (4) through (10) of subsection (p) shall apply under this section, except that—

“(i) any reference to the model regulation applicable under that subsection shall be deemed to be a reference to the applicable 2004 NAIC Model Regulation or 2004 Federal Regulation; and

“(ii) any reference to a date under such paragraphs of subsection (p) shall be deemed to be a reference to the appropriate date under this subsection.

“(B) OTHER REFERENCES.—Any reference to a provision of subsection (p) or a date applicable under such subsection shall also be considered to be a reference to the appropriate provision or date under this subsection.”.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an additional bill has been added to the hearing agenda for the hearing that was previously scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources on Tuesday, July 30, 2002, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The additional measure to be considered is S. 2652, to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.

For further information, please contact Kira Finkler of the Committee staff at (202-224-8164).

SUBCOMMITTEE ON WATER AND POWER

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that two additional bills have been added to the hearing agenda for the hearing that was previously scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Wednesday, July 31, 2002, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The additional measures to be considered are S. 2773, to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping modeling, and monitoring program for the High Plains Aquifer and for other purposes; and

H.R. 2990, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes.

For further information, please contact Patty Beneke at (202) 224-5451 or Mike Connor at (202) 224-5479, of the Committee staff.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and

Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 23, 2002, at 10 a.m. to conduct a hearing on the nominations of Ms. Cynthia A. Glassman, of Virginia, to be a member of the Securities and Exchange Commission; and Mr. Roel C. Campos, of Texas, to be a member of the Securities and Exchange Commission.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the senate on Tuesday, July 23, 2002 at 10:30 a.m. to hold a hearing on the Moscow Treaty.

Agenda

Witnesses

Panel I: The Honorable Sam Numm, Co-Chair and Chief Executive Officer, Nuclear Threat Initiative, Washington, DC;

Gen. Eugene E. Habiger, USAF (Ret.), Former Commander, U.S. Strategic Command, United States Air Force, San Antonio, Texas;

The Honorable Ken Adelman, Former Director of the Arms Control and Disarmament Agency, Senior Counselor, Edelman Public Relations Worldwide, Washington, DC.

Panel II: Fr. Drew Christiansen, S.J., Counselor, International Affairs, U.S. Conference of Catholic Bishops, Washington, DC;

Mr. Christopher E. Paine, Co-Director, Nuclear Warhead Elimination and Nonproliferation Project, Natural Resources Defense Council, Charlottesville, Virginia;

Mr. Frank J. Gaffney, Jr., President and CEO, Center for Security Policy, Washington, DC;

Mr. Dimitri K. Simes, President, The Nixon Center, Washington, DC.

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

COMMITTEE ON THE JUDICIARY

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a Judicial nominations hearing on Tuesday, July 23, 2002 in Dirksen Room 226 at 10:00 a.m.

Tentative Witness List

Panel I: The Honorable Phil Gramm, U.S. Senator (R-TX);

The Honorable Kay Bailey Hutchison, U.S. Senator (R-TX);

The Honorable Bill Nelson, U.S. Senator (D-FL);

The Honorable Kay Granger, U.S. Representative (R-TX).

Panel II: Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit.

Panel III: Timothy J. Corrigan to be U.S. District Court Judge for the Middle District of Florida;

Jose E. Martinez to be U.S. District Court Judge for the Southern District of Florida.

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

COMMITTEE ON THE JUDICIARY

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Com-

mittee on the Judiciary be authorized to meet to conduct a hearing on "The Law Enforcement Officers Safety Act, S. 2480," on Tuesday, July 23, 2002 in Dirksen Room 226 at 2:00 p.m.

Tentative Witness List

Panel I: The Honorable Max Baucus, U.S. Senator [D-MT];

The Honorable Randy "Duke" Cunningham, U.S. Representative [R-CA-51st District].

Panel II: Lieutenant Steve Young, National President, Fraternal Order of Police, Marion, OH;

Mr. Arthur Gordon, National Executive Board Member, Federal Law Enforcement Officers Association, Woodbine, MD;

Deputy Chief of Police David Johnson, Cedar Rapids Police Department, Cedar Rapids, IA;

Colonel Lonnie J. Westphal, Chief, Colorado State Patrol, Denver, CO.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 23, 2002 at 10 a.m. to hold a closed hearing on the Joint Inquiry into the events of September 11, 2001.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Tuesday, July 23, at 2:30 p.m. in SD-366. The purpose of this hearing is to receive testimony on the following bills:

S. 2494, to revise the boundary of the Petrified Forest National Park in the State of Arizona;

S. 2598, to enhance the criminal penalties for illegal trafficking of archaeological resources;

S. 2727, to provide for the protection of paleontological resources on Federal lands; and

H.R. 3954, to designate certain waterways in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic Rivers System, and for other purposes.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. EDWARDS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Tuesday, July 23, 2002, at 9:30 a.m., for a hearing entitled "The Role of the Financial Institutions In Enron's Collapse."

