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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, June 22, 1999, at 12:30 p.m.

Senate

MONDAY, JUNE 21, 1999

The Senate met at 12 noon and was called to order by the Honorable PAT ROBERTS, a Senator from the State of Kansas.

PRAYER

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

Almighty God, You are the same yesterday, today, and tomorrow. We praise You for Your reliability. Our lives change: We have good days and bad days; we experience up times and down times. Often we are caught in the muddle of our moods; sometimes life goes bump when things don't turn out as we expected. We become disappointed with people. But You are our mighty God who has entrusted us with work to do for Your glory. Each time we return to You to find strength to survive and thrive, You are there waiting for us. We begin this new work-week where everything should begin and never end: in complete trust in You, Your availability, and our accountability to You.

Bless the Senators and all of us who work with them. May this be a week of progress and productivity. We place our reliance squarely on Your reliability. Through our Lord and Savior. Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 21, 1999.

To the Senate:

Under the provisions of rule 1, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAT ROBERTS, a Senator from the State of Kansas, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader, the Senator from Ohio, is recognized.

SCHEDULE

Mr. VOINOVICH. Mr. President, today the Senate will be in a period of morning business until 1 p.m. Following morning business, the Senate will begin consideration of S. 1133, the agriculture appropriations bill. Amendments are expected to that legislation, and it is hoped that Members will coordinate with the managers of the bill to offer their amendments. In addition, the Senate may resume consideration of the State Department authorization bill during today's session. Any votes ordered with respect to either of these bills will occur at 5:30 this evening. It is the intention of the leader to complete action on the State Department authorization bill and to make significant progress on the agriculture appropriations bill.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, 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 1 p.m., with Senators permitted to speak therein for 10 minutes.

Under the previous order, the Senator from Ohio is recognized to speak for up to 30 minutes.

The Senator is recognized.

Mr. VOINOVICH. I thank the Chair.

THE SITUATION IN KOSOVO

Mr. VOINOVICH. Mr. President, 11 days ago, the American people were relieved to hear that the air war against Yugoslavia was ending. Yesterday, the air war was officially declared over.

In the end, I believe it was prayer and the Holy Spirit that brought enlightenment to our leaders that the death and destruction in Kosovo and Serbia must stop. Enough was enough.

I rise today to commend our men and women in uniform for their honorable, valiant and courageous service over the last several months in the campaign to stop ethnic cleansing in Kosovo.

Conventional military wisdom has long held that a military victory could

not be achieved without the deployment of troops on the ground. Indeed, television pundits, newspaper editors and even some of my colleagues, advocated the introduction of ground troops to Kosovo based on this widely-held belief.

However, the incredible work of our pilots, logistics and support staff during the bombing has proven the conventional wisdom wrong—it is possible to achieve limited military objectives on the ground using air power alone given the quality of the American soldier using our technical superiority.

When I traveled to Southeast Europe last month to learn more about the North Atlantic Treaty Organization's campaign, I was struck by the commitment and professionalism of our forces throughout the region. Faced with incredibly long working hours, the stress of a combat environment, isolation from family and loved ones and difficult living conditions, each soldier I spoke with strove to do their best in service to their grateful nation. We can ask no more.

The American people, and Congress, should especially be proud of these fine men and women in uniform.

We should also thank God that we have such soldiers as Chief Warrant Officer David Gibbs, from Massillon, Ohio, and Chief Warrant Officer Kevin Reichert of Wisconsin—two brave Apache helicopter pilots who gave their lives in service to their nation in the Kosovo conflict.

A few weeks ago, my wife Janet and I went to Arlington Cemetery to pay our respects to the David Gibbs' family. I shared our appreciation for the sacrifice that he made and that they will continue to make. I get upset when I hear our leaders say we did not have any combat casualties—a euphemism to mean no soldier died in ''actual'' combat.

Tell that to David Gibbs' widow, Jean Gibbs. Or to their three children—Allison, Megan, or David. Or his mother, Dorothy. Their lives will never be the same.

Since 1991, when I was Governor of Ohio, there have been 32 men and women from Ohio who have died serving their nation, not counting the 19 that died in the Persian Gulf War.

Tell the families of those who did not die in combat that their loss is any less significant because their loved one didn't die in battle.

We must thank God that we have brave men and women who choose to serve our country, and we must never forget those soldiers who have made the ultimate sacrifice for this nation and the ongoing sacrifice of the families.

Mr. President, as you know, I opposed the bombing from Day One. We should have done all that we could to negotiate a diplomatic solution.

I was also violently opposed to sending in U.S. ground troops to Kosovo based on my belief that it would instigate an all-out war in southeastern Europe with tremendous repercussions throughout the world.

Just in the limited actions of the air war, we have witnessed several potential crises, the ramifications of which will be with us for who knows how long—China, Russia.

But I believe we must congratulate President Clinton for sticking to his guns and not letting others pressure him into getting the United States involved in a ground war; he no doubt saved the lives of hundreds, or even thousands, of American soldiers.

THE BOMBING

Even though I was opposed to the bombing, I had confidence that the bombing campaign would ultimately bring Milosevic back to the table. I just wonder why it took us so long to read his signals.

Indeed, according to the June 6th edition of the New York Times, it was reported that Milosevic was ready to make a deal as early as the beginning of May. The Times said:

> That it took another month may have been due less to his unwillingness to make a deal than to the West's slowness to grasp that he was serious. The signs were everywhere.

I have been concerned that very few people have fully grasped the relevance of Serbian history and culture as it relates to this war.

As I have said on the floor previously, it is crucial to remember that Kosovo is the cultural and historical heartland of the Serbian people, and to the Serbs, it is a holy place. It is the scene of the most important event in Serbian history—the battle of Kosovo in 1389 between the Turks and the Serbs.

History, pride and heritage are deeply-seeded in Serb culture. That's why it is significant that Milosevic started his rise to political power in Kosovo and probably the most important event in his political career was when he spoke to one million citizens on the 600th Anniversary of the Battle of Kosovo—at the very site of the battle!

Given the importance of Kosovo to Milosevic politically and to the Serbs historically, I knew that he would not sign the Rambouillet agreement. The agreement called for a referendum on the future of Kosovo's independence after three years. Which, considering the overwhelming Albanian majority, would have guaranteed an independent Kosovo.

I also knew that once we started the bombing, it would, unfortunately, fan nationalistic flames causing the Serbian people to galvanize and rally around him. Prior to the war, I was privy to a Gallup poll that showed some 70% of people wanted him out.

RAMBOUILLET

In addition to the historical and political reasons for Milosevic not to sign, the agreement called for other items that no one has talked about in any detail that would have had a tremendous impact on Yugoslavia's sovereignty.

Here are a couple of the parts of that proposed agreement:

> NATO personnel shall enjoy, together with their vehicles, vessels, aircraft and equipment, free and unrestricted passage and unimpeded access throughout the FRY including associated airspace and waters. This shall include, but not be limited to, the right of bivouac, maneuver, billet and utilization of any areas or facilities as required for support, training and operations.''

Summary.—NATO will have the ability to station troops and/or equipment anywhere through-out the FRY at its discretion. This would give NATO the ability to take control of the country.

> NATO and the Organization for Security and Cooperation in Europe (OSCE), through its Implementation Mission, shall have its own broadcast frequencies for radio and television programming in Kosovo. The FRY shall provide all necessary facilities, including frequencies for radio communications, to all humanitarian organizations responsible for delivering aid in Kosovo.

Summary.—At the discretion of NATO, OSCE and humanitarian groups, the FRY loses control of its radio and television stations.

With a leader as worried about his political survival as much as Milosevic, it's understandable that he would reject an agreement with such provisions.

The White House and NATO political strategists should have anticipated that he would not sign, and should have prepared counter-options based on actions that he might take.

I think it's quite interesting to point out that the day before the Senate vote to authorize the air campaign, my office was contacted by a staff member of the National Security Council who, when asked if there was a ''Plan B'' should the bombing campaign fail, assured my office that Milosevic would come to the peace table within two weeks of the bombing campaign. The staff member said that Milosevic was about to be subjected to such ''devastating'' punishment that he would come running back.

That was exactly the same impression that I got from Defense Secretary Cohen, National Security Advisor Berger, Secretary of State Albright, and NATO General Clark—this guy is going to fold.

And what was Milosevic doing while this Security Council staff member and our other leaders were making these pronouncements? He was laying the groundwork to start his policy of ethnic cleansing. Our intelligence community should have known that he was getting ready to move into Kosovo at the first sight of NATO bombers.

We should have had a Plan B and a Plan C in case the ''sign or bomb'' approach didn't work.

Where was our intelligence? Why didn't they anticipate such a massive outpouring of refugees? Or more chilling, maybe our intelligence did have the answer, and no one listened to them!

The whole impetus for the Rambouillet agreement was to prevent ethnic cleansing, to prevent murder and genocide, to prevent an escalation of a

wider war, to prevent an outpouring of refugees, reduce the likelihood of xenophobia and to prevent regional destabilization.

Everything Rambouillet was supposed to prevent from happening, happened because we misjudged Milosevic with our ''sign or bomb'' diplomacy.

Now look at what we have.

Before the air war there were 45,000 refugees outside of Kosovo. Now there are more than 850,000 refugees outside of Kosovo and probably more than half a million more inside Kosovo.

We've had ethnic cleansing and we're now seeing mass graves.

It was as if the floodgates of death and destruction opened up once the air war started.

Initial projections are that over ten thousand Kosovars died due to ethnic cleansing; and another 1,200 civilians were killed in Serbia due to the bombing.

The infrastructure of Kosovo and Serbia is destroyed and the most vulnerable—women, children and the elderly—are in jeopardy.

In addition, Serb monasteries have been desecrated, religious icons destroyed, and there are further reports that clergy members were kidnapped by men of the KLA.

Hopefully the KLA will be brought under control to prevent any further ethnic cleansing of people in Kosovo.

This war has been a humanitarian disaster.

As I just mentioned, we've destroyed the infrastructure in Kosovo and in Serbia—bridges, roads, industry, water purification and electricity—and in Kosovo alone, the European Union estimates run at about $30 billion to rebuild. In Serbia, estimates run anywhere from $50 billion to $150 billion.

One thing that no one talks about is the ecological disaster facing the entire region. We've destroyed an oil and petrochemical refinery complex in Pancevo, which has sent benzo-pyrene into the atmosphere, there are toxic substances released from oil and chemical plants along the Danube River into the river.

We've bombed other chemical plants and oil refineries that have sent toxic substances into the environment, which has caused acid rain to fall in southwestern Romania and has caused air contaminants to be registered in Hungary.

In addition, it is believed that some of our tank-piercing shells used depleted uranium in order to penetrate the hulls of Serbian tanks. The full effects of these shells are still unknown.

There have been reports of increased numbers of stillborn babies, birth defects, childhood leukemia and other cancers in the children born to soldiers who served in the Iraq war; where depleted uranium was used as well. In addition, depleted uranium is believed to contribute to Gulf War syndrome—a debilitating chronic sickness that a number of our Gulf War veterans suffer.

This war has also had a disastrous impact on the economies of Serbia's neighbors.

The Danube River flows through Belgrade on its way to the sea. The Danube starts in West Germany and flows through Austria, the Czech Republic, Hungary, Croatia, Serbia (and Vojvodina), Romania and Bulgaria.

The Danube is a major economic thoroughfare for these nations, but because of our bombing campaign, river traffic has been curtailed. And until we clean up the river and rebuild the bridges, the passage of ships will be blocked and both truckers and shippers will find it difficult to move their goods to market.

By our bombing, we have put a tourniquet on the economic lifeblood of many nations in the region.

I've met with the Bulgarian President Stoyanov, Foreign Minister Mihaylova and Ambassador Philip Dimitrov and I've spoken with several Romanian leaders—all have asked if they are going to be part of the economic recovery plan for Southeast Europe.

They also want to know if the United States and NATO recognize that the infrastructure damage in Serbia is directly impacting their economic well being.

I don't believe too many people realize the economic ripple effect on Serbia's neighbors that the air war has caused. Tourism, a main economic boost to the entire region at this time of year, has been seriously affected. The agriculture planting season in Yugoslavia has been disrupted which will likely result in food shortages and high prices in the coming months as the area struggles to feed everyone. As I said earlier, shipping goods is more hazardous and shippers must use more circuitous routes to avoid conflict and destroyed infrastructure, which raises costs. The economic uncertainty because of the war (not to mention the destruction of plants and jobsites) has caused a tremendous increase in unemployment in the region—which adds to the refugee problem; as people go elsewhere looking for work. The diversion of economic resources by Serbia's neighbors to address the problems raised by the war (e.g. refugees, environmental damage), particularly Albania and Macedonia. Last month I was with the Deputy Foreign Minister of Macedonia, Boris Traijkovski, who said this war had had a $400 million (and growing) impact on their economy.

We need to recognize and respond to this regional economic crisis.

We have also suffered a tremendous blow to our nation's image.

We've damaged our relations with the Russians. A recent public opinion poll in Russia indicated that 72% of the Russian people have an unfavorable view of the United States, whereas before the war it was at 28%.

I can't help but wonder if the war would have been over sooner—or averted—had we worked with the United Nations and Russia from the beginning and not asked them to come in as an afterthought.

And what about the Chinese? With the bombing of their embassy in Belgrade, we've harmed nearly 30 years of good relations with China and destroyed the leg-up we had with them. We've had rioting in front of the U.S. Embassy in China and we've had the humiliating image of our Ambassador in Beijing trapped inside.

We've lost prestige with a number of Europeans, who look upon this war as a giant American bombing ''video game''—a sort of Star Wars—complete with a daily score card of target ''hits.''

There are reports of anti-Americanism happening throughout Europe.

Mr. President, I will be attending the Organization for Security and Cooperation in Europe (OSCE) meeting in St. Petersburg, Russia in two weeks. I am curious to hear, first hand, what these parliamentarians think about the United States, and how the people in their respective nations feel about the United States. I look forward to sharing my observations with my colleagues upon my return.

Like Bosnia, this country will be in Kosovo as one diplomat has told me ''for as far as the eye can see,''and it will have a lasting impact on our finances. It is being paid for right now with Social Security.

I believe the war over there has been a disaster—one of our worst foreign policy decisions of the century, and no amount of plastering over of the Clinton Administration can cover it up.

Let me be clear—we must get rid of Milosevic. He is a war criminal. And I am glad we are reportedly finally trying to help those in Serbia who want democracy. I've been working with Serbs in diaspora for almost two years to find alternative leadership to Milosevic.

This group is still willing to help if given support from our State Department. There are Serbs from all over the world who want to help—doctors, engineers, accountants, architects.

We need to encourage the Serbian people to pursue new leadership. We should publicly applaud Serb Orthodox Patriarch Pavle, for calling for Milosevic's removal.

The Orthodox Church has been opposed to Milosevic from the beginning, and the Serbian Orthodox Church last week called for the ouster of Milosevic. The Holy Synod, the Church's highest body, said:

> We demand that the Federal President and his government resign in the interest and the salvation of the people, so that new officials, acceptable at home and abroad, can take responsibility for the people and their future as a National Salvation Government.

I thoroughly believe that Milosevic should heed the call from the Church and do what is right—he must put his country's needs and his people's needs ahead of his own. He has put his nation through enough death, destruction and

shame. The time is now to step down and I echo the call for his resignation.

However, Mr. President, I am concerned that there seems to be a consensus that very little will be done to respond to the needs in Serbia until Milosevic is gone. Mr. President, we must remember that there are more than 500,000 refugees in Serbia and over 250,000 that were ethnically cleansed from southern Croatia in 1995 and reports are that they could have 50,000 more coming out of Kosovo.

And though I am somewhat comforted that the President and the European Community have said they will respond to the humanitarian needs, I am really interested in how they define ''humanitarian.''

I am certainly hopeful that humanitarian means things like repairing the bridges and cleaning the Danube, so people can go to work and receive necessary goods, bringing power back online, so people's essential needs can be met, or mending the basic infrastructure, to provide clean water and sanitation. However, based on news reports from this weekend, that does not seem to be the entire case; the West is only considering food, medicine and basic humanitarian aid, including, hopefully, electricity.

Nevertheless, I believe we should listen to Russian Prime Minister Sergei Stepashin who, according to the Washington Post, says the West is taking a short-sighted attitude on aid, which will foment resentment among the Serb people and make it hard to be a part of restoring peaceful relations in the region. Stepashin said, ''You must not penalize 10 million Serbs for the conduct of one man.''

We all know that part of our postwar objective in Yugoslavia is to get rid of Slobodan Milosevic. The best way to do that is to present an olive branch, not to him, but to the people of Serbia.

If we help the people, if we give them the humanitarian assistance they need directly, we speed up the process to his ouster. However, if we don't help, Milosevic will continue to keep his political hold by appealing to his constituents' worst instincts about NATO and the U.S.

In addition, our actions to help the Serbian people re-build will have a ripple effect on the rest of the region, such as Bulgaria and Romania, which have a great need to revitalize their respective economies.

We should support infrastructure programs that respond to the greater economic vitality of the entire region no matter where they are located.

As the international community continues to examine its options and alternatives for the redevelopment of the region, they should consider removing the outer wall of sanctions to allow the IMF and the World Bank into Serbia to promote its long-term reconstruction, understanding that the Serbian people will know that this cannot happen with Milosevic's vice-grip on all the institutions in the country.

There is a responsibility on the part of the countries of NATO to recognize that the Balkan nations are European, and they must be brought aggressively into the European fold.

The fact that the Europeans are taking on the lion's share of rebuilding the infrastructure and economy is the best guarantee that Southeast Europe will join the European and world economies, and presents a once-in-a-lifetime opportunity to make lasting and significant changes in that part of Europe.

For that challenge to become a reality, the people of Southeastern Europe, including the people of Slovenia and Croatia, must understand that they all have a symbiotic relationship.

By working together, their economies will improve, their standard of living will increase and the nationalism and ethnic cleansing that has plagued them for centuries will end.

I have often said that ''there is some good that blows in an ill wind,'' and I consider this war to be an ''ill wind.''

However, the good that is blowing is the opportunity for the United States and NATO, to provide the impetus for a lasting peace to prevail throughout Southeastern Europe.

We can provide the reconstruction assistance that righted the economies of the rest of Europe after World War II and which has made them economically prosperous and willing defenders of the rights of all men and women.

We have had two world wars that have sprung from Europe in this century. We have a chance to guarantee that there will be no such wars in the 21st Century by helping restore Southeast Europe. It is important to the world, and its important to the strategic and national interests of the United States of America.

I have two mottoes: ''Together, we can do it'' and the other is our state motto, ''With God, all things are possible.''

I am confident that working together with our allies and with God's help, we can get the job done.

I yield the floor.

The ACTING PRESIDENT pro tempore. The distinguished Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask to proceed for 15 minutes.

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

ORDER OF PROCEDURE

Mr. KENNEDY. Mr. President, I see my colleague on the other side. I have been asked by the Senator from Michigan for some time. What is the remaining time to be divided between the Senator from Michigan and the Senator from Minnesota?

The ACTING PRESIDENT pro tempore. The Senator from Ohio has 8½ minutes remaining. Under the previous order, the Senator from Illinois, Mr. DURBIN, or his designee, is recognized for up to 30 minutes. Under the previous order, the Senator from Kansas, Mr. ROBERTS, is recognized to speak for up to 15 minutes and then morning business is to be closed at 1 p.m.

Mr. KENNEDY. If the good Presiding Officer adds up the times, does that take us to 1 o'clock?

The ACTING PRESIDENT pro tempore. Normally, we grant the full time of individual Senators. It is the Chair's opinion that will be the case, in that the ag appropriations bill is to be taken up at 1 o'clock, but I believe the Senator will be protected.

Mr. KENNEDY. I ask unanimous consent that the time which remains be divided between the Senator from Michigan and the Senator from Minnesota, after my 15 minutes.

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

Mr. KENNEDY. I thank the Chair.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I will address the Senate this morning on a subject which I believe needs attention in the Senate and also needs action by this body, and that issue is the legislation called the Patients' Bill of Rights.

The Patients' Bill of Rights is legislation which has been before the Senate for some 2 years. It is a rather simple bill. It is understandable. It is a rather commonsense bill. That is, we are, with this legislation, going to give assurances to the American people when they purchase insurance, that the medical profession, the doctors and the patients themselves, are going to make decisions related to the health care which affects them, rather than the accountants or insurance agents.

Basically, that is what this legislation is about. There are a number of guarantees and protections included in the Patients' Bill of Rights, which I have addressed on other occasions and which I, again, will mention this morning.

Every day we fail to take action on this legislation, we see what has happened in this country over the last 2 years; the patients suffer, while our Republican leadership refuses to schedule this particular legislation.

During the 2 years that we have been blocked, effectively, from a Patients' Bill of Rights, HMO abuses have caused some 33 million patients difficulty in getting specialty referrals, delayed needed medical care for some 33 million patients, forced some 23 million patients to change their doctors, forced 14 million patients to change medications, denied payments for emergency services to 11 million patients—those are patients who use the emergency room, who felt they had a medical emergency but were denied the coverage from their HMO and had to pay for it out of their own pocket—and caused unnecessary suffering and financial loss and frustration for millions more.

Over these last days, as we did last year, we have pointed out not only numbers but also in real terms what is happening to families all across this country. For those supporting a Patients' Bill of Rights, which is the legislation introduced by Senator DASCHLE, he has stated—and others who support it have stated—that we are ready, willing and able to enter into time agreements, but we want to have this measure scheduled. We ought to be able to permit the Senate to vote on these measures. They are enormously important, as we have been reminded in the past days by my colleagues and others.

We spent 5 days on legislation protecting various computer companies in this country from the potential of a Y2K glitch. We believe that we would not even need that amount of time to debate legislation that will provide protections for families, for parents, for loved ones, for husbands and wives, and particularly for children. We make the case—I do today—that it is time for the Congress to act to protect the patients against the abuses of managed care.

Patients and doctors should make the medical decisions, not the insurance company accountants. Too often, managed care is mismanaged care. Members of the Senate know it. Doctors, nurses and other health care professionals know it. The American people know it. It is time for the Republican leadership to stop protecting the insurance company profits and start protecting patients.

I point out that we have more than 200 organizations that support our legislation. It isn't that we just want to advance some proposal that has been assembled by the members of our party; there are those in the other party, including Dr. GANSKE, a doctor who is a Republican, and others who support our proposal. But more than 200 organizations representing the medical profession—the nurses, the doctors, the consumers, those who have studied this program—favor our proposal. There isn't one—not one—we are still waiting to hear just one medical professional group that supports the Republican proposal.

We are prepared to debate. But the American people, and those who are involved in the health care delivery system, those who are involved in research, those who are involved in protecting children, those who are involved in protecting women, those who are involved in protecting the disabled, those who are at the cutting edge in advancing research, understand the importance of this debate, this discussion, and votes here in the Senate.

We think it is time that we get to the business of the families of this country by moving ahead and starting to have this measure before us. We have reviewed the proposal made by the Republican leadership. We are now 2 weeks before the July break. We believe we can handle this legislation prior to that period of time. We want this matter scheduled. We want to be able to move toward this debate.

I remember the comments that have been made in recent times by the Republican leadership: Well, we need to have a certain number of amendments. We can have two amendments, three amendments, four amendments, but we are not going to permit this matter to be brought before the Senate unless we have a prior agreement for three or four amendments.

That was last year, and we are again being denied the opportunity to debate this legislation even though we had before the Senate, just a very few weeks ago, the juvenile justice bill. There was no limitation on the number of amendments at that time. We had many contested amendments during that debate on the issue of gun control. We had a series of amendments, but nonetheless we had action on that legislation. We debated it, and then we brought that measure to a close. We did it in the longstanding, 200-year tradition of the Senate. We believe that on a matter which is of fundamental importance and significance to families that we ought to follow that procedure and that we ought to move ahead on this legislation at this time.

During the past year and a half, the Republican leadership has effectively used every trick in the book to delay or deny action on this issue. It is no secret what is going on. Stonewalling tactics have stalled consideration of this legislation for more than a year.

It was just over a year ago, on June 18, 1998 that Senator LOTT proposed to bring up the bill on terms that made a mockery of the legislative process. That proposal would have allowed the Senate to proceed to HMO reform but permitted the majority leader to pull the bill down at any time. The agreement also barred the Senate from considering any other health care legislation for the rest of the year.

Do we understand—do the American people understand what was being proposed for debate in the consideration of a Patients' Bill of Rights? The majority leader said: Well, I'll bring it up, but I'll be able to pull it down if I want. And if we bring it up, we have to have the assurance that no other legislation dealing with health care would be permitted on the floor of the Senate. That was the proposal a year ago. Obviously, we were not willing to agree to that proposal because that was completely in conflict with the public's interest for debate and discussion about these matters.

On June 23 of last year, 43 Democratic Members wrote to Senator LOTT to urge that he allow a debate and votes on the merits of the Patients' Bill of Rights. We requested that the Senate address the issue before the August recess. The response, on June 24 of last year, almost a year ago, was that Senator LOTT simply repeated his earlier unacceptable offer.

Then on June 25 a year ago, Senator DASCHLE proposed an agreement in which Senator LOTT would bring up the Republican bill by July 6 so that Senate DASCHLE could offer the Democratic Patients' Bill of Rights, and the Senate could offer relevant amendments to HMO reform.

The Democratic leader had indicated that every amendment would be relevant to the proposal, that there would be only relevant amendments to the Patients' Bill of Rights. Yes, that was rejected as well.

The next day, on June 26, the majority leader offered a proposal, once again, that allowed him to withdraw the legislation at any time and bar consideration of any other health care legislation. That was on June 26. That is twice they did it almost a year ago, and we are no to a debate.

It goes on.

On July 15, 1998, he made another offer. This time he proposed an agreement that allowed for no amendments. He would bring up his bill, we could bring up ours, and that is it—all or nothing. The American people would be denied votes on key issues, denied key protections, too.

On July 29 and on September 1, the Republican leader offered variations of the proposal.

I could go on—and will—but it is just an indication of how long and how hard we have been trying to get this matter before the Senate in order to be able to try and vote on this.

Many Members of this body say: Well, we know it is not being called up because of various interests and interest groups. But let me just remind the Senate what has happened. See if they are somewhat troubled by it when we talk about interest and interest groups.

Not long ago, Mr. Gradison, who is the former head of the Health Insurance Association of America, was asked in an interview published in the Rocky Mountain News, to sum up the strategy of the special interests that are committed to blocking meaningful reform on the Patients' Bill of Rights. Acording to the article, Mr. Gradison replied, ''There's a lot to be said for 'just say no.'''

The author of the article goes on to report: At a strategy session called by a top aide to Senator DON NICKLES, Gradison advised Republicans to avoid taking public positions that could draw fire during the election campaign. Instead of participating in a productive debate on how best to assure that all patients have the protections currently afforded only to those fortunate enough to be in the best plans, such as Members of the United States Congress and the Senate, insurance companies and their allies in the business community have heeded the call of the Republican leadership. The leadership aide, acting on the behalf of Senator LOTT, urged the industry in 1997 to get off their butts and get off their wallets and block reform. The Republican leadership directed these special interest friends to write the definitive paper

trashing all these bills, and they have responded accordingly, pouring tens of millions of dollars into paid advertising, ginned-up studies, and lobbying campaign coffers of those who are willing to stand in the way of the much-needed change. Over $100 million has been spent in distortion and misrepresentation on this legislation, Mr. President. The interesting thing is, even with $100 million spent, if you take the various studies and reviews out there, not just the case studies which come to our offices every day, but any of the measurements that are being taken out there about people's concerns, you find that it really hasn't impacted families in this country. They know what is happening every single day, and they know the kinds of protections they need. They know the importance of this legislation.

What are we basically talking about in terms of these commonsense rights?

How much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute 12 seconds remaining.

Mr. KENNEDY. These are the commonsense rights: The right to a specialist, if you have a condition serious enough to require specialty care—no parent should be told that his child, with a rare cancer, will be treated by an HMO adult oncologist when the physician lacks the expertise needed to save the child—the right to prescription medicines that your doctor knows best that you need; the right to go to the nearest emergency room without financial penalty; the right to participate in clinical trials—that is so important with the whole range of new breakthrough drugs—the right to continue care if you are in the middle of a course of treatment and your doctor is dropped from a network or your employer changes insurance plans; the right to a speedy and fair, truly independent appeal; and the right to hold your plan accountable in court. These protections and the others are simply common sense. We believe we ought to have an opportunity to debate those and to offer those measures in the Senate.

I am very hopeful that we are going to be able to get this matter scheduled. It is a matter of enormous importance. We have seen reported out of our Health, Education, Labor and Pensions Committee legislation that has been favored by our Republican friends. Let's have that legislation before the Senate, with the time and opportunity to cover those matters, and let the Senate express its will. I am convinced that we will act to protect the families of America.

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

The distinguished Senator from Minnesota is recognized.

(The remarks of Senator GRAMS pertaining to the introduction of S. 1247 and S. 1245 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Michigan.

Mr. LEVIN. Mr. President, I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator is Massachusetts is recognized.

Mr. KENNEDY. Mr. President, three years ago, the entire Nation watched in horror and disbelief as an epidemic of church arsons gripped the South. The wave of arsons was primarily directed at African-American churches and it was a reminder of some of the darkest periods in our history—when African-Americans were the constant targets of violence by cowardly racists. In response to this epidemic, Congress, with overwhelming bipartisan support, passed the Church Arson Prevention Act. We recognized that all Americans—Democrats and Republicans, men and women, whites and nonwhites, Jews, Catholics, Protestants, and Muslims—deserve to be free from these vicious hate crimes.

Unfortunately, this kind of bigotry has raised its ugly head again, in the form of the despicable arson attacks on the synagogues in Sacramento, California last Friday. Houses of worship have a special place in our society, and when they are attacked, the devastation is far-reaching. The B'nai Israel synagogue is the oldest synagogue west of the Mississippi River. In the charred remains of its library were over 5,000 books, some hundreds of years old and many out of print.

Since passage of the Church Arson Prevention Act in 1996, the FBI and ATF have documented over 600 cases of church arson. With the passage of that legislation, the Justice Department was given the tools it needs to apprehend and prosecute the individuals responsible for these deplorable acts, and to deal with such hate crimes more effectively.

All of us look forward to swift action to bring those responsible for these shameful attacks to justice. Although the parishioners at B'nai Israel, Congregation Beth Shalom, and Knesset Israel Torah Center may have lost the use of their synagogues for a time, their spirit and strength in the face of their loss are an inspiration to the entire country.

Congress needs to bring the same vigorous bipartisan attention to other kinds of hate crimes.

Few crimes tear more deeply at the fabric of our society than hate crimes. These despicable acts injure the victim, the community, and the nation itself.

We have acted to deal with arson attacks on places of worships, and we need to take similar action to deal with other hate crimes.

We need to give the federal government more effective tools to investigate and prosecute these contemptible acts. In March, many of us joined in introducing S. 622, the Hate Crimes Prevention Act of 1999. This bill has the support of the Department of Justice, constitutional scholars, law enforcement officials, and many organizations with a long and distinguished history of involvement in combating hate crimes. The goal of the Hate Crimes Prevention Act is to provide federal investigators and prosecutors the tools they need to fight these senseless and violent acts.

Congress' silence on this basic issue has been deafening, and it is unacceptable. We must stop acting like we don't care—that somehow this fundamental issue is just a state and local problem. It isn't. It's a national problem, and for too long, Congress has been AWOL. We must act, and we must act now, to make the federal government a full partner in the ongoing battle against hate crimes in all their ugly forms.

Mr. LEVIN addressed the Chair.

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

MANAGED CARE PRACTICES

Mr. LEVIN. Mr. President, we in the United States have become known around the world for providing what can only be called the gold standards of health care. People come to the United States from all over the world to receive our high-quality health care. Yet I find that too many of my constituents are not receiving this world-renowned health care. Due to current practices in the managed care area, too many HMOs are denying critically needed care to too many of their beneficiaries.

For instance, in Detroit, I met with Donald Anderson, a quadriplegic who is in a wheelchair. When he changed jobs, he also changed health care providers. Donald told me that his new provider would not cover a rolling commode wheelchair for him after the wheel broke on the one he owned, even though his doctor classified the wheelchair as a medical necessity. The HMO told him that the chair, which he uses to take showers, is considered a luxury item. His physician intervened and tried to get Donald a rolling commode but was repeatedly denied.

In Detroit, I also met with Amaka Onumono, who had been recovering from injuries sustained when a man dumped hot grease on her and set part of her home on fire. She spoke about gaps in service because she needed to get a referral from her primary care physician after every 12 visits to her occupational therapist. ''Every time it comes time to make an appointment, there is a hassle,'' her mother Denise Avery said.

In Lansing, I spoke with Dr. William Weil, a Michigan State University pediatrician, who said that some families whose children have chronic illnesses frequently have trouble getting HMOs to approve pediatric subspecialists, especially if none is located in the immediate community. ''In many HMOs, there is a tendency to use neurologists and orthopedists who specialize only in the care of adults,'' Dr. Weil told me.

In Midland, MI, I spoke with Dr. James Bicknell, head of the emergency room at Mid Michigan Medical Center. He told me that problems sometimes occur when managed care personnel, by telephone, tried to screen people out of the emergency room. Dr. Bicknell said that ''managed care companies should be held accountable if patients are harmed because companies deny care.''

Stories such as these necessitate reforming the managed care area, which is why passage of a strong Patients' Bill of Rights is so crucial. Let's take the previous examples and apply the Patients' Bill of Rights—a strong one—to see what would have happened to these people had that legislation been enacted.

Donald Anderson would have received a rolling commode, since his doctor determined it was medically necessary. A strong Patients' Bill of Rights allows the physician, not the insurance company, to decide what prescriptions and equipment are medically necessary.

Amaka Onumono, the burn victim, would not have had to get a new referral every time she needed to see a specialist under a strong Patients' Bill of Rights. Our bill would allow the patient with a chronic health problem to have a standing referral to see such a specialist.

The patients of Dr. William Weil, the MSU pediatrician, would not have been denied access to pediatric specialists. The strong Patients' Bill of Rights specifically maintains that an individual should have access to a specialist, including, in the case of a child, the appropriate pediatric expertise.

In the case of Dr. James Bicknell, our Patients' Bill of Rights mandates that all patients receive emergency treatment if a prudent layperson considers the patient's condition to be ''an emergency medical condition.'' So our health care programs, our strong Patients' Bill of Rights, would hold health plans accountable for the decisions they make.

I have heard similar stories all over my home State of Michigan. While most HMOs do a good job of providing quality health care while managing costs, too many put money before good medicine. A good, strong, national Patients' Bill of Rights would establish a Federal framework that would provide very high quality assurance for patients all over the country.

There is overwhelming support in the public for managed care reform. That would include, necessarily, the following patient protections:

First, ensure that treatment decisions are made by a patient's doctor, not a bureaucrat at an insurance company.

Second, hold managed care plans accountable when their decisions to withhold or limit care injure patients.

Third, ensure that patients undergoing treatment can continue to see the same health care provider if their provider leaves the plan or their employer changes plans.

Fourth, allow patients to see an outside specialist at no additional cost whenever the specialist in their plan can't meet their needs.

Fifth, require that insurance companies pay for emergency services if a reasonable person would consider the situation to be an emergency.

Sixth, promote access to clinical trials that may save time.

The idea of a strong Patients' Bill of Rights is not a radical notion. Doctors, for instance, are strongly in favor of this. Doctors who receive years of training and specialization are too often now being told by managed care companies they cannot provide the care that they deem to be appropriate. When doctors are no longer making the decisions they were trained to make, something is wrong.

What is wrong is that too many HMOs are not providing the services which the American public has a right to expect. The way to right this is to adopt a strong Patients' Bill of Rights. I hope the Senate will take this real-life issue up promptly, resolve it, and adopt a strong Patients' Bill of Rights.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Kansas.

MARINE COMMANDANT KRULAK

Mr. ROBERTS. A week ago yesterday, Senator BEN NIGHTHORSE CAMPBELL and I took the opportunity to travel about 5 miles from Skopje, Macedonia, to a scrub pine-covered hill that was overlooking the Skopje Airport and the valley that leads to Kosovo.

On the way, we saw the U.S. troops, primarily the Army, and then the British, Germans, and the French, all part of the NATO command we now call KFOR, making the preparations for ground entry into Kosovo.

Beyond those encampments, the dusty road led to some high ground. As we topped the hill, about 100 yards into the scrub pine were the members of the 26th Marine Expeditionary Force led by Col. Kenneth Glueck and his XO Lt. Col. Bob Taylor.

Some 1,900 marines and 186 vehicles were deploying into Kosovo. Just a few days earlier, these men and women were aboard ship in an Italian port as members of the Marine Expeditionary Unit. Despite all of the delay in regard to the bureaucratic problems—road and transportation snafus and unfriendly but rather benign protests by some demonstrators in Greece—the marines were deployed and the command post was up and running when the advance units were reporting in.

With great respect for our allies, while their units were conducting maintenance and they were relaxing prior to moving out, the marines had already conducted 2 days of training.

In recent weeks, there has been much discussion and criticism about the use of ground troops in the Balkans. The point has always been made that, simply given the opposition by NATO countries and the administration to the use of ground troops and the lack of contingency planning, it would take months to put together any contingency plans, the necessary unified command and control, supply lines and battle plans—it would take months.

No need to worry. When the order was given, your Navy-Marine Corps team, a true force in readiness, was there. They were deployed in days—not weeks or months.

I asked Col. Glueck and Lt. Col. Taylor why the marines chose the high ground miles away from the U.S. and allied forces. He responded:

> Well, sir, we arrived at 2300, set up our command post and staging base, secured the area, and were ready to go by morning. We just didn't want to lose our edge.

And they haven't. Today those marines are keeping a difficult peace. They are serving as protectors, as police, as judge, as jury, as peacekeepers, and as possible targets. Along with the 82nd Airborne, they are doing an outstanding job. They were doing their best in the Balkan briar patch.

Senator CAMPBELL and I had the privilege of visiting with individual marines and found their dedication and morale was second to none. It was a real ''battery charger'' for me. As a result, we both stood taller that day.

In a day and age when our military is stressed and strained and hollow in parts, with recruiting and retention reaching alarming levels—so serious, by the way, that the President had to mandate a stop loss order, meaning those on active duty who are scheduled to leave active duty cannot—and with serious problems all throughout our military, asking a military that has been cut by one-third to do more in 93 nations around the world, not to mention the problems in health care, in the quality of life, personnel tempo and operations tempo, readiness, modernization and procurement, mission quality, and all the rest, how on Earth can the U.S. Marine Corps meet its recruiting and retention goals and perform so well in the field?

I will tell you how. It is called leadership, and it is called standards. Those standards, those values, are set by the Commandant of the U.S. Marine Corps: Honor, courage, and commitment. They have not changed, and they will not change.

Let me state why, with the following quote:

> To Marines, Honor, Courage and Commitment are not simply words or a bumper sticker slogan. They reflect our deepest convictions and dramatically shape everything that we do. We imbue Marines with our core values from their first moments in the Corps because we know that Marines, not weapons, win battles.
>
> As an institution, we have had to fight hard to maintain our standards. To some, they may seem old-fashioned, out of step with society, or perhaps even extremist, but we know that our high standards are the lifeblood of the Corps, so we have held the line!
>
> In this regard, what individual Marines are doing everyday counts far more than anything that is done in Washington. The standards of our Corps are not simply maintained

by generals, colonels, and sergeants major, but, far more importantly, by leaders throughout the Corps, at every level. The Marine conviction that Semper Fidelis is a way of life, not just a motto, speaks powerfully and unites us.

In typical fashion, the Marine who spoke those words, gave credit to all Marines for the accomplishments achieved by the Marine Corps these past few years while at the same time providing the leadership that made those accomplishments possible. I am speaking of the 31st Commandant of the Marine Corps who is retiring after four years of outstanding service, General Charles C. Krukak, a Marine's Marine.

It is both an honor and a personal privilege to join Majority Leader LOTT, Senator BURNS of Montana, and other senators as we pay tribute and say thanks and well done to Chuck Krulak.

My colleagues have already spoken to General Krulak's outstanding record, his personal sacrifice, bravery, combat record, accomplishments. A modest, self effacing man, the last thing Chuck Krulak would want is personal tribute, no matter how well deserved. Simply put, the biography of achievement of one Charles C. Krulak is synonymous with honor, courage, and commitment.

A few personal observations however, for the Record. The latest buzz word in military tactics is called ''asymmetrical warfare''.

Quoting from retired army colonel Ralph Peters, the provocative author of the book, ''Fighting for the Future, Will America Triumph'':

> Around the world, American soldiers, American interests and American citizens face violent men who do not play by the time-honored rules of warfare. These new enemies are warlords, terrorists, charismatic demagogues, international criminals—and the militaries of rogue states. Driven by hatred, greed, and rage, the weapons they use range from knives and bombs to computers and weapons of mass destruction. They fight in urban landscapes and information jungles—not on the neatly contained battlefields of yesterday.

Simply put, Mr. President, as Kosovo will prove—in my personal opinion—all too often the United States is fighting today's wars with yesterday's tactics.

The service chief who has seen this emerging threat with foresight, clarity, and resolve has been General Krulak. A student of history and military tactics and strategy, a veteran of a limited, political war of gradualism where specific mission was difficult to define, Chuck Krulak has literally shaped the U.S. Marine Corps to meet these future challenges. In this regard, the Commandant has provided members of the Armed Service Committees and those within our military schools and think tanks valuable insight and leadership. His 45 minute presentation, starting with the mistakes the Romans made in 9 AD and ending with modern day threats should be required reading for all who care about out national security and individual freedom.

General Krulak has also enabled the Marine Corps to be on the cutting edge of consequence management regarding weapons of mass destruction—especially in regard to the very real dangers of biological contamination whether the situation be on the battlefield or resulting from a terrorist attack.

Majority Leader LOTT stressed in his remarks how much he valued General Krulak's candor and honesty. In my own case, coming from the House to the Senate, my tenure on the Senate Armed Services Committee has been synonymous with General Krulak's service as Commandant of the Marine Corps.

Throughout this time, despite budget restrictions, difficult policy debates and quite frankly a time when the administration and the Congress have asked our military to do more with less, the one thing Chuck Krulak provided our committee and our Marines was honesty. No hedging, no fence straddling, no saluting one way and hunkering down in the weeds when the going got tough the other. No Sir! General Krulak told it just exactly like it is. The Congress, the President, our country and especially our Marines are owed that. And, we owe Chuck Krulak as we work to restore and strengthen our nation's fighting forces.

My father, Wes Roberts, was privileged to serve in the Marine Corps and saw action on Iwo Jima and Okinawa. As it turned out, one of men he has honored to know on a personal basis was the historic and legendary Commandant of that time, ''Lem'' Shepherd.

When I joined the Corps and was a ''shave-tail'' lieutenant serving in the Marine Education Center in Quantico, it was my good fortune to serve with General Oscar Peatross, the hero of the Makin Island Raid and then Lt. Col. and later Commandant Robert ''Bob'' Barrow as the Marines published what I believe to be the first modern-day anti-guerrilla warfare manual in 1959.

The commanding general at Marine Corp Schools and the driving force behind the change in tactics and strategy within the Corps at that time was General Victor ''Brute'' Krulak, our current Commandant's father.

I am always amazed and humbled at the good fortune that life can bring us. I can assure you that, never in my wildest dreams could I have imagined I would have the privilege of serving in this body as a member of the Senate Armed Services Committee and having the honor of working with our Commandant, the son of the man I served under some 40 years ago—and on the very same challenges.

I ask unanimous consent to have two speeches by General Krulak, his ''Farewell to the Corp'' within the Marine Corps Gazette, and remarks he made for the Pepperdine University Convocation Series last October, printed in the the RECORD.