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that a fellow in the of-

fice of Senator JEFFORDS, Drew Kumperis, be granted floor privileges for the remainder of the consideration of the measure dealing with prescription drugs.

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

Mr. BROWNBACK. Mr. President, I ask unanimous consent that Malinda Baehr, an intern in my office, be granted floor privileges during the remainder of this debate.

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

NATIONAL VETERANS AWARENESS WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 502, S. Res. 293.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 293) designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD at the appropriate place as if given, without intervening action or debate.

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

The resolution (S. Res. 293) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 293

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century;

Whereas the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining our freedoms and way of life;

Whereas the advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces;

Whereas this reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in our Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations;

Whereas our system of civilian control of the Armed Forces makes it essential that

the future leaders of the Nation understand the history of military action and the contributions and sacrifices of those who conduct such actions; and

Whereas on October 30, 2001, President George W. Bush issued a proclamation urging all Americans to observe November 11 through November 17, 2001, as National Veterans Awareness Week: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of November 10 through November 16, 2002, as “National Veterans Awareness Week” for the purpose of emphasizing educational efforts directed at elementary and secondary school students concerning the contributions and sacrifices of veterans; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe National Veterans Awareness Week with appropriate educational activities.

NATIONAL AIRBORNE DAY

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 242 and the Senate proceed to its immediate consideration.

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

The clerk will read the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 242) designating August 16, 2002, as “National Airborne Day”.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to, the motion to reconsider be laid on the table, and that statements regarding this matter be printed in the RECORD.

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

The resolution (S. Res. 242) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 242

Whereas the airborne forces of the United States Armed Forces have a long and honorable history as units of adventuresome, hardy, and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world;

Whereas August 16, 2002, marks the anniversary of the first official validation of the innovative concept of inserting United States ground combat forces behind battle lines by means of parachute;

Whereas the United States experiment of airborne infantry attack was begun on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the United States Department of War, and was launched when 48 volunteers began training in July 1940;

Whereas the Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940;

Whereas the success of the Parachute Test Platoon in the days immediately preceding the entry of the United States into World

War II led to the formation of a formidable force of airborne units that, since then, have served with distinction and repeated success in armed hostilities;

Whereas among those units are the former 11th, 13th, and 17th Airborne Divisions, the venerable 82nd Airborne Division, the versatile 101st Airborne Division (Air Assault), and the airborne regiments and battalions (some as components of those divisions, some as separate units) that achieved distinction as the elite 75th Infantry (Ranger) regiment, the 173rd, 187th, 503rd, 507th, 508th, 517th, 541st, and 542nd airborne infantry regiments, the 88th Glider Infantry Battalion, and the 509th, 550th, 551st, and 555th airborne infantry battalions;

Whereas the achievements of the airborne forces during World War II provided a basis for evolution into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf region, and Somalia, and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo;

Whereas the modern-day airborne force that has evolved from those World War II beginnings is an agile, powerful force that, in large part, is composed of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 75th Infantry (Ranger) regiment which, together with other units, comprise the quick reaction force of the Army's XVIIIth Airborne Corps when not operating separately under the command of a Commander in Chief of one of the regional unified combatant commands;

Whereas that modern-day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Reconnaissance, Navy SEALs, Air Force Combat Control Teams, Air Sea Rescue, and Airborne Engineer Aviation Battalions, all or most of which comprise the forces of the United States Special Operations Command;

Whereas, in the aftermath of the terrorist attacks on the United States on September 11, 2001, the 75th Infantry (Ranger) regiment, Special Forces units, and units of the 101st Airborne Division (Air Assault), together with other units of the Armed Forces, have been prosecuting the war against terrorism, carrying out combat operations in Afghanistan, training operations in the Philippines, and other operations elsewhere;

Whereas, of the members and former members of the Nation's combat airborne forces, all have achieved distinction by earning the right to wear the airborne's “Silver Wings of Courage”, thousands have achieved the distinction of making combat jumps, 69 have earned the Medal of Honor, and hundreds have earned the Distinguished-Service Cross, Silver Star, or other decorations and awards for displays of such traits as heroism, gallantry, intrepidity, and valor;