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

[From the Marine Corps Gazette, June 1999]

A FAREWELL TO THE CORPS

(By Gen. Charles C. Krulak)

From my earliest days, I was always awed by the character of the Marine Corps, by the passion and love that inspired the sacrifices of Marines like my father and his friends. As a young boy, I admired the warriors and thinkers who joined our family for a meal or a visit . . . Marines like ''Howlin' Mad'' Smith, Lemuel C. Shepherd, Gerald C. Thomas, and Keith B. McCutcheon. I wondered about the source of their pride, their selflessness, and their sense of purpose. Now, at the twilight of my career, I understand those Marines. I know that they were driven by love for the institution to which they had dedicated their lives and by the awesome responsibility they felt to the Marines who shared their devotion and sacrifice. Today, that same motivation burns deep within the heart of each of us. The ethos of our Corps, purchased so dearly by these heroes of old, reaches into our souls and challenges us to strive tirelessly for excellence in all that we do. It profoundly influences the actions of every Marine who has ever stood on the yellow footprints at our recruit depots or taken the oath as an officer of Marines.

The ethos of our Corps is that of the warrior. It is defined by two simple qualities . . . our two touchstones. The first is our Touchstone of Valor. When we are summoned to battle, we don our helmets and flak jackets; we march to the sound of the guns; we fight and we win—guaranteed. The second is our Touchstone of Values. We hold ourselves and our institution to the highest standards . . . to our core values of Honor, Courage, and Commitment. These two touchstones are inextricably and forever linked. They form the bedrock of our success and, indeed, of our very existence.

Our Touchstone of Valor is the honor roll of our Corps' history. Bladensburg, Bull Run, Cuzco Well, Belleau Wood, Guadalcanal, Tarawa, Iwo Jima, Inchon, the Chosin Reservoir, Hue City, Kuwait . . . the blood and sacrifice of Marines in these battles, and countless others, have been commemorated in gilded script and etched forever on the black granite base of the Marine Corps War Memorial. The names of these places now serve as constant reminders of our sacred responsibility to our Nation and to those whose sacrifices have earned the Marine Corps a place among the most honored of military organizations. The memory of the Marines who fought in these battles lives in us and in the core values of our precious Corps.

To Marines, Honor, Courage, and Commitment are not simply words or a bumper stocker slogan. They reflect our deepest convictions and dramatically shape everything that we do. They are central to our efforts to ''Make Marines,'' men and women of character who can be entrusted to safeguard our Nation and its ideals in the most demanding of environments. We imbue Marines with our core values from their first moments in our Corps because we know that Marines, not weapons, win battles. We also know that success on the battlefield and the support of the citizens whose interests we represent depend on our ability to make moral and ethical decisions under the extreme stress of combat and in the conduct of our daily lives.

As an institution, we have had to fight hard to maintain our standards, To some, they may seem old-fashioned, out-of-step with society, or perhaps even ''extremist,'' but we know that our high standards are the

lifeblood of the Corps, so we have held the line! In this regard, what individual Marines are doing every day counts far more than anything that is done in Washington. The standards of our Corps are not simply maintained by generals, colonels, and sergeants major, but, far more importantly, by leaders throughout the Corps, at every level. The Marine conviction that Semper Fidelis is a way of life, not just a motto, speaks powerfully to the citizens whom we serve. It also unites us with our fellow Marines, past and present—inspiring us to push harder, to reach further, and to reject the very notion of failure or compromise.

Sustained and strengthened by the ethos of our Corps, you have accomplished a great deal during the past 4 years. I have been humbled to be part of your achievements and witness to your selfless devotion. Time and again, Marines distinguished themselves in contingencies around the world, across the spectrum of conflict. Marines from across the Total Force were the first to fight, the first to help, and the first to show America's flag—consistently demonstrating our resolve and readiness to win when called to action. With the involvement of the Fleet Marine Force and input from the entire Corps, the Warfighting Laboratory has looked hard at the 21st century strategic environment. Marines ''stole a march'' on change by testing new concepts and emerging technologies, exploring new tools for developing leaders and decisionmakers, and experimenting in the ''Three Block War.'' Our recruiters, drill instructors, and small unit leaders have implemented the Transformation Process and are recruiting, refining, and developing the ''Strategic Corporals'' for tomorrow's conflicts. Led by Marines at the Combat Development Command, we have deepened our understanding of operational maneuver from the sea (OMFTS), its enabling concepts and technologies, as well as its many challenges. The men and women serving in the many thankless billets at Headquarters Marine Corps and in the joint arena have developed and articulated our requirements for the future and have secured the resources to translate OMFTS into a reality. Our supporting establishment, at every post and station, has epitomized selflessness and dedication while providing for our readiness requirements. All these things are important—and they are the accomplishments of every Marine. None of them, however, are as significant as maintaining our hands on the twin touchstones of our Corps.

The words of my father rings as true today as when he first wrote them over 50 years ago:

We exist today—we flourish today—not because of what we know we are, or what we know we can do, but because of what the grassroots of our country believes we are and believes we can do . . . The American people believe that Marines are downright good for the country; that the Marines are masters of a form of unfailing alchemy which converts unoriented youths into proud, self-reliant stable citizens—citizens into whose hands the nation's affairs may safely be entrusted. . . And, likewise, should the people ever lose that conviction—as a result of our failure to meet their high—almost spiritual—standards, the Marine Corps will quickly disappear.

May God bless each and every one of you and may God bless our Corps!.

[Remarks for Pepperdine University Convocation Series, October 14, 1998]

COMMENTS ON CHARACTER

By Gen. Charles C. Krulak Commandant of the Marine Corps

I am happy to be here this morning—to have an opportunity to talk to the leaders and thinkers of tomorrow and, more importantly, the day after tomorrow.

I considered a few different topics to talk to you about this morning: The importance of my Christian faith in guiding my personal and professional life, the Marine Corps' intensive efforts to develop values in our newest Marines, or even my thoughts about our Nation's role in humanitarian missions around the globe . . . I will do that if you would like—but during the Q&As.

There is another topic that I would like to talk about today—one that is critical to each of us, our Nation, and our world—as we move toward the 21st Century . . . A topic that rarely gets talked about in forums such as this, which makes it all the more important to discuss. It serves as the foundation for all that we are, all that we do, and all that we will be . . . I will talk about the importance of character.

I can tell you from personal experience that combat is the most traumatic human event. It strips away an individual's veneer, exposing his true character. If a character flaw exists, it will appear in combat—guaranteed.

This morning, I will tell the story of an American whose true character was tested and exposed in the crucible of war. I will then draw some conclusions that are applicable to how the rest of us should live our lives . . . lives where combat will hopefully never play a role. He was a 19 year old Marine-about the same age as most of you in the audience this morning. His name was LCPL Grable. He was a man of courage . . . a man of character . . . and this is his story . . . Vietnam . . . It was 0600, the third of June, 1966. I was in command of ''G'' Company, Second Battalion, First Marine Regiment. I was a First Lieutenant at the time, and had been given this command because the previous commander had been killed about one week earlier. My company had been given a simple mission that began with a helicopter assault. We would land in a * * *

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of lesser character. Moral cowards never win in war—moral cowards never win in life. They might believe that they are winning a few battles here and there, but their victories are never sweet, they never stand the test of time, and they never serve to inspire others. In fact, each and every one of a moral coward's ''supposed victories'' ultimately leads them to failure.

Those who have the courage to face up to ethical challenges in their daily lives will find that same courage can be drawn upon in times of great stress, in times of great controversy, in times of the never ending battle between good and evil . . .

All around our society you see immoral behavior . . . lying, cheating, stealing, drug and alcohol abuse, prejudice, and a lack of respect for human dignity and the law. In the not too distant future, each of you is going to be confronted with situations where you will have to deal straight-up with issues such as these. The question is, what will you do when you are? What action will you take? You will know what to do—the challenge is—will you DO what you know is right? It takes moral courage to hold your ideals above yourself. It is the DEFINING aspect . . . When the test of your character and moral courage comes—regardless of the noise and confusion around you—there will be a moment of inner silence in which you must decide what to do. Your character will be defined by your decision and it is yours and yours alone to make. I am confident you will each make the right one. When that moment of silence comes and you are wrestling with your decision, consider this poem:

THE EAGLE AND THE WOLF

There is a great battle
that rages inside me.

One side is a soaring eagle
Everything the eagle stands for
is good and true and beautiful.

It soars above the clouds.
Even though it dips down into the valleys,
it lays its eggs on the mountain tops.

The other side of me is a howling wolf.
And that raging, howling wolf
represents the worst that is in me.

He eats upon my downfalls and
justifies himself by his presence
in the pact.

Who wins this great battle? . . .
The one I feed.

May God bless you and Semper Fidelis!

Mr. ROBERTS. Mr. President, in those remarks, Chuck Krulak talked about character and individual responsibility as it applies to today's America and all of the obligations and challenges that we face today. Character; character—as usual, General Charles C. Krulak simply told the truth. We will be a better nation if we but heed his advice.

Semper Fidelis Commandant Krulak and thank you.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

Mr. COCHRAN. Mr. President, am I correct in assuming that this is the time, under a previous order, to proceed to the consideration of the agriculture appropriations bill for fiscal year 2000?

The PRESIDING OFFICER. The Senator is correct. Morning business is now closed.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1233, which the clerk will report.

The legislative assistant read as follows:

A bill (S. 1233) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes.

The PRESIDING OFFICER. The Senator from Mississippi.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent that the following Appropriations Committee staff members and intern be granted floor privilege during consideration of this bill and any votes that may occur in relation thereto: Rebecca Davies, Martha Scott Poindexter, Hunt Shipman, Les Spivey and Buddy Allen.

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

Mr. COCHRAN. Mr. President, I am pleased to present for the Senate's consideration, S. 1233, the fiscal year 2000 Agriculture, Rural Development, Food

and Drug Administration, and Related Agencies appropriations bill. This bill provides fiscal year 2000 funding for all programs and activities of the U.S. Department of Agriculture, the Food and Drug Administration, and the Commodity Futures Trading Commission. The Forest Service is not included. It is funded in the Interior appropriations bill.

As reported, the bill recommends total new budget authority for fiscal year 2000 of $60.7 billion. This is $6.2 billion more than the fiscal year 1999 enacted level and $1.2 billion less than the President's fiscal year 2000 budget request.

Changes in mandatory funding requirements account for the overall increase from the fiscal year 1999 enacted level primarily due to a $5.9 billion estimated increase in the required payment to reimburse the Commodity Credit Corporation for net realized losses. In fact, I point out that just over three-quarters of the total $60.7 billion recommended by this bill is for mandatory appropriations, over which the Appropriations Committee has no effective control.

The spending levels for these programs are governed by authorizing statutes. The mandatory programs funded by the bill include not only the payment to reimburse the Commodity Credit Corporation for net realized losses which I just mentioned, but the food stamp and child nutrition programs, and the Federal Crop Insurance Corporation. Less than one-fourth of the total funding recommended by this bill is for discretionary programs and activities.

Including congressional budget scorekeeping adjustments and prior year spending actions, this bill recommends total discretionary spending of $13.983 billion in budget authority and $14.254 billion in outlays for fiscal year 2000. These amounts are consistent with the subcommittee's discretionary spending allocations.

I will take a few minutes to summarize the bill's major funding recommendations. For the Food Safety and Inspection Service, appropriations of $638 million are recommended, $21 million more than the fiscal year 1999 level. For the Animal and Plant Health Inspection Service, $445 million is recommended, $11 million more than the 1999 level. Appropriations of USDA headquarters operations and for other agriculture marketing and regulatory programs are approximately the same as the 1999 appropriations levels, with the exception of a $7 million increase in the mandatory USDA rental payment to the General Services Administration, a $7 million reduction in funding for the census of agriculture, and increased funding for programs and activities included in the President's food safety initiative.

For farm credit programs, the bill funds an estimated $3.1 billion total loan program level, $798 million more than the fiscal year 1999 level, excluding additional loans funded through fiscal 1999 emergency appropriations. The amount recommended includes $559 million for farm ownership loans and $2.4 billion for farm operating loans.

Total appropriations of $795 million are recommended for salaries and expenses of the Farm Service Agency. This is $80 million more than the 1999 level and the same as the President's budget request.

For agriculture research, education, and extension activities, the bill provides total appropriations of $1.8 billion. Included in this amount is a reduction from fiscal year 1999 of $3.4 million for Agricultural Research Service, ARS, buildings and facilities, a $24 million increase for research activities of the ARS; and a $12 million increase in total funding for the Cooperative State Research, Education, and Extension Service.

For USDA conservation programs, total funding of $807 million is provided, $15 million more than the 1999 level. This includes $656 million for conservation operations, $99 million for watershed and flood prevention operations, and $35 million for the resource conservation and development program.

USDA's Foreign Agricultural Service is funded at a level of $140 million. In addition, a total program level of $946 million is recommended for the Public Law 480 program, including $159 million for Title I and $787 million for Title II of the program. These amounts, together with projected carryover balances, will, at minimum, be sufficient to maintain the fiscal year 1999 funded P.L. 480 Titles I and II levels of $220 million and $837 million, respectively, in fiscal year 2000.

The bill also provides a total program level of $2.2 billion for rural economic and community development programs. Included in this amount is $718 million for the Rural Community Advancement Program, $55 million for the Rural Business-Cooperative Service, and a total of $1.6 billion program level for rural electric and telecommunications loans.

In addition, the bill devotes additional resources to those programs which provide affordable, safe, and decent housing for low-income individuals and families living in rural America.

Estimated rural housing loan authorizations funded by this bill total $4.6 billion, a $343 million increase from the fiscal year 1999 level. Included in this amount is $4.3 billion in section 502 low-income housing direct and guaranteed loans and $114 million in section 515 rental housing loans.

In addition, $640 million is included for rental assistance program. This is the $200 million more than the budget request and $57 million more than the 1999 appropriations level.

Over 58 percent of the bill's total funding, $36 billion, is provided for USDA's domestic food assistance programs. This includes $9.6 billion for child nutrition programs, including $13 million for the newly-authorized school breakfast pilot projects and evaluation; $4 billion for the Special Supplemental Nutrition Program for Women, Infants, and Children, WIC; $131 million for the commodity assistance program; and $21.6 billion for the food stamp program. The bill also provides first-time funding of $3 billion for Bill Emerson and Mickey Leland Hunger Fellowships through the Congressional Hunger Center.

For those independent agencies funded by the bill, the Committee provides total appropriations of $1.1 billion. Included in this amount is $61 million for the Commodity Futures Trading Commission, and $1 billion for the Food and Drug Administration, FDA.

Total appropriations recommended for salaries and expenses of the FDA are $65 million more than the 1999 level, and reflect the full increase requested in the budget for FDA rental payments to the General Services Administration, an additional $25 million for FDA food safety initiatives, and an increase of $28 million for premarket application review.

In addition, the bill makes available $145 million in Prescription Drug User Fee Act collections, $13 million more than the fiscal year 1999 level.

The increase provided for premarket application review is the full amount requested by the President for these activities through a combination of direct appropriations and collections from proposed new user fees. By FDA's own admission, new blood products, animal and generic drugs, medical devices, and food additives all suffer from lengthy review time, far short of meeting the statutory performance requirements. This increase is essential to enable FDA to perform its core statutory mission of reviewing drugs, foods, medical devices and products within statutory time frames and to ensure patients' speedy access to new products and the latest technology.

I point out to my colleagues that the discretionary budget authority allocation for this bill is nearly the same as the CBO baseline level, or a ''freeze'' at the 1999 enacted appropriations level. To provide the selected increases I just cited and to maintain funding for essential farm, housing, and rural development programs, several mandatory funding restrictions are included in the bill. Modest limitations are imposed on Food Stamp program commodity purchases, the Environmental Quality Incentives Program, and on new acreage enrollments in the Wetlands Reserve Program. Funding for the Initiative for Future Agriculture and Food Systems is limited to $50 million, and restrictions are imposed on fiscal year 2000 funding for the Conservation Farm Option Program and the Fund for Rural America.

I also point out to my colleagues that although the total discretionary spending recommended by this bill is approximately $190 million in budget

authority below the President's request level, the President's proposed budget relies on additional revenues and savings to accommodate much higher levels of discretionary spending. The President's budget proposes to generate a net total of $532 million in collections from new user fees proposals; to make an additional $180 million available by double-counting savings used to offset 1999 appropriations; to shift the Foreign Market Development Cooperator program from the discretionary to the mandatory side of the ledger, saving $28 million; to defer until fiscal year 2001 a portion of the funds needed to meet rental assistance requirements, saving $200 million; and to redirect funds from ongoing projects and Congressional initiatives to pay for Presidential initiatives.

We do not propose savings from scorekeeping tactics, or have the luxury of being able to rely on revenues and savings from legislative proposals that have not been acted on by the Congress or signed into law. Consequently, within the discretionary spending limitations established for this bill, we have not been able to afford many of the discretionary spending increases and new initiatives proposed by the administration.

I am going to highlight what I think to be some of the important provisions of this bill and discuss how the subcommittee reached its decisions as to the priorities we felt were important enough to include for increases in spending and how we generally approached developing this legislation.

As the occupant of the Chair may well remember, we decided this year to conduct our hearings based on subject matter categories. We defined food safety as one of the highest priority interests in the country today, and one of the most challenging issues.

After hearing the Secretary of Agriculture present the overall budget request for the Department of Agriculture this year, we then began concentrating on the issue areas we thought to be considered high priority areas of interest. Food safety was the first one we considered, with witnesses being the highest ranking officials in the administration with responsibilities over those areas of the President's budget. Testifying were the Commissioner of the Food and Drug Administration, for example; the Director of the Food Safety and Inspection Service and the Centers for Disease Control in Atlanta was represented at this hearing as well. Based on our findings and the information we were able to obtain, this committee has recommended increases for funding of programs and activities that come under this general issue area.

We also want to point out that it was clear to us, because of the programs and activities and hard work in the past, we are able to enjoy the safest food supply in the world, the most abundant food supply, the most affordable food supply. The fact of the matter is, Americans ought to feel very confident and comfortable with the inspection programs, with the recent initiatives that have been developed to make them better, more effective, and the funding levels that are contained in this legislation to help assure that we continue to improve upon the record of the past.

There have been problems, and we are frightened when we hear about contaminated food products. We think more needs to be done in terms of educating the public in the handling of food and in the preparation of foodstuffs.

At the same time, there are some responsibilities that peculiarly belong in the hands of the Federal Government. Our challenge is to make sure those programs are being administered in the way they should be, in the way Congress provided the authority for them to be administered, and that they are using the funds effectively.

I believe we can be confident in the expression of support we have for the food safety initiative. We have added funds for that and in other ways we think we have strengthened the activities of the Department of Agriculture, the Food and Drug Administration and others as they relate to food safety.

I am also happy to report that we were able to recommend funding for important nutrition programs. People may not realize it, but almost 60 percent of the funding in this bill is allocated to food and nutrition programs. Of the total amount of $60.7 billion, almost 60 percent of it will be spent in the year 2000 to help provide food that is needed by those who cannot afford to adequately meet their own needs and the needs of their families, and for other programs, like the School Lunch Program which we know is tied directly to child health and learning and school performance.

There are other programs, as well, for those who are out of work and disabled. The Food Stamp Program is one of the best known and also is funded at a high level, although the trend has been going down. That is an indication of the strength of the economy and the fact that when we do have a good economic growth program and jobs are being provided, less money is needed for the Food Stamp Program. That is one reason we were able to hold down the increase in the mandatory programs, because there is a reduction of about $1 billion in the expected cost of the Food Stamp Program for next year as compared to last year. That is good news.

We are increasing the funds for the WIC Program, the Special Supplemental Feeding Program for Women, Infants, and Children. This is the special program that deals with those women who are pregnant, and young children who need special assistance. We are increasing the funds so that those needs will be met as a result of the spending in this bill.

There was a pilot program authorized last year by the agriculture committees that have legislative jurisdiction over these programs for a school breakfast program. This will be a demonstration program that would provide free breakfasts to all children in a school to find out what effect that would have, whether the need is there, whether the demand is there. We provided funds to start up and evaluate a pilot breakfast program in this legislation.

We have added funds for a fellowship program for the Congressional Hunger Center. These fellowships will be named for Bill Emerson, a former Congressman from Missouri, and Mickey Leland, former Congressman from Texas, both of whom have been instrumental in their careers when they served in the Congress on hunger issues and in dealing with problems of those who do not have enough to eat.

We are hopeful the entire nutrition area will meet with favor in the Senate because of the way we analyzed and went about trying to identify the priority needs, looking at the available funding and trying to match those in a reasonable and thoughtful way in the bill, and I think we have done that.

Research is an area a lot of people do not think about too much unless they are involved in it or benefit directly from it. But it is a part of this Department's activities where we have recommended additional spending, additional spending compared with last year and, in many cases, additional spending as compared with the President's budget request.

We think these are wise investments in making sure we identify the emerging technologies that can benefit production agriculture, farmers who are out there trying to deal with the big problem of prospective low income because of low commodity prices.

One way you can make that up or help deal with that challenge is to improve yields of crops, to develop ways to operate a farm more efficiently, to cut down the costs of the so-called inputs into production agriculture, the costs of pesticides, herbicides, fertilizer, and other variable costs of production.

One way to get at this is develop new techniques. Biotechnology is one example. Seed genetics is another. Private industry is contributing an enormous amount of research and development in these areas, but the Federal Government has a role to play, too.

In many cases, what the Federal Government starts in the way of research in some of these areas is carried on by others in the private sector. Colleges and universities have laboratories and students and scientists involved in many of these research projects. So across the country, we see very important work being done in agriculture-related research that will help farmers achieve profits in agriculture in the future and help make our food supply safer, help make production agriculture more compatible with the environment through more effective pesticides, and other inputs in production

agriculture that are very costly to the farmer but also contain some inherent environmental risk as well and have to be closely monitored. So I think agriculture research, particularly ARS research activities, as they are increased in this bill, are justified because of the end results that we think will flow from these activities.

Another area that we emphasized in this legislation is conservation, not just protecting our land and water resources from erosion or contamination but also using incentives in this legislation to encourage farmers to manage their lands, to enhance wildlife habitat, and to be more sensitive to the needs of those who enjoy the outdoors for hiking along the beautiful rivers and streams we have in our country. All of these are very important national assets.

So this legislation funds programs that are designed to achieve the goal of protecting our environment, protecting our land from erosion, protecting our water from contamination.

One example of a fairly new program that farmers are beginning to appreciate more and more is the Wildlife Habitat Incentives Program. Funds are made available directly through the Commodity Credit Corporation to encourage farmers who participate in and who want to be involved in this program with new techniques in ways of improving wildlife habitat on their land, devoting certain acreage to wildlife plantings or conservation techniques. We are finding that is a very important new program.

We are also providing more funds for wetlands conservation program activity than ever before in this bill. The Conservation Reserve Program is another important program. It has led to a lot of tree planting, a lot of conservation practices, idling acres that had been in production agriculture that probably should not have been in production agriculture from the beginning and defined by those at the Department of Agriculture, who have responsibilities for soil conservation programs, as erodible, highly erodible lands. So we have provided the continuation of funding for that program as well.

So this is an effort to establish priorities and to see that within the limitations that we have for discretionary spending, that we target the funds where we think they are very definitely needed. We think this is one of those areas.

Let me just say something about farm income support. We had an entire hearing looking at the prospects for farm income. The chief economist at the Department was there. Other high-ranking officials of the Department of Agriculture came and testified as well. We learned what a lot of people already know who watch this situation very closely; that farm income is going to be down, net farm income, by over $3 billion in this next crop year, which has already begun.

You compare that with last year's level of income which was substantially lower than the year before, that triggered a $6 billion disaster assistance program, and you understand how serious the income situation is for those involved in farming in America today.

We talked about what could be done, what programs are in place that we could fund or continue or improve that would improve the likelihood that farmers could achieve a better result than projected.

Some things came to mind: Doing a better job in the promotion of American agriculture products overseas, trying to make sure that our trade relations are good, getting the Government more actively involved in taking up for farmers in the sale of what they produced in overseas markets.

If they are denied access to a market or if American commodities are being discriminated against in some way, the Government has an obligation to get actively involved and not just say: farmers, sorry; exporters, sorry. You are on your own. This is a business country, and free enterprise means that you have to get out there and do this on your own.

We do not agree with that hands-off attitude in this committee. We are funding programs that will help ensure that farmers get a better chance of selling what they produce in overseas markets.

Breaking down barriers to trade, sometimes Congress does itself in on this issue. I hear that we are considering taking up a bill to put imports on steel. Somebody may say: Who cares? What does that have to do with farming? If you do something like that, immediately you reap the whirlwind, because those that you put a quota on, who are trying to sell you something, put a quota on you. And what do we sell most of? We have a surplus of trade in agriculture commodities.

We have a deficit in trade on most other things. We have an overall trade deficit. Agriculture is one of the few sectors of our economy with a positive trade balance. But we are going to undo that if we are not careful as we take on some of these issues that may sound good for the moment or please some organized labor union. We are going to find out that is not very smart. I hope the Senate will be careful as it approaches issues like that.

But one thing we are doing, legislation reported by the Agriculture Committee, which I hope the Senate will pass, which does something about rationalizing the attitudes of how to use sanctions and imposing sanctions on trade when we are mad at some country because they do not behave in a way that we think they ought to.

In the past, we have seen administrations—including this one; others, too—impose sanctions to try to punish that country. What happens is we end up punishing our farmers because we cannot export our agriculture commodities.

We are exempting, as the Senate has recently acted on, food in trade relations. We know that food should not be used as a weapon. We are learning that. There are a few clear examples where we are going to continue to do it, I suppose—Cuba, some other countries that are in that category—but generally speaking, we are changing the policy so that farmers will not have to pay the price and bear the brunt of American foreign policy by giving up trading opportunities and the opportunity to export and sell farm commodities in the international market. But nonetheless, there are going to be problems, even though we are trying to do the right thing on trade sanctions reform, on fair and reciprocal trade relations.

Tax reform is another jurisdictional committee responsibility, but we are seeing progress being made there. Interest rates are a big factor because that is a major input into the costs of production agriculture in some areas of the country, particularly in the South. We are hopeful that the interest rates can remain low and will not be increased. That can be a very serious detriment to the effort to try to improve farm income.

There are some in our committee who wanted to attach to this bill a $6.5 billion amendment for disaster assistance. It was offered in our committee, but I made a motion to table the amendment. That motion carried. Then in the full committee, while it was mentioned as a possibility for debate in the full committee, it was not offered in the full committee. But we have been told there will be an amendment offered to add $6.5 billion or thereabouts to this bill for disaster assistance for farmers.

I do not think there is any question that farmers are in trouble this year because of low commodity prices, and other factors, some of which I have mentioned. We do not know what the weather situation is going to be. This is the beginning of the crop year.

To try to anticipate right now what the situation is going to be at harvest time and at the time when most farmers may be selling their crops, we know that it is likely that income is going to be down. So what we hope we will see is an administration that remains very much involved in monitoring the situation that confronts production agriculture and submit to the Congress a request for additional funding for disaster assistance as may be needed based on the circumstances. Senators will remember that this month the Department of Agriculture is just now getting around to sending to a lot of farmers benefit checks that were approved last October in the disaster bill which was passed by Congress in the total amount of about $6 billion. Some $2.4 billion of that amount was for weather-related disasters, multiyear disasters.

Arguably, the administration had a difficult time determining eligibility, settling on the regulations to implement the program. It was a big job;

there is no question about that. But it took a long time.

We responded, when we were requested to provide additional funding for staffing to process the applications from farmers who wanted to apply for benefits under that program. We provided in the initial bill about $40 million for that purpose for additional funds for the Farm Service Agency offices. Then later this year we were asked to provide more. We responded and provided more. As a matter of fact, in the supplemental that was passed in May, there was about $575 million of additional funding approved for the Department of Agriculture, a good bit of which was related to the continuing disaster program and the administration of that program that was identified last year by Congress and the administration.

One thing that stands out in my memory about this disaster assistance issue is that this bill last year, when we were on the floor presenting it to the Senate, had included an issue relating to disaster assistance. What the Senate did was try to listen to other Senators. We were here on the floor discussing alternatives for responding to the disaster. We ended up, in the course of handling this bill, developing a disaster assistance program of $4 billion for America's farmers for emergency disaster assistance. Guess what happened. The President vetoed the bill.

I am going to read you what the President said in his veto message to the Congress after vetoing the agriculture appropriations bill last year:

> I am returning herewith without my approval H.R. 4101, the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 1999. I am vetoing this bill because it fails to address adequately the crisis now gripping our Nation's farm community.

Then, after four paragraphs or so, the President says this:

> I am extremely disappointed that the Congress has reacted to this agriculture emergency situation by sending me a bill that fails to provide an adequate safety net for our farmers. I have repeatedly stated that I would veto any emergency farm assistance bill if it did not adequately address our farmers' immediate needs, and this bill does not do enough.

Then at the end of the message:

> Therefore, as I return this bill, I again call on the Congress to send me a comprehensive plan before this session ends that adequately responds to the very real needs of our farmers at this difficult time. William J. Clinton, the White House, October 7, 1998.

That wasn't very long ago. Well, what happened next was, we reconsidered the agriculture appropriations bill in the Congress. The House and Senate conferees got back together with representatives of the administration. This was a bipartisan effort to try to reach some agreement as to what would be an adequate amount of disaster assistance. We had tried to get the administration involved early in the process, and we didn't have any luck. There was no active involvement in providing information, any guidance as to what the President's views were. There were differences of opinion all over Capitol Hill as to what should be done. Then we passed a $6 billion disaster assistance package in the Omnibus Appropriations Act at the end of last year's Congress. That was signed by the President.

Now we are just getting all of those benefits delivered to the farmers. This is June, and it was June when the last checks were supposed to be going out from that October disaster assistance bill last year.

What I have suggested we do, rather than doing what we did last year, which provoked a veto—Congress acted first. We went forward and tried to develop a sensitive and, we thought, thoughtful response. The President gave us the back of his hand, in my view, with an effort to win political points with a distressed agriculture community, and said: Congress was not generous enough, but I will be more generous. I will insist that they spend more.

Well, we are not going to fall for that again. I am not going to recommend to this Senate that we pick a number and try to satisfy the President and guess at what the weather situation is going to be throughout the country, what the yields are going to be in all the different commodities, who is going to have the big problems, the serious problems, and who may be able to weather it without disaster assistance this year.

I have been joined in an effort by 21 other Senators. This letter was sent to the President on June 15, which is the day we proceeded with the markup on this bill. I will read it into the RECORD:

> DEAR MR. PRESIDENT: American farmers are currently facing one of the most severe economic situations in recent history. Last year, rising world commodity supplies, coupled with weakening international demand for U.S. agricultural products, greatly reduced farm prices and the value of U.S. farm exports. Congress responded by providing emergency farm assistance totaling $5.9 billion.
>
> Many farmers who struggled with cash flow problems in 1998 will likely see their problems worsen in 1999. It is projected that net cash farm income will decline by $3.6 billion this year. Also, according to USDA, 1998 net farm income for wheat, corn, soybeans, upland cotton, and rice crops was 17 percent below the previous 5-year average. For 1999 crops, current projections indicate that income will be 27 percent below the previous 5-year average.
>
> We are writing to invite your personal attention to the statement of managers language accompanying the recent emergency supplemental appropriations bill that calls upon the Administration to monitor the agriculture situation closely and submit a request to the Congress for any additional funds needed to address this potential farm crisis.

The letter was signed by this Senator and 21 other Senators.

We have not had a response, and I did not expect one by now from the President. But the point of this is to involve the White House in the process up front, at the outset, rather than presume to be able to write a disaster assistance package at this point in this crop year that would anticipate everything that is going to happen that would affect production agriculture in this crop year.

It is just impossible. I didn't think we had a member of our subcommittee smart enough to do that. I am not sure there is a Senator serving today smart enough to do that. There is nothing wrong with working, though, with the administration to prepare and to think about the options.

That is a good idea. Farm groups have met with the President. We have invited representatives of farm organizations to meet with Senators. I am sure that has been happening on the House side, too. We have had hearings in our Agriculture Committee with representatives of producers and other associations who are familiar with this situation. And the outlook is not good. It is serious.

I want to be sure that everybody understands we are aware of the problem. We want to be actively involved in helping to deal with it in a fair and thoughtful way. We also recognize the limitations we have under the Budget Act that was passed and signed by the President under the budget resolution adopted by the Congress. So this subcommittee isn't going to presume to do anything that violates the provisions of those legislative enactments. But we are prepared to work in a cooperative way with all concerned to reach a just and fair solution and a response that is sensitive to the problems as they exist in agriculture.

So I invite Senators to review this legislation. I am hopeful it will meet with the approval of the Senate, and that we can proceed with considering any suggestions that Senators have for changes in the bill.

The programs and activities included in this bill are, for the most part, funded at or near the 1999 levels. There are some increases recommended. These include $80 million to meet the President's requested level for salaries and expenses of the Farm Service Agency, which administers the farm programs; $53 million for agricultural research; $15 billion for conservation operations; $21 million for the Food Safety and Inspection Service; $114 million for the WIC Program, to maintain an average monthly program participation level of $7.4 million in fiscal year 2000; and $65 million for food safety and premarket application review activities of the Food and Drug Administration.

Food safety, as I pointed out, continues to be a high priority of this committee. The bill provides the funds necessary to ensure that American consumers continue to have the safest food supply in the world. Not only does the bill provide increased funds required for meat and poultry inspection activities for the Food Safety and Inspection Service, it provides total

funding of $321 million, which is a $46 million increase from the 1999 level, for Department of Agriculture and Food and Drug Administration programs and activities included in the President's food safety initiative.

I also want to thank the distinguished ranking member of the subcommittee, the Senator from Wisconsin, Mr. KOHL, as well as all of the other members of the subcommittee for their support and cooperation in putting this bill together. I believe the bill represents a balanced and responsible set of funding recommendations within the limited resources available to the subcommittee. I hope the Senate will support it.

Mr. President, I ask unanimous consent that a copy of the letter I read and addressed to the President be printed in the RECORD, with the signatures of all Senators who signed it.

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

U.S. SENATE,
Washington, DC, June 15, 1999.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: American farmers are currently facing one of the most severe economic situations in recent history. Last year, rising world commodity supplies, coupled with weakening international demand for U.S. agricultural products, greatly reduced farm prices and the value of U.S. farm exports. Congress responded by providing emergency farm assistance totaling $5.9 billion.

Many farmers who struggled with cash flow problems in 1998 will likely see their problems worsen in 1999. It is projected that net cash farm income will decline by $3.6 billion this year. Also, according to USDA, 1998 net farm income for wheat, corn, soybeans, upland cotton, and rice crops was 17 percent below the previous 5-year average. For 1999 crops, current projections indicate that income will be 27 percent below the previous 5-year average.

We are writing to invite your personal attention to the statement of managers language accompanying the recent emergency supplemental appropriations bill that calls upon the Administration to monitor the agriculture situation closely and submit a request to the Congress for any additional funds needed to address this potential farm crisis.

Sincerely,

Thad Cochran, Conrad Burns, Craig Thomas, Wayne Allard, Slade Gorton, Ben Nighthorse Campbell, Ted Stevens, Larry E. Craig, Trent Lott, Chuck Grassley, Mike Crapo, Paul Coverdell, Kay Bailey Hutchison, Kit Bond, Pat Roberts, Orrin Hatch, Mitch McConnell, Jeff Sessions, Michael B. Enzi, Peter Fitzgerald, Sam Brownback, Chuck Hagel.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I am very glad to join my friend from Mississippi, Senator COCHRAN, in bringing to the floor S. 1233, the fiscal year 2000 appropriations bill for Agriculture, Rural Development and Related Agencies. I am grateful to Senator COCHRAN, the Chairman of the subcommittee, for his gracious approach to crafting this bill and for the fair and reasonable manner in which the interests of all Senators have been given consideration.

Senator COCHRAN has outlined the general spending levels for items included in this bill. I would like to emphasize to all Senators the importance of the programs funded by this bill, and the need to ensure its passage. This bill provides funding for programs vital for our nation's continued leadership in agricultural production through research, implementation of farming practices, and marketing. This bill also includes funding to protect the environment, to restore economic prosperity to rural America, and to improve the standard of living there. This bill provides funds to help feed the most vulnerable of our populations at home and abroad, and this bill helps American farmers maintain a strong presence in foreign markets while, at the same time, combating the destructive consequences of unfair foreign trade. Also, this bill provides funds important to protect the public health of this nation in the areas of food safety, medical drugs and devices, and oversight of our blood supply.

There will likely be some Senators who will question whether the levels of spending in this bill are adequate. When our subcommittee received its initial allocation for discretionary spending, I had grave concerns that we would not be able to craft a bill that I could support. I was prepared to vote against the allocations at that time, but Chairman STEVENS persuaded me that we needed to move forward in order for the full Senate to see what effect the discretionary caps will have on ongoing programs in fiscal year 2000. Fortunately, since then our subcommittee did receive an increase in the allocation, and I supported reporting this bill at both the subcommittee and full committee levels.

I have received a communication from the Director of the Office of Management and Budget regarding this bill. While that letter describes certain programs for which the Administration would like to see increased funding, there is nothing in the letter to indicate that the President would not approve this bill if sent to the White House in its present form. Likewise, I have letters from Secretary Glickman that makes appeals for increased funding in some areas, and at the appropriate time, I will ask unanimous consent that these letters be entered into the RECORD.

The Senate Report to accompany this bill begins with the following statement, ''Given the budgetary constraints that the Committee faces, the bill as reported provides the proper amount of emphasis on agricultural and rural development programs, and on other programs and activities funded by the bill.'' I believe this statement to be true. Senator COCHRAN has done an outstanding job in crafting a bill that is fair, and goes far in meeting the expectations of all Senators, and in view of the foregoing statement, I join Senator COCHRAN in supporting this bill.

Still, we should all give pause to consider the first four words of the statement I quoted above, ''Given the budgetary constraints'' and the implication of those words for the work that this Congress must complete before September 30th. In terms of the bill before us today, each Senator will have to consider for his or her self whether the ''budgetary constraints'' have weakened the programs in this bill beyond the point they can allow. Over the past several years, we have seen programs at USDA, FDA, and the other agencies funded by this bill, suffer a slow strangulation that is affecting programs and services to the American people and the ability of the agencies to carry them out.

I do support my chairman, Senator COCHRAN, in urging the passage of this bill, but I seriously hope that we have all come to the realization that continued reductions in these programs must come to a halt. It is for the full Senate to decide whether we have already gone too far.

Mr. President, during committee debate on this bill, an amendment was discussed, though never offered, that involved dairy pricing issues. That amendment would have extended the life of the Northeast dairy compact and created new compacts in other regions. In committee, I was willing to delay the agriculture spending bill indefinitely to avoid inclusion of such an amendment. It concerns complex issues in the jurisdiction of the Agriculture and Judiciary Committees—issues that have no place on a funding bill. Also, if passed, the amendment would do unacceptable damage to the dairy industry in the State of Wisconsin and all around the Upper Midwest. And finally, it would put in place permanently and nationally an unprecedented policy of regional protectionism.

For these reasons, I, and many of my colleagues, oppose such an amendment adamantly and will do everything within our rights to keep it off of this bill. To that end, I regret to inform my colleagues, I will not be able to clear any amendments, no matter how uncontroversial, or agree to any manager's package, until it is clear no destructive dairy amendment will be offered or included in this bill.

Mr. President, at this time I ask unanimous consent to have printed in the RECORD a letter from the Director of the Office of Management and Budget and letters from the Secretary of Agriculture regarding this bill.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, June 17, 1999.

Hon. HERBERT KOHL,
Subcommittee on Agriculture, Rural Development and Related Agencies Appropriations, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR KOHL: The purpose of this letter is to provide the Administration's views on the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 2000, as reported by the Senate Subcommittee. Since the Administration has not had an opportunity to review the Subcommittee's bill and report language, our comments are based on preliminary information. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The allocation of discretionary resources available to the Senate under the Congressional Budget Resolution is simply inadequate to make the necessary investments that our citizens need and expect. The President's FY 2000 Budget proposes levels of discretionary spending that meet such needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly $29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals.

The Administration appreciates efforts by the Subcommittee to accommodate certain of the President's priorities within the 302(b) allocation. However, the Subcommittee bill is over $500 million, or four percent, below the program level requested by the President. The FY 2000 Budget would increase spending within the discretionary caps for agriculture and other programs in the bill by 3.6 percent over comparable FY 1999 spending. We urge the Committee to consider the over $600 million in user fees proposed in the Budget in order to fund high-priority programs. Given the current period of financial stress in the agricultural sector, now is not the time to reduce assistance to farmers, ranchers, and rural residents.

Below is a discussion of our specific concerns with the Subcommittee bill. We look forward to working with you to resolve these concerns as the bill moves forward.

FOOD AND DRUG ADMINISTRATION

While the Administration is pleased that the Subcommittee has reportedly provided an increase over the FY 1999 enacted level for the FDA, we are disappointed that the Subcommittee has apparently not funded the full request for the FDA, including important youth tobacco prevention activities and the proposed seafood inspection program transfer.

The Administration is concerned that the Subcommittee's apparent reduction of $40 million from the President's request for non-foods/tobacco FDA activities would jeopardize the FDA's ability to improve the public health infrastructure through enhanced product safety assurance and injury reporting systems.

The Administration is committed to Youth Tobacco Prevention activities and urges the Committee to provide the requested increase of $34 million for these programs. Every day, three thousand young people become regular smokers. Reducing young people's tobacco use would improve public health for generations to come. This is particularly important in light of the recent decision of the conferees on the FY 1999 Emergency Supplemental Appropriations Act to permit States to retain the entire amount secured from tobacco companies without any commitment whatsoever from the States that those funds be used to reduce youth smoking. To help discourage youth smoking, we urge the Congress to consider the Administration proposal to increase tobacco taxes.

FOOD SAFETY INITIATIVE

The Administration appreciates the Subcommittee's support for the President's Food Safety Initiative through increases above the enacted and House bill levels provided to USDA and FDA. Nonetheless, we are concerned that the Committee has reportedly provided only $46 million of the $62 million increase over FY 1999 levels requested in this bill for the Initiative. American consumers enjoy the world's safest food supply, but still too many Americans get sick, and in some cases die, from preventable food-borne diseases. The President's requested increase would provide critical resources to expand USDA's and FDA's food safety research and risk assessment capabilities. We strongly urge the Committee to provide full funding at the requested levels for these activities and consider the Administration's proposal to charge user fees for Federal meat and poultry inspection services in support of a safe food supply.

WOMEN, INFANTS, AND CHILDREN PROGRAM

The Administration strongly supports the $33 million increase for WIC over the House level. The Committee mark should sustain a participation level of 7.4 million in FY 2000. We remain concerned, however, that this is still insufficient to support the proposed average monthly participation level of 7.5 million, thereby not achieving our longstanding 7.5 million goal.

FOOD AND NUTRITION SERVICE RESEARCH

The Administration strongly objects to any provision of the Committee bill that would prohibit the use of Food and Nutrition Service (FNS) funds for research and evaluations on nutrition programs. To address program integrity and performance issues properly, it is crucial that research on nutrition programs also occur in the context of the programs' administration. We urge the Committee to provide funding for these activities within FNS.

COMMON COMPUTING ENVIRONMENT

The Administration is very concerned by the Subcommittee's decision not to fund the Common Computing Environment, either directly through the Support Service Bureau as requested in the President's Budget or by providing additional funds in the county-office agency salaries and expense accounts. Some in Congress have criticized USDA this year for delays in providing the crop-loss assistance funds to farmers that were provided in P.L. 105–277, the FY 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act, and for long waiting periods some farmers and rural residents have faced in receiving other assistance through USDA county offices. Yet this bill would not provide the funds needed to address the very problems that contributed to the delays. At a time when the farm community is under financial stress and the demand for farm credit and other programs is high, the need for timely and efficient service to producers and rural residents has never been greater. Without the proposed $74 million in funding, it will not be possible to modernize the technology in USDA's local field offices, create ''one-stop shopping'' for rural customers, and promptly deliver the programs that Congress enacts with available staffing levels.

CONSERVATION AND ENVIRONMENTAL PROGRAMS

The Subcommittee bill appears to cut spending on key USDA conservation programs by at least $140 million from the President's request. The $26 million reduction in the Environmental Quality Incentives program (EQIP) would mean 13,000 farmers and ranchers not receiving needed financial and technical assistance to stop soil erosion, improve waste treatment in animal feeding operations, and implement other voluntary conservation measures critical to protecting our natural resources. To further advance this important work, including addressing the significant backlog of farmers' requests for aid, the Administration requested a $100 million increase in the EQIP program as part of its Clean Water Action Plan. The combination of the EQIP reduction and the Subcommittee's failure to fund the requested additional funds for technical assistance to animal feeding operations could damage livestock owners' progress toward ensuring that their operations are environmentally sound and community-friendly.