Whereas, the members and former members of the Nation's combat airborne forces are members of a proud and honorable fraternity of the profession of arms that is made exclusive by those distinctions which, together with their special skills and achievements, distinguish them as intrepid combat parachutists, special operations forces, and (in former days) glider troops; and

Whereas the history and achievements of the members and former members of the airborne forces of the United States Armed Forces warrant special expressions of the gratitude of the American people as the airborne community celebrates August 16, 2002, as the 62nd anniversary of the first official jump by the Army Parachute Test Platoon: Now, therefore, be it

Resolved, That the Senate requests and urges the President to issue a proclamation—

(1) designating August 16, 2002, as “National Airborne Day”; and

(2) calling on Federal, State, and local administrators and the people of the United States to observe “National Airborne Day” with appropriate programs, ceremonies, and activities.

HONORING THE BUFFALO SOLDIERS AND COLONEL CHARLES YOUNG

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 97 and the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 97) honoring the Buffalo Soldiers and Colonel Charles Young.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, the motion to reconsider be laid upon the table, and any statements regarding this matter be printed in the RECORD at the appropriate place.

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

The resolution (S. Res. 97) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 97

Whereas the 9th and 10th Horse Cavalry Units, (in this resolution referred to as the ‘Buffalo Soldiers’) have made key contributions to the history of the United States by fighting to defend and protect our Nation;

Whereas the Buffalo Soldiers maintained the trails and protected the settler communities during the period of westward expansion;

Whereas the Buffalo Soldiers were among Theodore Roosevelt's Rough Riders in Cuba during the Spanish-American War, and crossed into Mexico in 1916 under General John J. Pershing;

Whereas African-American men were drafted into the Buffalo Soldiers to serve on harsh terrain and protect the Mexican Border;

Whereas the Buffalo Soldiers went to North Africa, Iran, and Italy during World War II and served in many positions, including as paratroopers and combat engineers;

Whereas in the face of fear of a Japanese invasion, the Buffalo Soldiers were placed along the rugged border terrain of the Baja Peninsula and protected dams, power stations, and rail lines that were crucial to San Diego's war industries;

Whereas among these American heroes, Colonel Charles Young, of Ripley, Ohio, stands out as a shining example of the dedication, service, and commitment of the Buffalo Soldiers;

Whereas Colonel Charles Young, the third African-American to graduate from the United States Military Academy at West Point, served his distinguished career as a

member of the Buffalo Soldiers throughout the world, traveling to the Philippines during the Spanish-American War, Haiti as the first African-American military attache for the United States, Liberia and Mexico as a military attache, Monrovia as advisor to the Liberian government, and several other stations within the borders of the United States, holding commands during most of these tours;

Whereas Colonel Charles Young took a vested interest in the development of African-American youth by serving as an educator, teaching in local high schools and at Wilberforce University in Ohio, and developing a military training ground for African-American enlisted men to help them achieve officer status for World War I at Fort Huachuca;

Whereas Colonel Charles Young achieved so much in the face of race-based adversity and while he fought a fatal disease, Bright's Disease, which eventually took his life; and

Whereas there are currently 21 existing chapters of the 9th and 10th Cavalry Association, with 20 domestic chapters and 1 in Germany: Now, therefore, be it

Resolved, That the Senate—

(1) honors the bravery and dedication of the Buffalo Soldiers throughout United States and world history;

(2) honors 1 of the Buffalo Soldiers' most distinguished heroes, Colonel Charles Young, for his lifetime achievements; and

(3) recognizes the continuing legacy of the Buffalo Soldiers throughout the world.

ORDERS FOR WEDNESDAY, JULY 24, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Wednesday, July 24; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half under the control of the Democratic leader or his designee and the second half of the time under the control of the Republican leader or his designee; that at 11 a.m. the Senate resume consideration of S. 812 under the previous order; and, further, at 3:40 p.m. there will be a moment of silence in observance of the deaths of Officer Chestnut and Detective Gibson which occurred on July 24, 1998, 4 years ago.

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

PROGRAM

Mr. REID. Mr. President, the next rollcall vote will occur at approxi-

mately 1:30 p.m. tomorrow on adoption of the supplemental appropriations conference report and in relation to the Hagel second-degree amendment.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:10 p.m., adjourned until Wednesday, July 24, 2002, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 23, 2002:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD H. CARMONA, OF ARIZONA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE FOR A TERM OF FOUR YEARS.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.