Other valuable environmental programs would be severely underfunded by the Subcommittee bill, and we urge the Committee to restore funding for them. The Subcommittee failed to fund the $50 million discretionary portion of the Administration's request for the Farmland Protection Program, which is part of the Administration's Lands Legacy Initiative. America's farmers need these funds to help them stay on their land, through easements that permanently protect 80,000 acres of prime farmland from development. We urge the Committee to provide the $50 million in discretionary funds requested for the program and redirects its savings from the Conservation Farm Option to this program, as well as to the Wildlife Habitat Incentives Program to assist over 3,000 farmers in protecting and restoring wildlife habitat. In addition, the Subcommittee has not provided the $12 million requested in the Conservation Operations account to assess soil management's effects on carbon sequestration, and $5 million for USDA's initiative to help communities make use of geospatial data to make more informed land use decisions and promote smart growth. The Administration recommends funds be redirected to these high-priority activities, such as by eliminating the Forestry Incentives Program as requested and as included in the House bill.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

The Subcommittee bill does not provide the requested $7 million increase for the Outreach for Socially Disadvantaged Farmers program. This program has proven effective in mitigating the decline in the number of minority farmers by increasing their participation in agricultural programs, assisting them in marketing and production, and improving the profitability of their farming operations. USDA loan default rates have also improved in areas where this program operates. The requested increase is needed to expand this program beyond the limited areas in which it now operates, to further these farmers' equal access and their opportunity for success, and to continue USDA's work to improve its civil rights performance.

RESEARCH

The Subcommittee bill would fund USDA's National Research Initiative at $81 million below the request of $200 million, while providing funding for a large number of unrequested, earmarked research grants. We urge the Committee to increase the funding for competitive research grants and reduce earmarks for lower-priority programs.

RURAL DEVELOPMENT

The Administration appreciates the support in the Subcommittee bill for priority USDA rural development programs, such as water and wastewater loans and grants,

Business and Industry guaranteed loans, and rental assistance for very-low income rural residents. The Administration is concerned, however, that the Subcommittee bill's funding for Rural Development salaries and expenses would jeopardize effective implementation of these programs. The $25 million, or five percent, reduction from the requested salaries and expenses funding could require USDA to eliminate over 400, or six percent, of its staff through a Reduction-In-Force. We urge the Committee to provide the requested level of funding to ensure an adequate delivery system for these vital programs for rural America.

We look forward to working with the Committee to address our mutual concerns.

Sincerely,

JACOB J. LEW,
Director.

DEPARTMENT OF AGRICULTURE,
Washington, DC, May 17, 1999.

Hon. HERBERT H. KOHL,
Ranking Democratic Member, Subcommittee on Agriculture, Rural Development, and Related Agencies, U.S. Senate, Washington, DC.

DEAR HERB: The Department of Agriculture's (USDA) outreach program to small, limited-resource, and minority farmers and ranchers—known as the 2501 program—is critically important to USDA's efforts to help these farmers weather the crisis spreading across the farm country and to further the accomplishments of the Department's civil rights agenda. Unless this program is funded at the fully authorized level for next fiscal year, as the Administration requested in its budget, both of these objectives will suffer, as will, more importantly, the thousands of farmers who benefit from the 2501 program. Congress has been extremely helpful in the past with requests I have made with respect to my civil rights initiative, and I hope you will once again respond positively by working to see that next year's appropriations bill includes the full $10 million I have requested.

Over the next year, USDA's estimates project crop prices, and thus farm income, at about the current levels, levels that have this year alone pushed demand for our credit programs up some 65 percent over last year's requests. The need for operating and refinancing credit has been especially acute among limited resource farmers, and USDA has aggressively sought to meet their requests. A crucial component of responding to them has been more than just the farm loans, it has been the technical assistance we have been able to underwrite through the 2501 program whereby cooperating institutions and groups have helped these farmers assemble their financial projections and operating plans so they could successfully apply for loans. If these groups cannot continue to provide this assistance, as well as the work they do making sure farmers know about our programs and other sources of assistance, because the 2501 program is not adequately funded, I fear that the decline in limited-resource and minority farmers, in particular, will accelerate and we will come ever closer to removing from American agriculture a viable, capable segment of farmers who have contributed richly to our rural and agrarian culture.

Last year, Congress took the nearly unprecedented step of waiving the statute of limitations, opening the way for USDA to settle the oldest civil rights cases filed against it for alleged discrimination in USDA's lending programs, and a few weeks ago, the federal court approved the consent decree the Department reached to settle the class action discrimination case brought against it for the same reason. Much needs to be done, however, both in bringing these accomplishments to fruition and all the other work I have launched across the board to improve USDA's civil rights performance. The 2501 program is vitally important to our strategy; it reaches the farmers and ranchers too long neglected by the Department and the ones whose complaints we have pledged and are obligated to correcting. Without adequate resources, our reach will be limited and the potential that I believe we have begun to see will not be fully realized.

I appreciate fully the constraints within which the Congress is working in assembling the fiscal year 2000 appropriations bill, and I will no doubt be back in touch with you through this process on this and other priorities; but in view of the critical importance of this program and the regrettable fact that the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Committee on Appropriations, U.S. House of Representatives, chose not to fund fully the Administration's request, I decided I needed to point out to you the special importance of this program and its high personal priority with me. I hope you will give it and the Administration's budget request positive consideration.

Sincerely,

DAN GLICKMAN,
Secretary.

DEPARTMENT OF AGRICULTURE,
Washington, DC, May 12, 1999.

Hon. HERBERT KOHL,
Ranking Minority Member, Subcommittee on Agriculture, Rural Development, and Related Agencies,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR HERB: Now that the fiscal year 2000 appropriations hearings are over, I want to thank you and your entire subcommittee for your attention and courtesy to the Department of Agriculture's (USDA) witnesses. I know you face difficult decisions writing an appropriations bill responsive to the needs of those who benefit from USDA programs, so I want you to know also that we are ready to work with you through the process of developing a bill that addresses your priorities as well as the Department's.

USDA needs to modernize our county-based delivery system, especially now so we can help farmers through these very difficult times we are facing with reduced staff levels in our local offices. This means we must continue our efforts to carry out our Service Center Initiative (SCI), including the installation of the Common Computing Environment (CCE). In this respect, I want to direct your attention to our proposal to spend $74 million under the new Support Services Bureau (SSB) account to finance continued progress on the modernization effort.

The Department could not provide detailed testimony on the SSB for the simple reason that the SSB is not yet operational. As indicated in the budget, the bureau will be operational by October 1, 1999. It will consolidate administrative management support activities for the Farm Service Agency, Natural Resources Conservation Service, and Rural Development. One of its responsibilities will be to continue to install and support the CCE. The $74 million requested in the budget will finance continued business process reengineering, data acquisition, and the necessary hardware and software to move this effort forward.

This request is an extremely high priority. Implementation of the SCI will improve customer service by providing collocated agencies the ability to share information and deliver services in a modern business manner. The problems we are having providing timely assistance to our hard pressed farmers in the current farm crisis best illustrates the need for infrastructure and program delivery modernization. The service center agencies' stove pipe technology systems and program processes present real barriers to delivering services in a modern way and optimizing the use of county-level staff. For example, I am convinced that had this initiative been complete we could have implemented the disaster assistance programs from the FY 99 Omnibus Appropriations bill much more quickly than we are doing.

As implementation proceeds, the SCI will streamline and integrate services, reduce paperwork, and provide technology so our customers can do business with us differently including the use of the Internet. Since 1993, USDA has significantly reduced staffing levels as a result of reorganization and budget constraints. This investment in our technology infrastructure and integrating business processes is essential to maintaining and improving service to the customers of our rural and county-based agencies.

The common computing environment is also critical to the SSB. The effective consolidation of three separate and largely redundant administrative systems into one, nationwide, SSB is dependent on the timely deployment of reengineered administrative systems and a modern technology infrastructure.

I want to assure you that the technology our budget request will finance is based on identified business needs. It complies with USDA's overall information technology architecture, and meets the Office of Management and Budget's criteria for such investments.

The CCE will replace the existing stove piped agency systems with a single, modern and flexible shared information system built around servers and personal work stations. This technology can be adapted to meet any changes brought about by business process reengineering or by any future decisions affecting the size of the agencies. If the budget request is approved, including the funding mechanism proposed for the SSB, we will establish clear accountability for this effort in the Support Service Bureau with strong oversight from our Chief Information Officer.

I am enclosing a briefing paper on the subject, and will provide you any further information you need.

I am sending an identical letter to Congressman Skeen, Congresswoman Kaptur, and Senator Cochran.

Sincerely,

DAN GLICKMAN,
Secretary.

Enclosure.

Mr. KOHL. Mr. President, the communications from the Office of Management and Budget and the Secretary of Agriculture make the case for the need to provide additional resources for this bill. I am also aware that funding constraints have prevented the bill from including levels of spending for programs important to Senators. In support of, and in addition to, the comments provided by OMB and USDA, I would like to offer the following observations.

While this bill provides a substantial increase for the President's Food Safety Initiative, it does not meet the fully recommended level submitted by the President. Perhaps the greatest single responsibility of this subcommittee is to protect public health. That responsibility is carried out primarily through

oversight of the blood supply, the approval of medical drugs and devices and, most certainly, the food supply.

Many of the procedures for protecting our food supply are now in transition, moving toward a HACCP system that provides a new set of checks and balances in the production, processing, manufacturing, and distribution of food. In addition, we are learning through research new techniques to help enhance the safety of the food we eat. It is unfortunate we are unable to find the resources within our ''budgetary constraints'' to provide the fully requested increase. We should, at least, provide the fully recommended level for inspections of meat and poultry provided for the Food Safety Inspection Service.

One of the most popular programs funded in this bill is the Women, Infants, and Children (WIC) program. Again, this bill provides a significant increase for this program and I am very happy to report that the level appropriated, more than $4.038 billion, is determined to be adequate to support an average program participation level of 4.7 million people, which is likely to be an increase above the FY 1999 participation average. However, we know that this program is not only popular, it works. It works in protecting people who are nutritionally at risk, and it works to protect the American taxpayer by lowering future health care costs. The President's budget would have allowed for the program to grow to the fully targeted participation level of 7.5 million women, infants, and children and this Congress should be providing the resources to make that happen.

In addition, this bill should be providing higher levels for WIC Farmers Market Program, the Temporary Emergency Food Assistance Program, the Nutrition, Education and Training Program, for the Commodity Assistance and Food Donation Programs and for the Secretary's Food Recovery and Gleaning initiative. Also, this bill should restore full levels for the studies and evaluations activities of the Food and Nutrition Service (FNS). It is curious that while Food Stamp rolls are dropping, we are seeing increased demand for food assistance at shelters, through charitable organizations, and through the various food donation programs. We need to understand this phenomena better and to do so, the agency in charge of these programs should be given the tools to research and evaluate what is happening. At the very least, a reasonable level of funds should be provided to FNS to conduction studies and evaluations of activities directly related to nutrition.

Agriculture has always been, and continues to be, the backbone of the American economy and society. The history of this nation is firmly grounded in the development of agriculture beginning with the earliest settlers who learned farming techniques, such as fertilization, from Native Americans. The first Thanksgiving was, among other things, a celebration of agriculture.

As the growth of America continued, agriculture was a driving force economically, socially, and politically. Thomas Jefferson, whose philosophy in so many ways personifies the national spirit, centered much of his political and governmental engineering around the role of the farmer. In time, farming in this nation followed the lines of westward expansion and filled the vast spaces of our interior with continuing advances in production and further development of democratic principles. When the United States entered the stage of world power, especially during our two world wars and since, the American farmer continued to provide the basic necessities to keep our armed forces fed and our populations safe.

In so many ways, food security is an integral part of national security. We all are aware of the hard times now facing farmers and the rural economy. Yet, without agriculture, and the economy that supports it, food shortages and disruptions would lead to urban panic and riots. No region of the nation would be safe and our entire national security would be at risk. In spite of these facts, we struggle to find the resources to protect agriculture. Can any Senator imagine how absurd it would sound to stand here on the floor of the Senate and announce that we simply can't afford national security? To a degree, that is what we are saying when we announce that we can't afford to help our farmers.

Does this bill fully fund the request for agricultural research, no it does not. Neither does it provide funding for initiatives to help farmers overcome today's economic troubles through outreach to socially disadvantaged farmers, small farmers, or to help USDA agencies protect against unwarranted market concentration. This bill does not provide additional levels to help establish and hold on to foreign markets through export programs such as PL 480 which combines humanitarian assistance with overseas market development.

I am also disappointed that our allocation has prevented us from making the gains we should in the area of conservation and environmental protection. In order to achieve savings, this bill has had to impose limitations on the Wetlands Reserve Program, the Environmental Quality Incentives Program, and the Conservation Farm Option program. It also fails to fully fund many of the other conservation initiatives recommended by the President.

In addition, if resources were available, we could provide additional funds to help the environment, and the farmer, through the development of better methods for overcoming pesticide related problems. In the near future, the fumigant methyl bromide is going to be removed from the market and unless a viable alternative is developed, production of various commodities will fall sharply, much to the dismay of farmers and consumers who have come to take the availability of these food items for granted. Also, this bill does not provide adequate levels for Integrated Pest Management and for program increases requested for implementation of the Food Quality Protection Act.

Mr. President, there are many other items I could describe and I do not, in any way, want to detract from the fine work of my colleague, Senator COCHRAN. As I stated earlier, my friend from Mississippi has done an outstanding job in crafting this bill with the resources he was given, and I support him and this bill. I simply feel it is my responsibility to remind my colleagues that everything is not necessarily fine simply because things are not getting a whole lot worse.

I don't know if this subcommittee will receive any additional resources between now and when this bill goes to conference with the House. We can't count on that happening and we must realize that what we approve here may be all that is finally included in the appropriations for these programs in fiscal year 2000. As we proceed with this bill on the floor, it is important that we all work together for what is best for all farmers and for all areas of rural America, and for all Americans.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, on behalf of the Senator from South Carolina, Mr. THURMOND, I ask unanimous consent the privilege of the floor be granted to Ernie Coggins, a legislative fellow, during the pendency of S. 1233.

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

Mr. COCHRAN. Mr. President, for the information of Senators, we are hopeful we can take up amendments that Senators may have on this legislation. We will have between now and about 5:30 available for that purpose. The leader had announced when the Senate recessed last week that a vote was anticipated at or about 5:30 today. It could be that a vote on an amendment to the bill will occur at about 5:30 today.

If Senators would like to offer an amendment and get a vote, this is an opportunity to do that—debate the amendment, explain the amendment; the managers are available here to consider any suggested changes in the bill. We invite Senators to come to the floor and offer their amendments or make statements on the bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VOINOVICH). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. ROBERTS. 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. ROBERTS. Mr. President, I rise today in strong support of S. 1233, the fiscal year 2000 agriculture appropriations bill. I commend Senator COCHRAN

and Senator KOHL for bringing forward what I believe is a solid bill to fund our most important programs in agriculture and provide continued benefits to rural America. This has been no easy task. With the tight budget caps that are in place, preparing this bill was a very difficult task, and I applaud the Senator for his hard work in this area.

Let me just say a word about the Senator from Mississippi in this regard. There is a routine procedure in this body and that is to thank the hard-working chairmen of our Senate committees, and, of course, their ranking members, for their hard work in bringing important legislation to the floor. That practice is certainly appropriate in regard to the Senators who have worked to bring this bill to our consideration, including the chairman, as I have indicated, and the distinguished ranking member from Wisconsin, Senator KOHL. But I would like to offer three cheers and a ''well done'' to Senator COCHRAN.

If there is a Senator who I think everyone would agree is the epitome of a Southern gentleman and a Senator who goes about his work with dignity and decorum and truly still gets things done, that Senator is Senator COCHRAN. Here we are in the midst of all sorts of problems and challenges in agriculture today, unprecedented situations, really, what with the world depression that is still hindering our markets, unfair trading practices by our competitors, record world production that has caused market declines in virtually every commodity, trade policy that is hampered by all sorts of challenges, the need for sanctions reform, crop insurance reform, and tax policy changes and reform. The list goes on, as has been mentioned by the distinguished chairman of the subcommittee, including the need for emergency assistance under the current farm bill. We are going to be debating all this and the answers individual Senators will bring to this debate and to this legislation. But through it all we will have the steady hand of Senator COCHRAN and his calm and reasoned and experienced leadership. I thank the Senator for the job he has done for our farmers and ranchers, the men and women of rural America who work so hard to feed our Nation and a troubled and hungry world.

Chairman COCHRAN has presented a bill that really freezes the discretionary spending at the fiscal 1999 level, while still managing to provide increased funding in several areas, including agriculture research, the staffing for the farm service agencies, and the Food Safety Inspection Service. I mention the freeze in particular because what we would like to do, as we consider the 13 major appropriations bills, as we are going through that process, is stick to the budget as best as we possibly can. Obviously, if we do that, interest rates will remain low. Hopefully, we will control inflation, because interest rates are of tremendous importance to the farmer and rancher, and, for that matter, every business person in America.

Investing in agriculture research, as Senator COCHRAN and Senator KOHL have done, is perhaps one of the most important investments we can make as a nation. Today our farmers and ranchers actually produce more food to feed more people on less land—on less land—than ever before. That is a modern day miracle, and it is a miracle in no short part because of agriculture research.

Ag research has played a major role in increasing the productivity of our Nation's farms in the past century. The projections indicate that as the world's population continues to grow in the next 50 years, the world understandably will have to dramatically increase its agriculture production and its food output. The United States will be the leader in this quest to feed, as I have indicated before, a troubled and hungry world with a growing population, but we are not going to be successful without this continued commitment to agriculture research funding. The Senators have done that in regard to their subcommittee work, and it is now before the Senate for our consideration.

I also thank Senator COCHRAN for his efforts to increase funding for the Farm Service Agency staff. I know any increased funding for any Government program or Government agency staff is not very popular in Washington. I have often had my own concerns with such increases. I assure my colleagues that this increased funding is desperately needed.

Many county farm service agencies—that is the old ASCS—have been swamped by the number of loan deficiency payment and USDA lending requests they have had to address. As a matter of fact, when we considered the farm bill of 1996, I do not think any of us would have imagined the vulnerability of the Farm Service Agency or the demands on the Farm Service Agency as a result of the LDP payments that came into play. Despite the best efforts of our county offices to serve our producers in a timely and efficient manner, the staffing necessary to accomplish this goal simply has not been up to the level needed to provide the quality of service that our producers expect.

I also thank the chairman and the ranking member for increases in the FSIS budget. That is an acronym which stands for the Food Safety and Inspection Service. A safe food supply is essential, and our consumers demand it. As my colleagues know, my State of Kansas is one of the largest beef producers in the world, with a large number of packing operations as well. With a continued shortage of inspectors in the Topeka district, I am concerned, and I hope and expect the Secretary of Agriculture to address these deficiencies—I know he will—through this increased funding. I also ask him to contact the Congress and inform us of any continued shortfalls that may be occurring.

Before I close, I want to address what I know is also a very critical concern of many of my colleagues, and that is the tough times we are experiencing throughout rural America. Every farm organization, every commodity group, every producer one visits with obviously tells the same story. I thank Senator COCHRAN for making it very clear we are going to work with the President and we are going to work in a bipartisan fashion—we have already had several meetings since the first of the year—to try to address this.

When the President does inform the Congress, along with the help of Secretary Glickman and others, on what kind of an additional package is necessary and some of the specifics as the crops are harvested, we will be more than willing to take a hard look at this need as harvest season moves along. We did last year. The process, as the Senator has pointed out, was a little backward in regard to how we approached that. Let's do the right thing in regard to the President making his recommendation and working with us and we will work with him.

I agree with Senator COCHRAN; prior to the President's request, we can do a lot of talking about it, and we have for the last several years, but I believe that would be premature. Secretary of Agriculture Dan Glickman, my good friend and colleague from Kansas, was quoted in the press last week as saying it would be preferable to go in that direction and it was too early to determine the size of any package that may be needed.

In the meantime, I am committed, as a member of the authorizing committee, the Senate Agriculture Committee, to pursuing the long-term goals needed to ensure the long-term financial viability of our farmers and ranchers. Senator COCHRAN and others have talked at length in this Chamber about these, about the crucial needs—expanded export markets, sanctions reform, embargo policies, tax reform, regulatory relief, crop insurance reform—all of the things we talked about, by the way, when we were trying to put together the 1996 farm bill.

There was a list. There was a ledger, as a matter of fact. In those days, I had the privilege of being the chairman of the House Agriculture Committee as we put that together. We said: Look, if we go to a more market-oriented farm policy—we all wanted that and we wanted producer flexibility to meet the producer's individual needs, to restore the decisionmaking back to the farm level as opposed to Washington—we can do that but only in a component package of other things we need to do.

Quite frankly, I must tell my colleagues that we, and I am using the editorial we—Democrats, Republicans, the administration, the Senate and the House—we have not done that. We have not gone down that list that I and others put on the ledger. There is no pride

of authorship here. We need to do it now. Had we done it then and 2 years ago, I do not think the situation would be nearly as grave throughout our rural areas. Let's get cracking on these challenges, as well as meeting the crucial spending needs or the appropriation needs in regard to U.S. agriculture.

I mentioned expanded export markets, sanctions reform, tax reform, regulatory relief—all of that. We need to pass this legislation and move to a very quick conference with the House. The programs funded in this legislation are too important to be delayed. We need action on them.

I commend, again, Senator COCHRAN and Senator KOHL for their fine efforts on this legislation under very difficult funding circumstances. I look forward to working with my colleagues to move this legislation to quick passage and then working with my colleagues on the other policy changes I have mentioned, and, yes, I know at the end of harvest, we will work with the President, we will work with everybody on that side of the aisle to put together a reasonable program of relief because we have yet to see the relief in our markets. This has been going on now for 2 years.

Again, I thank Senator COCHRAN and Senator KOHL for their efforts. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am genuinely flattered by the kind and generous comments of my distinguished colleague from Kansas, Senator ROBERTS. As others know, he served with distinction as chairman of the Agriculture Committee in the other body. He led the passage of farm legislation in that body, and he has been a very effective spokesman for the farmers and ranchers of the entire country, not just of his home State of Kansas. We benefit from his advice and counsel. I appreciate his personal friendship as well and taking time to talk about this legislation and point out what we are trying to accomplish by funding the programs in this bill. I appreciate his remarks very much.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I say to my colleague, Senator DORGAN from North Dakota, I will be very brief. I did not come to the Chamber with prepared remarks, but I do want to pick up on the closing remarks my colleague from Kansas was making; by the way, a Senator who has lived and breathed agriculture for many years and whose expertise I certainly respect.

I think the appropriations bill raises a lot of questions that we better answer and we better answer soon. I do not really think we can have a discussion about agriculture—the Senator from Kansas at the very end said: Listen, as I speak today, I am mindful of the economic pain out there in the countryside.

We are experiencing an economic convulsion in agriculture. Frankly, I do not think there is any way to talk about what is happening in the countryside without talking about this Freedom to Farm, what I have always called the ''freedom to fail'' bill.

In my State of Minnesota, the Minnesota Star Tribune—which is the largest newspaper in our State, which editorialized very strongly in favor of this bill not that long ago—had an editorial saying, listen, we need to revisit this.

Clearly, we do not have any safety net any longer. Clearly, we do not have a way that farmers—family farmers, family farmers, family farmers; we need to say that three or four times—have any leverage in the marketplace to get a decent price.

I think one of the really bitter ironies of what is going on is we are spending—this was supposed to be the market—$25, $30 billion of bailout money—and actually I am all for getting the credit to farmers so they can live to farm another day, but most of the farmers in Minnesota basically say, thank you, but, in fact, they are going to need even more to be able to keep on going.

But what they also say is: Senator WELLSTONE, what's even more important to me is, where will we be 5 years from now? Where will our kids be 5 years from now? I am just telling you that I know on our side, the Democrats, we are going to be out here—and I am hoping with a lot of Republicans as well—with a whole package of proposals.

Time is not neutral. We cannot wait around. Time is not neutral at all for these farmers. The projections for the number of farms we have lost in Minnesota and we will lose on our present course are devastating. We have to change that course.

I think maybe we need more of a reality check. We can talk about the fact that we all care about agriculture, and we have this bill, and we are spending this much money, and all the rest, but this isn't business as usual. We are talking about a crisis, all spelled out in capital letters. We have to take some action. If we do not take some action, then I think this will be kind of the last stage of just losing the family farm structure in agriculture.

By the way, when I am talking about family farms, I am talking less about the size of the farm, though I do think there are clearly some limits, as far as I am concerned, when we talk about any kind of subsidy or support. I am talking about the pattern of the decisionmaking; I am talking about entrepreneurship; I am talking about the family farm as in the people who work the land, live on the land, that they make the decisions. That is what I am talking about.

So I just want to make it really clear, whether or not you take the cap off the loan rate, whether or not you figure out a way to have corn and wheat in the same kind of ratio in relation to the price that we now have for soybeans—a lot of farmers in Minnesota are planting soybeans, soybeans, soybeans. This whole Freedom to Farm bill is a nightmare. The sooner people here are going to be willing to face up to it, the better.

As I said before—I will say it again—it was a great bill for Cargill. It was a great bill for the big grain companies. And it is a living nightmare for family farmers. They cannot cash flow on the price they receive. If we do not talk about price, price, price, then, frankly, we are not going to enable people to make it. So that is my first point.

My second point, speaking just for Senator KOHL, who stepped off the floor briefly—and I include myself in his camp; I know Senator FEINGOLD has the same belief—one of the reasons we are on the floor is because we are not going to see any extension of the dairy compact. Those of us from the Midwest are not going to let that happen. If there is one thing I do agree with, it is the adage that all politics is local. We are here to fight for people in our States. We are not going to let dairy farmers in our States come out on the short end of the stick. So just to be crystal clear about that, that is just not going to happen.

My third point—and I will have two others, I say to Senator DORGAN; the third and fourth point I can do in 2 or 3 minutes—is that we have a good piece of legislation which ought to be slam dunked. It ought to be slam dunked. There ought to be 100 votes for it. The sooner we get to it, the better—price disclosure. You have this situation where it is not just the grain farmers; it is not just the dairy farmers; it is our livestock producers as well.

I have said it many times, but it is worth saying again on the floor of the Senate. You have this bitter irony of our hog producers facing extinction, our pork producers facing extinction, and the packers are in hog heaven. They are making record profits. We want to know what is going on.

So at the very minimum, our family farmers who are not vertically integrated, our family farmers who do not represent the conglomerates that have so effectively muscled their way to the dinner table, exercising their power over so much of the food industry, want to know exactly what people are being paid for their product. We think that ought to be public information. We think our family farmers have a right to know that. I just will say that this ought to be slam dunked. There ought to be 100 votes for it; the sooner the better. What are we waiting for?

I could go on and on, and later on, when it is appropriate, I will bring out any number of different studies, with a lot of data, because I think it is really worth talking about. In some ways I almost find this ironic. I think maybe I am going to pick up on an argument that some of my Republican colleagues like to make about the problem of just throwing money at a problem. With all

due respect, if we do not change this structure of agriculture, a lot of the family farmers in the Midwest, South, all the family farmers who are left in the country, are just not going to make it. They are not going to make it.

Everywhere you look, in all sectors of the food industry, whether it be the input side or the output side—from whom the farmers buy, to whom they sell—you are lucky if you have four firms that dominate only 50 percent of the market. Quite often it is more than 50 percent of the market. It isn't even an oligopoly. It isn't even four firms dominating 50 percent of the market. It is a monopoly structure. Whether it be the packers, the stockyards, the USDA, or the Justice Department, we need antitrust action. We need antitrust action. We need to put some free enterprise back into the food industry.

Give the family farmers in Minnesota a level playing field, give them a fair shake, and they can compete against anybody. But right now what you have is a situation where these conglomerates have muscled their way to the dinner table and exercised their raw political power over family farmers, over consumers, over taxpayers, and we need antitrust action.

That means we have to take on big economic interests. That means we have to take on some of the largest contributors on the floor of the Senate. My colleague, Senator FEINGOLD, said the other day he was going to start calling a kind of rollcall of big contributors as we go to different bills. On agriculture I probably ought to come out here and just go over the list of contributions. It is not for a particular Senator but the Senate.

All of us need to change the system of contributions that come from these packers, that come from these big agribusinesses, that come from those corporate giants, because, frankly, we seem to be afraid to take them on. But if we are not willing to take them on and we are not willing to have antitrust action for real competition, our family farmers cannot make it.

So I just say that now is the time. We have legislators coming in to Washington, DC tonight. Many of them travel out here with their own income. They do not have a lot of income. Many of them are farmers from State legislatures. Many of them work with really good grass-roots organizations.

This isn't business as usual. So sometime, whether it be on this bill, whether it be within the next month, whether it be in the fall, this Senate has to take some action that makes a real difference to family farmers so they have some kind of future. One of the first things we have to do is be honest, just declare that the Freedom to Farm bill has been a ''freedom to fail'' bill. We need to change this legislation.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I thank the Chair.

Mr. President, I want to make a few opening comments as a member of the subcommittee. The Appropriations Committee is an interesting and a very productive committee. I am a member of the subcommittee that is chaired by Senator COCHRAN from Mississippi and whose ranking member is Senator KOHL from Wisconsin. I commend them for the job they do. It is not an easy job.

We have the classic problem of economizing. The definition by an economist of that is trying to fulfill unlimited wants with limited resources. That is not a very easy thing to do.

As I start, let me again compliment the work of Senator COCHRAN and Senator KOHL.

I will talk also about some of the challenges that we face that are not in any way addressed by this legislation. The legislation funds a range of issues with respect to the Department of Agriculture and agricultural programs. We need to do better in some of those areas.

I specifically mention the human nutrition study programs that exist in USDA. The administration had proposed a very substantial investment in those programs. We have not been able to meet that. I hope we can, because the work that goes on in those human nutrition labs is very important work in the nutrition area.

There are a number of other areas where we need to do better in research and agricultural-related areas, but I want to talk a bit about the crisis that faces our family farmers. We are going to have a Democratic Policy Committee hearing on Wednesday morning here in the Capitol from 9:30 to 11:30 on this subject: the farm crisis. We have a very serious problem on America's family farms. Frankly, we need to address it. I hope we can do that in a bipartisan manner.

This weekend I was in North Dakota. I drove to Finely, ND, for an event in the American Legion hall in Finely that had to do with a rural empowerment zone. Once again, in Finely, ND, as I would have found in every part of North Dakota, family farmers told me that they are not going to be able to make it much longer unless something changes. You cannot plant seeds in our ground, then tend those seeds, fertilize, spray for pests, hope they grow, hope it doesn't hail, hope the plants develop, hope it doesn't rain too much but rains enough, hope against crop disease and then, at the end, finally harvest that grain and take it to the elevator, only to discover that the elevator or the grain trader is willing to pay you a $1, $1.50 or $2 a bushel less than what it cost to produce the grain. That is not a formula for success. That is a formula for failure. Most family farmers know they will not last long with that kind of a formula.

Will Rogers once said: When there is no place left to spit, you either have to swallow your tobacco juice or change with the times. Well, there is no place left to spit. That is not a delicate way to say it, but there is no place left to spit on these issues. The current farm program is not providing price supports that are able to help family farmers continue in operation during a time of collapsed prices. It just isn't. We had to do an emergency piece last year, and we did that in the appropriations process. I commend all of those who were involved in it, including the Senator from Mississippi. My colleague from North Dakota, Senator CONRAD, myself and many others worked to make sure that we did an emergency piece that provided some income support for families during collapsed prices. But the prices are still collapsed. We will not have many family farmers left unless we provide some mechanism of supporting prices here in the Congress.

Is it our job? No, it would be better if we could get the price in the marketplace. But that is not happening. The price in the marketplace is dismal. Farmers are told that their hogs aren't worth much and their cattle are not worth much. The grain isn't worth much too.

There was a time when you could speak on the Senate floor when the farmer was hauling a hog to market and getting 10 cents a pound. In fact, that farmer could go to the grocery store in that small town and discover that it would cost him three times as much to buy a relatively small ham than he was able to get for the whole hog.

Now, there is something wrong with that. When prices collapse, if we want family farmers left in our country's future, then we have to do something about it.

My colleague from Minnesota talked about the need to reform the system. I was not able today to hear my colleague from Mississippi or my colleague from Wisconsin as they opened this discussion, but I know that they are well aware of the farm crisis. I will hold up a couple charts, if I might.

This chart shows the number of farm youth, down 82 percent since 1970, fairly steadily. We are ending up without any young people left in rural America.

This chart shows the last year for which we have net income data. It shows the change in net income, 1996 and 1997. We do not have the next 2 years. North Dakota lost 90 percent of its net income; Minnesota, 42 percent. These are net income losses. It would be interesting to know, I wonder how any wage earner would handle it if 90 percent of their income were gone. I wonder what Wall Street would do if they discovered that some industry of theirs had suffered a 90-percent loss. Think that would crash, that industry? You bet your life, in a moment.

But on the family farm, in 1 year a change in net income, down 38 percent in Nebraska, 28 percent in South Dakota, 90 percent in North Dakota, these figures change from year to year and State to State. The fact is, we have seen a dramatic change in net income in a negative way in my State and others. It results from a collapse in prices.

Now, there are people who say that is because EEP wasn't used. It is because of this or that other thing, 100 different reasons. The fact is, it is price. You can come up, I suppose, with your own notions of how to increase price in the marketplace, but I think we have a failure here.

The failure is that we have a farm program that says: Let us not care about supporting prices. Whatever the price in the marketplace place is, if it is 10 cents for hogs or if it is $2.50 for wheat, that is just tough luck. That is the way the market is. So let's have farmers get whatever they get from the marketplace.

The problem with that is, we won't have many family farmers left, if that is the attitude we take, because the marketplace doesn't work for agriculture. There is no free market for agriculture. Everybody knows it. Anybody that comes out here and preaches about a free market for agriculture is preaching a sermon that is not worth listening to.

Now, my colleague from Minnesota talked about the issue of monopolies. I want to talk about that just for a moment. I want to show a cartoon that appeared in the newspaper in Lincoln, NE, the Lincoln Journal Star. The cartoon shows something that I have previously spoken about on the floor of the Senate. The cartoon says: If the grain to make this costs pennies—talking about grocery cereal—and I have to pay $3.95, who gets all the rest? And here is a picture of a farmer giving up.

It is interesting that at a time when prices have collapsed for grain, cereal manufacturers have announced that they will increase the price of their cereal. I found it interesting that when grain prices increased a few years ago, wheat went to $5.50 a bushel, the cereal manufacturers were complaining that they had to increase cereal prices because grain prices were strengthening. So grain prices collapse, drop in half. What happens to cereal prices? They go up. What is wrong with that picture? It seems to me you would fail third grade math with that kind of calculation.

The point that the Senator from Minnesota made is an accurate point. In every direction the farmer looks, the farmer faces either a monopoly or a near monopoly. Let's say the farmer raises grain and wants to have it transported. So the farmer takes it to the railroad and the railroad operator says: We will transport that grain for you. And they tell the farmer exactly what it will cost. If the farmer doesn't like it, it is tough luck.

In our State, our State Public Service Commission says the railroads overcharge North Dakota, principally farmers but all businesses. They overcharge North Dakota farmers $100 million a year. How can they do that? No competition. We do not have three railroads vying for that business. When you have near monopoly or a monopoly, they charge what they want. So when the farmer goes to the grain trade and decides to sell their grain, what do they find? Only a few companies control most of the grain trade.

Two of those companies now want to get married. Continental and Carghill decided they like each other so much they don't want to compete anymore. They want to get together. So now they have this merger proposal, meaning more concentration. Does that make sense for farmers? To me, it doesn't. I do not think they ought to be allowed to merge.

Then when the farmers decide that they want to sell their fat steers—they had some calves and they raised some fat steers and heifers—they take them to market. Eighty-seven percent of the fat steer market slaughter in this country is controlled by three companies, three. So they tell the farmers and ranchers: Here is what we are going to pay you.

They say it is a free market. Of course, it is not free. So let's assume that the grain trade wasn't throttled at the neck of the bottle by a concentration of large corporations, and instead you had a free market.

Is it a free market for our producers, who raise a steer or heifer or cow and want to sell the beef to Japan, are faced with a 50-percent tariff because of a beef agreement with Japan, which does come down a little year by year, but snaps back up if you get more beef in? Currently, as I understand it, the tariff on beef going into Japan is 45 percent. Is that fair? I don't think so.

Or China sends us all their shoes and trousers and shirts and trinkets, and they have a $50 billion to $60 billion trade surplus with us, or we a deficit with them, and they say: When we want wheat, we want to buy it elsewhere; plus we want to keep part of your wheat out, and we don't want your hogs at all. Is that fair trade? Does a farmer have a right to complain about that? I think so. In every single direction, farmers have a right to say it is not a free market.

Let me mention trade. Our family farmers—despite having mentioned some trade with Japan and China, our family farmers are furious about our trade situation with Canada. We passed this NAFTA bill here in the Congress. I didn't vote for it, but everybody who voted for it, I guess, felt that the people who sold it said we were going to get some 300,000 new jobs in America with this NAFTA.

NAFTA turned a trade surplus with Mexico into a trade deficit very quickly and doubled the trade deficit we have with Canada. Now the fancy economists who decided they wanted to make money putting out studies telling us how wonderful NAFTA was going to be are saying: Maybe we were wrong. When you pass an agreement that creates huge deficits, lose jobs instead of gaining jobs, you are wrong.

But take a look at the trade back and forth across the border. What you will find with Canada is, we have massive quantities of Canadian grain coming in and undercutting our American farmers, and you can't get much American grain into Canada. I have been to the border there. I was riding in an orange truck trying to get durum wheat into Canada. I could not do it. But I saw Canadian trucks hauling Canadian wheat south. Is that fair trade? I don't think so.

That is what farmers face, unequal treatment. If you wipe all that away and just have farmers trade in the open market, free trade or fair trade, then when the farmer competes against the European grain or livestock producer in an international marketplace, how do you get around the fact that the Europeans subsidize their grain sales 10 times our subsidy—10 times? We say to our farmers, well, that is fair; it would be like a competition, let's give the other team a huge head start and then say it is a fair competition.

I don't know what people are thinking about. It is not fair. It doesn't make any sense. Our farmers in this country have a right to be very upset, because I don't think they have been supported very well by our range of policies, our agricultural and trade policies. They have not been fair and consistent.

On the United States-Canada free trade agreement, I was in Montreal when Clayton Yeutter was negotiating with Canada. I will tell you what happened with Canada. The U.S. agricultural interests got traded away—flat out traded away. This country got something for it. I wasn't in the room, but I guess we got access to 20-some million people for the financial services industry, and so this country got something for it. But farmers got traded way. So at the end of the time, we got an agreement that weakened section 22, all of our trade remedies, and then we got a piece of paper from Clayton Yeutter, the Trade Ambassador. I could read it, but generally the paper said we have essentially a spirit between us that, following the agreement, there will not be a substantial increase in grain flowing across the border one way or the other. That wasn't worth the paper it was written on. It was a guarantee.

I was on the Ways and Means Committee; that is where this had to originate—the passing of the language on the agreement—and we got from the Trade Ambassador a guarantee that was worthless. We immediately began to see a massive quantity of grain coming into our country in a manner, in my judgment, that clearly violates our trade laws—dumping below the cost of acquisition.

Now, I know some of this is probably confusing and difficult. But I want to illustrate this point. The U.S. farmers said: Wait a second, this is not fair; we were told by our Trade Ambassador's office this wasn't going to happen. We have it in writing, we have a guarantee; this isn't fair. So action was taken against the Canadians to try to stop it.

Do you know what we discovered in that action? A side deal had been made between the Trade Ambassador's office and the Canadians that was never disclosed to Congress, never a part of debate. It gave to the Canadians, in selling into the American marketplace the ability to go below acquisition cost, the Canadians will not have to include their final grip payment—it is called a grip payment—to their farmers.

So what they did was set aside part of the cost of the acquisition of that grain and said that will not be considered. By definition, the formula says they can sell at below cost in this marketplace and they will not be in violation, because there was a separate side deal between our Trade Ambassador and the Canadians, in effect, selling out the interests of our farmers.

Do farmers have a right to be upset about that? Do they have a right to be concerned about policymakers who don't support our farmers' interests? You bet your life they do. Now, we have to decide in this Congress whether we are going to be willing to rebuild and invest and strengthen family farms.

Let me make this point. I am not at all bashful about coming to the floor and saying we need this help. We were just in a conference committee—I was part of it—in which the President said: We need some additional money for Kosovo. We need money for Kosovo. So Congress said: Well, how much do you need? The President said: Well, we need $16 billion. Congress said: No, you don't need that, you need more than that. So Congress added $6 billion to the President's request, saying: We don't think you have asked for enough money. If it is for defense, we don't think you have asked for enough money. There are those who said that the sky is the limit for defense. They said: The President didn't ask for enough, and we want to add $6 billion more.

I say to them, what about the issue of family farming in this country? What about the issue of agriculture? That is here at home. Those are our interests. That is not Kosovo. That is not bridges. That is not investment in weapons. That is here in this country. What about that? Is that not a priority? Are we not willing to decide that we will provide that resource?

Some say, well, the President should ask for it. Yes, he should, but the President didn't ask for the extra $6 billion Congress put in the emergency bill for defense. So apparently you have two standards. The President doesn't have to ask for the extra $6 billion for defense, but he must for agriculture. Well, those who say the President needs to be involved and ask for it, they are right. Let's have him do that. I want him to be engaged here with a request, and I think he will be.

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

Mr. DORGAN. Yes.

Mr. HARKIN. In listening to the Senator's very eloquent remarks, the Senator from North Dakota really does understand the depth of the problems in agriculture. He has been one of our great leaders in fighting for family farms and our rural communities, in making statements and comments about the lack of free trade and the other economic conditions that are working against the farmer.

What I really wanted to ask the Senator is, What role do the increasing sorts of conglomerates, vertical integration, the fact that we are getting fewer and fewer hog farms, for example, that we are experiencing in Iowa and other places, smaller and smaller numbers of meatpackers and slaughterers in this country—when you look at the increasing concentration, what, I might ask, is this doing, and what effect does this increasing concentration have in reducing the price that the farmer gets?

In other words, we saw the cartoon about the person in the grocery store saying, ''It only pays pennies. Who gets the rest?'' I ask the Senator from North Dakota again, what is the effect on the farmer?—in other words, what the farmer is getting from the consumer's dollar, because in the past you had a lot of competitors out there competing against one another to take the raw product and get it to market. Now you have just a few. You have a very narrow funnel now. It has been my opinion and observation, based upon a lot of economic data, that this small funnel now they have to go to, the few meatpackers and processors, vertical integration, basically that is where the consumer dollars stops, and it is not getting back to the farmer.

The Senator has been very eloquent on this issue of the increasing concentration and what that means for family farming; does the Senator share that feeling?

Mr. DORGAN. The share the farmer gets from the food dollar has diminished about 20 percent.

All the other interests that touch what the farmers produce make a lot of money, and many of them are making record profits right now. The farmer raises the grain; buys the tractor, plows the ground in the spring, tends the land; and takes all the risk. They harvest it and work hard.

Family farmers don't make much money. Now they are losing a lot of money. Even in the best of years they don't make that much money, taking into account all the unforeseen risks. They put the product on a railcar to market; it goes to a cereal manufacturing plant. The rail car company makes money and the railroad companies are making record profits. The grain trade makes profits. The grain goes to a cereal plant and they take that wheat and inject it with some air. Now it becomes puffed wheat. They package it in a bright colored, big box, with cellophane wrapping that can't be opened in the morning and they send it to a grocery store.

Farmers, last year, lost their shirt on the very same wheat that was puffed up by air and produced by the cereal manufacturers. The farmers lost their shirt; the cereal manufacturers make record profits.

Something is wrong. Those who haul it, those who trade it—every step along the way the big economic interests are making big profits. It is the folks who grow it that are told: No, somehow you don't matter.

On this Earth, every single month, we add another New York City in population; every single month we add another New York. Yet, the farmer is told by the grain trade—when the farmer loads the truck and takes it to the elevator—that this grain isn't worth very much; this food isn't worth very much.

We are told half a billion people go to bed every night with an ache in their belly and it hurts to be hungry. Most of them are kids. Half a billion go to bed every night with an ache in their belly because they are hungry. Far more people are malnourished than that. And we are adding a New Yorker to the City every month, yet we have farmers in Iowa, Minnesota, North Dakota, Mississippi, and Wisconsin going broke because they are told—after all of their work, all of their risk, all of their dreams—that the grain they produce doesn't have value. They load the truck, go to the elevator, and get the message. The message is, food doesn't have much value.

Within recent months, we had people come to Capitol Hill to testify about the famine in the Sudan. We had testimony by people talking about old women climbing trees to gather leaves to eat because there is nothing to eat, and our farmers are told: Your food has no value.

If we get past the question of, does food have value, there is a larger question. Who farms in this country, and does it matter? Family farmers are more than just planters. It is the family farm around my hometown of Regent, ND, that provides the blood vessels which make that small community live. It is the family farmer who helps build the church. It is the family farmer who helps keep the main street open. It is the family farmer who helps create a rural lifestyle. This is more than just a question of, does food have value; it is, who is going to farm in our country?

Some say: Let the corporations farm. They are fine; they can farm America from California to Maine. That is true. And we will have no population left in the middle part of our country.

This map demonstrates what is happening in the middle part of our country. The red represents the counties that have lost more than 15 percent of their population. You can see what is happening. In the middle part of America, we are depopulating a significant part of our country. People are leaving, not coming.

I was in two different counties on Saturday in North Dakota. One county lost 60 percent of its population, and one of them had lost 50 percent of its population in the last 25 years.

Picture trying to do business in a small town, in an area that has lost 60 percent of its population. That is trying to do business in a depression.

It matters who farms—not just what is the return, what is the price of grain, but that we do we have a system that encourages family farming. Is the family, as an economic unit, something that has merit and value? Some say, let the market decide that. The market is not an allocator of all goods and services in a fair way at all times. There are times when we have to be a referee in the marketplace.

That is why we have had a farm program. If we hadn't had a farm program, we probably wouldn't have any family farmers now. When prices collapse and you have the valley, the only way family farmers get across the valley is by building a bridge called price support. Three or 4 years ago we were told: That is old fashioned; blow up the bridge. So Congress did—I didn't vote for that. It was called the Freedom to Farm bill. We blew up the bridge and pulled the rug from the family farmers. Let them go to the market. Whatever the grain trade says is the price, that is the market price.

We found out that is absurd. That doesn't work. China, Japan, Canada, Mexico, and Europe are engaged in the kind of trade practices that restrict our products, there are sanctions against food—some of which have, fortunately, been revoked—the farmer finds it can't sell into certain markets, it is locked out of about 11 percent of the international wheat market.

In my judgment, sanctions should almost never be put on. Hubert Humphrey used to say, send them anything they can't shoot back. It certainly makes sense to be able to send food to people who are hungry in the world. That has nothing to do with foreign policy or with guns.

When there is a sanction, certainly farmers should have been paid. Why should farmers bear the cost of this country's national security issues? We have had the sanctions, have had a range of other trade issues and farmers have always been the victims.

There is a way, it seems to me, for Congress, with both Republicans and Democrats to decide jointly that family farmers ought not continue to be victims in this country on trade policy or agricultural policy or policies dealing with market concentration. We need to do much better than that. Frankly, in recent years, I think we have let the farmers down.

This bill is an appropriations bill. There is much in it that is important. I say to the Senator from Wisconsin, your work and the work of Senator COCHRAN is very important work, as is the work of both staffs on the subcommittee. I was pleased for the first time this year to be able to join the subcommittee. It is an important subcommittee that makes critical investments in a wide range of agricultural issues.

At the end of the day, when all of this is clear, we must do something about prices for family farmers. If we don't do that, all of this other investment is not going to be very productive for our country. We must do something to address the question of price collapse.

We offered an amendment in the emergency supplemental bill a couple of months ago. Senator HARKIN and I offered that amendment. I recall, I think, it was midnight or so when Senator HARKIN was recognized to offer it. He spoke, I spoke, and several others spoke. Then we had a vote. We made the points, I and Senator HARKIN, about the difficult time in agriculture, the real crisis that exists at this point. The vote, I believe, was probably a vote on tabling or a vote up or down. We lost on a 14–14 tie vote, and that was only with the Senate conferees.

I know the Senator from Iowa is going to offer an amendment, and I certainly intend to join him during this appropriations process, to have a discussion about that amendment, about an emergency farm bill that puts some resources into rural America to try to respond to this farm crisis.

I am not now going to speak at much greater length on the amendment. I have more things to say, and I will say them at a more appropriate time. My expectation is this legislation will be on the floor for some while. I do want to speak at greater length about some of these farm issues, and my colleague from Iowa and others have a fair amount to say as well about these issues.

Mr. BOND. Mr. President, I wish to raise a problem relating to pharmacy compounding and a proposed Memorandum of Understanding from the Food and Drug Administration with state boards of pharmacy relating to compounding.

Pharmacy compounding is a part of the practice of pharmacy that involves specially-tailoring a prescription drug product for a specific patient's needs. A good example is when a pharmacist takes a pill prescribed for an infant—but which that infant can't swallow—and grinds it up and mixes it into a sweet syrup that the baby is happy to take.

Pharmacy compounding has been part of what pharmacists do for centuries, and it is important to preserve their ability to do this without huge regulatory hassles. Pharmacy compounding is important for many patients who need specially-designed drugs because no commercially-available product meets their specific needs. Interfering with compounding will only hurt these patients by making it more difficult to get—or even denying them—the specific pharmaceutical products they need.

But the Food and Drug Administration is now threatening to create problems for many pharmacists who do a lot of pharmacy compounding—which means problems for the customers they serve. The FDA has proposed a joint regulatory setup with states that calls on state Boards of Pharmacy to investigate pharmacists if more than 20 percent of the total prescriptions they distribute are compounded products sold out-of-state.

This proposal is supposed to guard against a handful of bad actors who are mass-producing drugs but are trying to avoid FDA regulation by saying they are actually involved in pharmacy compounding. The problem is that this proposed solution will also interfere with honest pharmacies and pharmacists who are legitimately engaged in pharmacy compounding.

Two types of pharmacists who are particularly at-risk of being hassled by this rule are pharmacies that are located in multi-state areas and pharmacists who specialize almost exclusively in pharmacy compounding and who are well-known for their specialty either nation-wide or region-wide.

Under the regulatory setup the FDA has proposed, these pharmacies are vulnerable to automatic state investigations or other regulatory actions, even if there is no evidence that they are doing anything but legitimate pharmacy compounding.

Mr. COCHRAN. I thank my colleague from Missouri for raising this issue. For patients who have very specific pharmaceutical needs, pharmacy compounding is clearly extremely important, and I don't believe the federal government should be creating unnecessary hassles or problems for pharmacists who are legitimately serving these patients needs.

Mr. BOND. I thank the Chairman for that comment, and would like to bring up one specific example of the unnecessary problems this proposal creates.

Last week, I spoke to a woman from Kansas City, Missouri, who runs two separate pharmacies. One is a typical drug-store type pharmacy where you can go in to fill prescription drugs that came straight from the manufacturer. Her other pharmacy—which is legally separate—is exclusively involved in pharmacy compounding. The only thing this pharmacy does is specially-tailor prescription products for people in the Kansas City area.

The problem is that easily over 20 percent of her compounding customers are from across the state line in Kansas City, Kansas. She also suspects that many of these Kansas customers—although she's not sure exactly how many—live more than 50 miles away from her pharmacy, meaning she might not fit in the protections the FDA tried to include for pharmacies that are selling to out-of-state customers locally.

Because this pharmacy in Kansas City doesn't meet the somewhat arbitrary FDA guidelines, this woman could automatically be subject to an investigation by the state Board of Pharmacy, even though all of her pharmacy compounding is done legitimately for specific patients.

I just don't believe the FDA has done a good job writing these guidelines.

There must be a more sophisticated way to approach this problem that won't threaten legitimate pharmacies with unnecessary regulatory hassles. I believe Congress needs to take a stand on this issue to force FDA to reconsider their proposal.

Mr. COCHRAN. I thank the Senator for his thoughts, and pledge to work with him and others during deliberations of the conference committee on this bill to address this problem.

Mr. BOND. I thank the Senator.

AMENDMENT NO. 702

(Purpose: To amend the Public Health Services Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage)

Mr. DORGAN. Madam President, I am asked to send an amendment to the desk for Senator DASCHLE. I do so at this point and ask for its immediate consideration.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will report.

The legislative assistant read as follows:

The Senator from North Dakota [Mr. DORGAN], for Mr. DASCHLE, proposes an amendment numbered 702.

Mr. HARKIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. I object.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will read the amendment.

Mr. COCHRAN. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

Mr. LOTT. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The text of the amendment (No. 702) is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 703 TO AMENDMENT NO. 702

(Purpose: To improve the access and choice of patients to quality, affordable health care)

Mr. LOTT. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 703 to amendment No. 702.

Mr. LOTT. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment (No. 703) is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LOTT. Madam President, I find our Democratic colleagues have put the Senate in an unfortunate position by offering this bill at this time. The pending bill is the agriculture appropriations bill, certainly a very important appropriations bill. I think you could probably argue they all are. But even more so than usual, the agriculture appropriations bill this year is very significant because we are still dealing with an agriculture economy that has been shaken by prices and by the loss of some markets around the world. We need to move this bill forward.

American farmers are in dire need of many of the provisions in this bill that has been developed in a bipartisan way, with Chairman COCHRAN leading the way. These farmers rely on the legislation and appropriations every year. For some reason, the Democrats have decided to ignore the needs of the American farmer and instead turn this bill into the health care reform bill.

I have in the past, and as recently as last Friday, offered our colleagues on the other side of the aisle an opportunity to debate this issue in the form of a separate bill under a time agreement. However, they have always indicated a request for dozens and dozens of amendments. In fact, the latest discussion, sort of indirectly, but the latest number would call for a minimum of 40 amendments.

Now, I thought they had a bill that basically represented the position they wanted to take on the Patients' Bill of Rights, as developed by Senator KENNEDY and Senator DASCHLE. We have our approach, which is quite different, developed by Senator NICKLES, the Senator in the Chair, Ms. COLLINS, Senator FRIST, who certainly is one who could be very helpful in devising health-related legislation. So we have our two alternative bills, which I thought we could get a direct vote on and have some reasonable number of amendments and then go on to a final conclusion.

However, it seems to me that colleagues on the other side of the aisle are interested in having an issue rather than bringing this Patients' Bill of Rights issue to a conclusion.

I think clearly there are some things we need to do in this area. I assume there are some areas of agreement. There are some fundamental disagreements. For instance, I believe very strongly, in dealing with patients' rights and needs, where there is a dispute, there should be a process for resolving that dispute within a managed care organization or through an expedited outside procedure to get a result and not just look for more opportunities to file more lawsuits.

However, I will continue, as I did last year, to work with the Democratic leader to propound a time agreement which will allow for votes on these important issues, the two approaches, as well as a reasonable number of amendments.

In the meantime, I call for regular order with respect to the State Department authorization bill.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2000 AND 2001

The PRESIDING OFFICER. The clerk will report the State Department bill.

The legislative clerk read as follows:.

A bill (S. 886) to authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Sarbanes amendment No. 689, to revise the deadlines with respect to the retention of records of disciplinary actions and the filing of grievances within the Foreign Service.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Madam President, I ask unanimous consent that following the modification of the pending Sarbanes amendment, the Senate proceed to a vote on the amendment at 5:30 this evening.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Madam President, I believe we will be waiting for the managers of the State Department authorization bill to come back to the floor. We had a time agreement on the State Department authorization, and we had hoped to complete that bill last Friday, but for a variety of reasons we weren't able to do so. We did get a list of amendments. I believe we have some pretty tight time agreements on those amendments.

We need to move forward with getting to a conclusion early this week on final passage of the State Department authorization. That will be helpful in dealing with other issues pending before the Foreign Relations Committee, including possibly some nominations that have been pending there, because of the very serious nature and the need to get the State Department reauthorization done. So we will go back to that and the managers will be coming to the floor shortly, I am sure, and then we will have a vote, as agreed to, at 5:30 this afternoon on the pending Sarbanes amendment. With that, I am glad to yield to the Senator from Massachusetts.

Mr. KENNEDY. Madam President, it is my understanding, therefore, with the majority leader's action, we have effectively moved off discussion of the Patients' Bill of Rights, which we had before us for a very brief period of time this afternoon, and that is the result of the majority leader's action.

Mr. LOTT. That is correct, but it is temporary. We basically now are dealing with three different issues—the

State Department authorization, which began last Friday, the agriculture appropriations bill, and the managers of that appropriations bill were able to get, I believe, a couple hours of time on that, and now the Patients' Bill of Rights issue. We will go back to the State Department authorization and, hopefully, we can complete that, and then all of the interested Senators who would like to be heard in a reasonable period of time on the Patients' Bill of Rights, we will work that out for tomorrow. Senators NICKLES, COLLINS, FRIST, SANTORUM, and others will probably want to be heard on that, and I know a number of Senators on your side. We want to work with Senator KENNEDY and Senator DASCHLE to see how we set that up.

Mr. KENNEDY. Well, I thank the leader. He is giving the assurance that there is a possibility, hopefully, or an inevitability, that we will consider this legislation. There ought to be negotiations between the leaders. But would it be fair to say that it is the intention of the leadership at this time that we would have an opportunity to debate the Republican proposal and the Democratic proposal on the Patients' Bill of Rights?

Mr. LOTT. I intend to do that, but I have to say, within reason. That would be in the eye of the beholder. I know there are Senators on both sides of the aisle who want to speak about this issue and want to talk about the alternative proposals. We will line up a time to do that. I can't say right now, without talking to the managers of the two other bills and with Senator DASCHLE, exactly when that will be or how long it will be. We will work that out this afternoon or tomorrow morning.

Mr. KENNEDY. I thank the Senator for at least the assurance that some progress will be made. There is at least a very strong sense among many of those most concerned about this legislation that this is a priority for families in this country, and that we have dealt with other legislation, such as the juvenile justice bill. We worked that process through without limitations and restrictions, in a responsible way. It is certainly the intention of Senator DASCHLE, and others who are cosponsoring this legislation, to do it in a likewise manner. There is the determination that we will have an opportunity to do so, and we will do that. We want to be able to work that out. I know the leader does. I know that is the way it should be worked out. I am hopeful we will have an opportunity to address this in the Senate.

Mr. LOTT. Regarding the juvenile justice bill, you will recall I made a commitment we would bring that up and debate and amendments would not be shut off. But it was with some assurances that we would finish it by Thursday night of the week it came up—I think on Monday. As a matter of fact, it was the following week before we were able to finish it. That is why I think we need to get some clear understanding of exactly what time would be involved and when the votes would occur. I will make sure we get that clarified before we go forward.

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

Mr. LOTT. Yes.

Mr. DORGAN. I wanted to ask a question about the characterization that the Senator made with respect to the action that was taken to send the amendment to the desk. It is not an amendment of the agricultural interests here. I know the offering of the amendment—I sent the amendment at the request of Senator DASCHLE. I know that was not a surprise. Senator DASCHLE announced last Thursday it was going to happen if there was not some sort of understanding reached with the majority leader.

I wanted to say this. The underlying bill is very important, the agriculture appropriations bill. It does not, however, contain the emergency response to the farm crisis that we must add to it at some point here. I hope we will do it in a bipartisan way. But the interest that Senator DASCHLE has in trying to move forward with debate on the Patients' Bill of Rights doesn't in any way diminish the interest and importance of the agriculture appropriations bill.

Mr. LOTT. Madam President, if I may respond. Frankly, I was surprised that this Patients' Bill of Rights amendment was offered to this bill. All that had been indicated was that it would be offered this week if some agreement was not worked out.

First of all, I want to make it clear that I am willing and very anxious to make a reasonable agreement. No. 2, this is not the only bill that was going to be up this week. There would have been—or there will be other opportunities. That is what surprised me, the fact that the agriculture appropriations bill was the bill to which the Patients' Bill of Rights issue was added. That was a surprise because I thought there would be a real strong feeling that we should move forward on the agriculture appropriations bill without it being delayed or deferred or impacted by other issues. That does not diminish at all the importance of patients' rights, but I thought there would have been another bill or another way that it could have been offered. So I, frankly, was surprised—I am not saying it was sort of a surprise attack; I don't mean that at all. I am just surprised the decision was made to offer it to the agriculture appropriations bill when we could have offered it or it could have been offered by others on other bills this week.

Mr. DORGAN. One additional question. I will not belabor the point, except I was with Senator DASCHLE, along with my colleagues, last Thursday. He made it clear to everybody here in the Capitol what his intention was for this week. There would not have been a need to submit this amendment today on any bill had there been an agreement last week.

But let me also say when we get to the agriculture appropriations bill, at some point there is going to be lengthy debate about the emergency response that we need to do with respect to this farm crisis.

Let me finally make this point. We will, I assume, at some point have a full debate on the Patients' Bill of Rights. It will be a debate with amendments offered by both sides—not amendments cleared by anyone, not amendments in which someone is being a gatekeeper and which people have an opportunity to say here is how we feel about this issue. That is going to happen sooner or later.

Mr. LOTT. Madam President, if I could reclaim my time, I am glad to try to enter an agreement as to how this issue would be handled. We are ready to go. But the comment about gatekeeper—we have a lot of important work to do here. Agriculture, obviously, is a very important issue, and State Department authorization is very important, and intelligence authorization is very important. We have appropriations bills we need to move through. We have a limited amount of time in which to do that. We have this week and next week before the Fourth of July recess. Therefore, there must be some reasonable understanding, some reasonable agreement about how much time or what amendments will be offered. We do that all the time. Every Senator knows we enter into agreements to limit amendments or limit time. If we can get that worked out, then we will go forward. The alternative is that we can have debate on this tomorrow, and we can have a couple of votes and sort of see where we are and then decide how to proceed after that.

But I believe we have broad support outside of this Chamber and in the Senate for the alternative that we have. Great work has been done by Dr. FRIST and Senator COLLINS and Senator JEFFORDS, a broad group within our conference working with Senators from all regions of the country who understand this problem. We are ready to do it. As soon as you can decide you are ready to have a vote on the merits of the two packages pending, with a reasonable number of amendments, we will do that.

We are going to have to get some order as to how that is done, and we will do that or we will just vote on the packages as they are and let that happen. I think we can keep wrangling back and forth. I invite others to join in the opportunity to discuss exactly the substance of the two bills and also how we will handle them.

I see the chairman is here, and Senator SPECTER from Pennsylvania is here, and others. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

STEEL IMPORT LIMITATIONS

Mr. SPECTER. Madam President, I have sought recognition to speak relatively briefly on the steel import limitation bill; a cloture vote on the motion to proceed is scheduled tomorrow at 12:15. I will be engaged in committee hearings at that time, so I have sought a few minutes this afternoon to express my support to impose cloture on the steel import limitation bill.

Similar legislation passed the House of Representatives by a vote of 289–141. While this is a strong measure, a so-called quota bill, I believe it reflects the necessity that strong action be taken to enforce U.S. trade laws to stop an avalanche of dumping by foreign countries.

We have seen the disintegration of the American steel industry, the decimation of the American steel industry by unfair foreign imports. Twenty years ago, in 1979, approximately 453,000 steelworkers were employed. Today that figure is about 160,000. Some $50 billion has been invested by the American steel industry to modernize, but there is no way that the American steel industry can compete with dumped goods. When I say ''dumped goods'' I mean goods which come into the United States from a number of countries—from Russia, from Brazil, from Ukraine, from South Africa, from China—where they are sold for less than they are sold for in the exporting country; that is, sold for less than the United States and sold for less than Russia, which is sending them to the United States, and sold for less than the cost of production.

The situation requires a change. I will quote extensively from a letter sent by 12 executives from American steel companies to the Secretary of Commerce, responding to a comment by the Secretary of Commerce last week that the steel crisis is over—so said Secretary Daley. This letter, dated June 18, 1999, from the executives of 12 American steel companies, says, in pertinent part, the following:

The steel crisis is still very much with us. Imports volumes are down from the disastrous levels of 1998 but are still very high by historic standards. The surge of imports in 1998 caused inventories to balloon to extremely high levels. These inventories have seriously depressed prices up until the present and will continue to do so until these stocks have been worked down. Moreover, cold-rolled imports are up dramatically through April of this year, 24% above the level of the first four months of last year. Imports of cut-to-length plate are up dramatically—25% year-to-year for this period.

Prices remain extremely depressed. The producer price index for all steel mill products is down 9% (1999:Q2/1998/Q2). This is the largest decline in nearly 20 years. Prices for hot-rolled sheet, cold-rolled sheet and plate are down 11% and 15% respectively.

Operating rates have plunged from 93% to 80% between January and December 1998 and have remained at that depressed level through the first half of 1999. The decline in operating rates equates to about $2 billion in lost revenue in the second half of last year. On an annualized basis, a 10% change in operating rate equals about $5 billion in revenue.

The depressed prices and operating rates caused most American steel companies to post losses in the most recent quarter. Several steel companies have been forced into bankruptcy. Thousands of those who were laid off due to unfairly traded imports are still out of work. Many thousands have seen their workweeks shortened and are still not back to full time.

For our industry, therefore, this crisis is very real.

The steel industry started some seven actions for antidumping, and six of those were subjected to suspension agreements by the Department of Commerce, to the detriment of the steel companies.

I ask unanimous consent this chart on steel imports and suspension agreements be printed at the conclusion of my statement.

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

(See Exhibit 1.)

Mr. SPECTER. The result of steel import limitations, so-called quotas, is a drastic remedy. We have seen not only steel but other industries in the United States victimized by the failure to enforce U.S. trade laws.

For the past 15 years, this Senator has proposed legislation which would authorize equitable relief to provide for enforcement of the U.S. trade laws. At the present time, if complaints are filed with the International Trade Commission, it takes up to a year or longer to have those matters resolved. An equitable action, a court of equity, would result in having these matters resolved in the course of a few weeks. Until that is done, it seems to me we need to take some very decisive action.

That is why I have cosponsored the steel import limitation bill. I urge cloture on the motion to proceed be invoked when this matter comes up for a vote tomorrow at 12:15.

Mr. DORGAN. Will the Senator yield?

Mr. SPECTER. I yield.

Mr. DORGAN. I intend to support the legislation the Senator just described. The Senator from Pennsylvania described a condition with the steel industry that relates to, among other things, the lack of enforcement of trade laws.

In North Dakota, we don't produce steel. We don't have a foundry that produces a substantial amount of steel. We don't have steelworkers. However, we have farmers in almost exactly the same set of circumstances. At least part of that reason is because of bad trade agreements, or trade agreements that have not been enforced.

A number of Senators, I am sure, will support the initiative tomorrow. I think tomorrow is actually a vote on the motion to proceed. I believe it is important to stand up for our economic interests.

It is not about protectionism; it is about standing up for our country's economic interests and making sure we enforce trade laws. If someone is dumping in our country—whether it is steel or wheat—we ought to expect, as a steel industry or as family farmers, that our Federal Government will take action to enforce our trade laws.

I agree with the statement of the Senator from Pennsylvania. I think a number of Senators, tomorrow, will be in agreement on that basic premise.

I thank the Senator for yielding.

Mr. SPECTER. If I may respond briefly, I thank my colleague from North Dakota for that statement.

I had presented legislation on equitable relief before the Finance Committee. The Senate's colleague, Senator CONRAD, is a member, and he made the same statement about the similarity in wheat.

At lunch today, CONRAD BURNS was talking about similar problems in Montana. I will send a copy of the equitable legislation which I think would cover many products. We will have an overwhelming response in this body so that our trade laws are enforced, consistent with GATT, but put teeth in an enforcement mechanism which is not present today.

I yield the floor.

EXHIBIT 1.—STEEL IMPORTS AND SUSPENSION AGREEMENTS—SUMMARY OF FLAT-ROLLED SUSPENSION AGREEMENTS

Year of filing and product	Country	Final adjusted margins (percent)	By metric tons—		Dollar amount per metric tons—		
			Suspension agreement volumes	Estimated volumes w/ orders	Agreement minimum price	Estimated fair price	Current import value
1996—Plate CTL	China	17 to 129	141,000	0	$308	$505	$397
1996—Plate CTL	Russia	54 to 185	94,000	6,466	$275 to $330	505	352
1996—Plate CTL	S. Africa	26 to 51	NA	3,150	NA	505	331
1996—Plate CTL	Ukraine	81 to 238	148,520	32,151	$314 to $466	505	516
1998—Hot-Rolled	Russia	71 to 218	750,000	28,933	$255	397	236
1998—Hot-Rolled	Brazil	51 to 71	295,000	310	NA	397	227

Mr. HELMS addressed the Chair.

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

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2000 AND 2001

The Senate continued with the consideration of the bill.

AMENDMENT NO. 689

Mr. HELMS. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is the State Department authorization and the Sarbanes amendment, numbered 689.

Mr. HELMS. That is before modification; is that correct?

The PRESIDING OFFICER. It has not yet been modified.

Mr. HELMS. Let me inquire, is the modification that I understand has been agreed to—do both sides agree to it? I know our side does, but I would not want to do anything against the wish of Senator SARBANES.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 689, AS MODIFIED

Mr. HELMS. Madam President, I send to the desk a modification of amendment No. 689 and ask it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mr. SARBANES, proposes an amendment numbered 689, as modified:

On page 39, line 11, insert after ''action'' the following: ''that includes a suspension of more than five days''.

On page 41, line 16, strike ''one year'' and all that follows through the end of line 22 and insert the following: ''two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant's rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case less than two years after the occurrence giving rise to the grievance.'.''.

Mr. HELMS. Madam President, the majority leader desires, and I want to accommodate him in this, that this amendment be the rollcalled amendment at 5:30.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Madam President, I ask unanimous consent there be no further amendment to the pending amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. DORGAN. 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. HELMS. Madam President, I just discussed this with the Senator. I need to know, if he will advise me, how long he intends to speak at this time.

Mr. DORGAN. Madam President, in response to the Senator from North Carolina, I am going to introduce a bill. That will take about 4 or 5 minutes. Then I want to make a brief statement, perhaps 5 minutes or 7 minutes or so, on the test ban treaty. My intention would be probably no more than 10 or 12 minutes.

Mr. HELMS. Madam President, if the Senator will conclude in 7 minutes, I have no objection at all, but I want to keep the time available for Senators who will talk on the bill.

I have no objection.

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

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 1252 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DORGAN. Madam President, I appreciate the Senator from North Carolina allowing me to speak. We are on a very important piece of legislation, and he is managing it. These are all very important issues. I wish my colleagues well as they work through their bill in the next day or so.

Madam President, I yield the floor.

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

Mr. HELMS. Madam President, for the record, I will offer a progress report on where we stand on the State Department reauthorization bill.

Since we began last Friday and over the weekend, the staff has worked together with other staff, and as we now stand, there remain just three amendments yet to be offered by Senators WELLSTONE, FEINGOLD, and SARBANES. The Sarbanes amendment is in addition to the one that is scheduled for a vote at 5:30 this afternoon. I encourage all three Senators to utilize this time so we can put this bill to bed and send it over to the House.

I believe the Senator from Minnesota desires some time.

Madam President, how much time does the Senator desire?

Mr. GRAMS. Madam President, 5 minutes.

Mr. HELMS. I yield 5 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. GRAMS. I thank the Chair. Madam President, I thank the chairman for recognizing me.

As the subcommittee chairman with jurisdiction over the State Department authorization bill, I compliment our chairman for all the work he has put into this bill to move it quickly to the floor.

As he said, I hope we can get these amendments addressed and send this bill to the House and hopefully have it signed by the President in the very near future.

I worked closely and diligently with Members on both sides of the aisle and the administration to craft legislation which will strengthen America's leadership role in the international arena. This package enhances the security of our embassies abroad, establishes benchmarks for the payment of U.N. arrears, and prioritizes our international affairs expenditures.

I am pleased this authorization bill contains the provisions of a bill I introduced, the Secure Embassy Construction and Counterterrorism Act of 1999. In the aftermath of the embassy bombings in August of 1998, the State Department Accountability Review Boards chaired by Admiral Crowe concluded that we have devoted inadequate resources and placed too low a priority on security concerns. Those findings echoed those of the Inman Commission, which issued an extensive embassy security report that raised these same points 14 years ago.

We seek to remedy that situation by establishing an Embassy Security and Construction Account so funds designated for embassy security will not be used for other purposes. In addition to authorizing $600 million a year for the next 5 years, this bill provides security requirements for U.S. diplomatic facilities and requires the Secretary of State to certify that the funds are being used to meet security objectives. It also establishes requirements for threat assessments and also emergency procedures. Working abroad will never be risk free. But we can take a number of measures, like these, to make sure that safety is increased for U.S. Government employees overseas. We can also put forward requirements to ensure we have an effective emergency response network in place to respond to a crisis should one arise.

I am also pleased that the U.N. Secretary General and the administration have endorsed our U.N. reform package which provides $819 million in arrears and another $107 million debt relief in exchange for reforms. This is a positive step towards shaping a U.N. that is a viable organization in the 21st century. Because any organization burdened with a bloated bureaucracy and no mechanisms to control spending will collapse under its own weight of inefficiency. We must reform the United Nations now, and the United States has the responsibility to play a major role. If we do nothing, and the United Nations collapses under its own weight in a few decades, then we will have only ourselves to blame.

I believe that the U.N. needs the discipline of actual benchmarks tied to

the arrears to provide the impetus for fundamental reform; because given the power of an entrenched U.N. bureaucracy, true reform will only occur when there are tangible incentives to change. We have seen how difficult it is to streamline our own bureaucracy here in Washington. It is even more difficult to streamline an international organization where each member is involved in these decisions. But I want to underscore that these reforms are achievable. These reforms include having Inspectors General in the specialized agencies; promoting merit-based employment; and establishing a code of conduct for personnel with an anti-nepotism provision. Congress' message is simple and it is straightforward. The U.S. can help make the United Nations a more effective, more efficient and financially sounder organization, but only if the U.N. and other member states, in return, are willing to finally become accountable to the American taxpayers.

That being said, I want to emphasize that the U.N. does excel in certain areas. The U.N. Voluntary Fund for Victims of Torture gives financial aid to organizations that help torture survivors, like the Center for Victims of Torture in Minnesota. Assisting treatment centers for victims of torture is an effective method to lessen the incidence of torture by providing irrefutable medical and psychological evidence that torture is actually still occurring. These centers also serve a strategic purpose of restoring faith in the principles of human rights and democracy. That is why I am leading the effort to increase the U.S. contribution to $5 million a year.

I urge my colleagues to support the entire bipartisan package and, especially, to understand how difficult it was to arrive at an agreement on the arrears. Again, I commend the chairman and also the ranking member of the Foreign Relations Committee for their diligence and also their perseverance in effecting this compromise bill. This agreement is in America's best interest, and the best interest of the entire international community.

I compliment the chairman for all his fine work in getting this bill to the floor. Again, I urge my colleagues to vote for its passage.

Thank you very much, Madam President.

I yield the floor.

Mr. KERREY. Madam President, I rise today in support of S. 886, the Foreign Relations Authorization Act. I would like to take this opportunity to thank Chairman HELMS and Senator BIDEN for their leadership in crafting this bipartisan bill.

Simply put, the bill before us is a piece of national security legislation. I know we don't often think about the authorization of the State Department in these terms, but the truth is our first line of national defense is diplomacy. We in Congress have spent far too little of our time and resources on ensuring we have a strong, well-financed diplomatic corps. As a consequence we have failed to convince the American public of the importance of our foreign policy institution in maintaining U.S. national security.

I recognize that it's much easier to explain to our constituents the importance of the Defense Authorization Bill to their safety and security. The tangible results of the Defense Authorization Bill—a well trained and well-equipped military force—is easily translatable into a sense of greater national security. Rather than tanks and fighter aircraft, this bill authorizes our diplomats and overseas embassies. It authorizes funding for U.S. participation in international organizations and foreign language broadcasting. It is much less obvious to the American people how these types of activities help protect America. Mr. President, they do.

One of the most important lessons of the post-Communist era is the increasing importance of diplomacy. A failure of diplomacy in today's world is more likely to result in the need for the use of force. As one thinks about the instances in which the United States has been compelled to use military force in the last decade—from the Persian Gulf to Kosovo—each conflict was preceded by a breakdown of diplomacy, or at least an inability of diplomacy to solve the problem. During the Cold War, we relied on our military might to deter Soviet aggression. Today's threats are more diverse and must be countered, not only with military strength, but with strong intelligence and diplomatic capabilities.

I intend to vote for this bill because I believe it is a positive step in strengthening our diplomatic capabilities. To begin, this bill would fully authorize the President's request for Diplomatic and Consular Programs. Just as we strive to have the best-trained and best-equipped military force in the world, we should do everything in our ability to create a diplomatic corps with unparalleled insights into how the world works. A key component of this is creating a State Department that is responsive, efficient, and capable. In my opinion, the integration of the Arms Control and Disarmament Agency (ACDA) and the U.S. Information Agency (USIA) into the State Department has improved coordination of U.S. policy and led to greater effectiveness.

For our diplomats to be successful, they must be reasonably safe. The bill contains a five-year authorization for a $3 billion program for embassy construction and upgrading U.S. diplomatic facilities overseas. The bombings of the U.S. Embassies in Kenya and Tanzania taught us the painful lesson that too many of our diplomatic posts remain too vulnerable to terrorist attack. We can never guarantee absolute security, but this bill will make an immediate downpayment of $600 million to upgrade security and establish a process to identify those facilities most vulnerable and most in need of improvements.

This bill further promotes U.S. national security by authorizing such programs as Radio Free Europe/Radio Liberty and the National Endowment for Democracy (NED). Each of these are vital tools in our effort to promote democracy and provide hope to those people seeking to end totalitarian rule. The surest way to foster U.S. national security is to extend the benefits of democracy and the rule of law to people in places like Iraq and Cuba.

Perhaps the most important component of S. 886 is the authorization to begin repayment of U.S. arrears to the United Nations. It may be surprising to many Americans that, due to our failure to meet our international financial obligations, the United States is perilously close to losing its vote in the General Assembly of the United Nations. Any member country with arrears equal to two years of its annual assessment automatically loses its right to vote in the General Assembly. Our failure to act on this issue by the end of the year will put the United States in such illustrious company as Afghanistan, Iraq, and Yugoslavia—each of which have also lost their voting rights.

Some may question the need for U.S. participation in the United Nations. The simple fact is the multilateral nature of the U.N. improves our ability to confront global challenges. Our participation in the United Nations has helped to reduce the threat of Saddam Hussein's weapons of mass destruction program. Our participation in the United Nations has forced Libya to turn over the suspects from the Lockerbie bombing so that they may face justice. Just recently we sought support in the United Nations to strengthen our hand in Kosovo and provide multilateral support for the ongoing peace implementation effort. It's naive to believe that being the largest debtor nation at the U.N. will not have an increasingly negative impact on our ability to lead. Therefore, it is critically important that we pass this bill and set ourselves on the path to paying our debts.

There is one group of my constituents that consistently understand the importance of U.S. foreign policy. Nebraska farmers and food processors know maintaining good diplomatic relations is essential to maintaining good markets for their products. They also understand that international conflict and instability can affect not only their prosperity, but their safety as well. I intend to vote for this bill because I believe it will increase the safety of the American people by strengthening our foreign policy institutions and improving our ability to avoid conflict.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Madam President, we will be voting, as I understand it, on the amendment which I offered on Friday. The chairman at that time asked if I could go ahead, and I indicated I could to try to move the bill along.

We have worked over the weekend. Staff has worked on this amendment and some modification was made in it which was earlier sent to the desk by the chairman of the committee. I thank the chairman and his staff and the ranking member and his staff for working on this.

Actually, the chairman and his people were reasonably trying to get at a problem. We have made an adjustment that makes it work. If a Foreign Service officer receives a suspension of more than 5 days, that fact will stay in his or her file until they next come up for promotion and for tenure. There would still be a minimum period when any suspension will be in the file, but beyond that period, the minor suspensions will drop out of the file. Any one that has been for more than 5 days will remain in the file. That is to get at a problem.

Staff said to me, on occasion we get reports on these people, and when we look into it, we discover there was a major suspension but this suspension dropped out of the person's record before they came up before a promotion board. People believe, in a case of something of more than 5 days, which obviously would be of some consequence, that it ought to remain in and not be excised from the record. We have made that adjustment. I thank the chairman and his people for their responsiveness.

The other amendment I believe was agreeable on Friday. That was on a grievance, where we took it back up from 1 year to 2 years. The committee had dropped it from 3 to 1 in terms of the period when an employee has to file a grievance. One year is tough, particularly if that person is overseas, because they do not get home leave except every 18 months. We took it back up to 2 years and made some other minor changes, and that is acceptable to the committee. I very much appreciate that.

Mr. HELMS. I thank the Senator. How much time remains before the vote?

The PRESIDING OFFICER. Two minutes.

Mr. SARBANES. Madam President, as I understand it now, with these changes the chairman has suggested, the amendment is acceptable to the committee.

The PRESIDING OFFICER. The amendment is acceptable to the offerer with the changes that have been made.

Mr. HELMS. This amendment, as modified, preserves one of the key Foreign Service reforms in the bill. The bill currently requires that any disciplinary action taken against a member of the Foreign Service be included in a Foreign Service member's file for at least one successful tenure or promotion. Current practice requires that such actions remain in a personnel file for only 2 years.

The current requirement has enabled some Foreign Service members to game the system and receive a promotion once the disciplinary action has been removed from the file. For example, the committee was recently asked to review the promotion of an individual who had failed to attain promotion by two review boards while the disciplinary action remained a part of his file. After 2 years, when the action was removed from his file, he immediately received promotion.

The Foreign Service, like the military, is intended to be an up or out system. In the military, disciplinary actions stay with an officer's file for his entire career. The current provision in the bill seems to me to be a reasonable reform that would ensure a Foreign Service promotion board can make an informed decision. I accept the reasonable compromise offered by Senator SARBANES that ensures this requirement applies only to more severe disciplinary actions.

Madam President, have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes, they have.

Mr. HELMS. I suggest we vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 689, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. CRAIG. I announce that the Senator from Oklahoma (Mr. NICKLES), the Senator from Wyoming (Mr. THOMAS), the Senator from Arizona (Mr. MCCAIN), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

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

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—88

Abraham	Brownback	Craig
Akaka	Bryan	Crapo
Allard	Bunning	Daschle
Ashcroft	Burns	DeWine
Bayh	Byrd	Domenici
Bennett	Campbell	Dorgan
Biden	Cleland	Durbin
Bingaman	Cochran	Edwards
Bond	Collins	Enzi
Boxer	Conrad	Feingold
Breaux	Coverdell	Feinstein
Fitzgerald	Kerry	Roth
Frist	Kohl	Sarbanes
Gorton	Kyl	Schumer
Graham	Landrieu	Sessions
Gramm	Levin	Shelby
Grams	Lieberman	Smith (NH)
Grassley	Lincoln	Smith (OR)
Gregg	Lott	Snowe
Hagel	Lugar	Specter
Harkin	Mack	Stevens
Hatch	McConnell	Thompson
Helms	Mikulski	Thurmond
Hollings	Moynihan	Torricelli
Hutchinson	Murray	Voinovich
Hutchison	Reed	Warner
Inouye	Reid	Wellstone
Jeffords	Robb	Wyden
Johnson	Roberts	
Kerrey	Rockefeller	

NOT VOTING—12

Baucus	Kennedy	Murkowski
Chafee	Lautenberg	Nickles
Dodd	Leahy	Santorum
Inhofe	McCain	Thomas

The amendment (No. 689), as modified, was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HELMS. Madam 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. HELMS. 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. HELMS. Mr. President, we are within striking distance of a final disposition of this bill tomorrow. We hope to get an agreement for the Feingold and Sarbanes amendment and a vote on final passage tomorrow morning.

In the meantime, after the majority leader has his report to us, we will begin debate on the amendment by the distinguished Senator, Mr. FEINGOLD.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FITZGERALD). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

AMENDMENT NO. 692

(Purpose: To limit the percentage of noncompetitively awarded grants made to the core grantees of the National Endowment for Democracy)

Mr. FEINGOLD. Mr. President, I will offer today an amendment to make a simple reform to the grants process for the National Endowment for Democracy, the funding of which is authorized in the State Department authorization bill which we are debating.

I want to make this very clear. I am not here to cut or eliminate NED funding by even one penny. This doesn't cut the program at all. Rather, my amendment simply requires the money given by the American taxpayers to NED each year be distributed fairly and effectively. The amendment, therefore,

reforms the NED's grant-making procedures, procedures about which it can fairly be said, as of today, ''The fix is in.''

Here is how the grant process at NED works today. Currently, 65 percent of NED grant money goes automatically to four so-called core grantees, and these are the Solidarity Center, an arm of the AFL–CIO; the Center for International Private Enterprise or CIPE, an arm of the U.S. Chamber of Commerce; and two groups tied to America's major political parties, the International Republican Institute and the National Democratic Institute for International Affairs.

My amendment simply would require that the grant process of NED become competitive. The amount of grant funds provided automatically to the NED's four core grantees would be reduced incrementally over the next 5 years, so all NED grant funds would be awarded competitively on the merits by the time we get to the end of that 5-year period.

I hope we can all agree that more competition among applicants for grant funds is a good thing and that it is the fairest way to apportion the tax dollars NED distributes to help promote democracy. As it stands now, the four grantees are hardly subject to any real scrutiny. That is why I say the fix is in for these very well connected organizations.

The NED is a private, nonprofit organization created by the U.S. Government during the cold war in 1983. The idea was a good one. The idea was to strengthen democratic institutions around the world through nongovernmental efforts. The NED is governed by an independent, nonpartisan board of directors and operates with an annual congressional appropriation, so strictly speaking, it is not really an endowment. NED receives 97 percent of its funding from the taxpayers. Until it has significant private sources of funding, it does not make any sense to me to guarantee most of its grants to four private groups.

The NED provides some direct grants, conducts analyses of the theory and practice of democratic development worldwide, and serves as a clearinghouse for information on that development. The NED makes hundreds of grants each year to support prodemocracy groups in Africa, Asia, Central and Eastern Europe, Latin America, the Middle East and the former Soviet Union. The Endowment supports projects that promote political and economic freedom, a strong civil society, independent media, human rights and the rule of law.

There are also programs in the areas of labor, business, and political party development which are funded mostly through the four grantees, although other applicants are prepared to conduct programs in each of these areas.

Obviously, I believe in the value of democracy and the imperative of the United States to support democratic development, human rights, and the rule of law abroad. So I do not take lightly at all the admirable aims of the National Endowment for Democracy and do believe these goals are in the national interest of the United States.

Nevertheless, I continue to have concerns about this bizarre structure of the endowment ''family.'' As I mentioned, more than 50 percent of the NED's budget, and some 65 percent of the grants it makes, goes to these so-called core grantees—NDI, IRI, CIPE and the Solidarity Center.

Why do these core grantees get that funding year after year? Because at NED's inception, they had the political clout to get permanently ''wired in.'' Whatever the goals of the originators of this strange arrangement, it has not been adequately demonstrated that the core groups necessarily offer programs of such superior quality that they should get this annual bonanza while other independent organizations must vie for funding from the NED's small remaining discretionary fund.

Sure—I am quick to say this—the core grantees have conducted some excellent programs and many of them certainly serve important U.S. national interests. I am sure they deserve to get some funding. But why is it they are automatically given 65 percent of grant funds? I have to believe there are other organizations out there that can do the job better on some projects, but they are not even allowed to compete for this majority of the money.

In fact, I have the list of some 250 organizations that have satisfied those individuals who review the remaining amounts of funds to the point where these organizations have been granted funds.

I must say in fairness, considerable progress has been made over the years in addressing many of the most pressing concerns about the selection and monitoring of NED grants. As the result of several studies conducted by the GAO, the Endowment has addressed many issues and has tightened up its project selection and performance monitoring procedures. I certainly recognize that the NED has made a little bit of progress in reducing the percentage of its grants that are slated for these four grantees. It used to be as high as 80 percent of the total NED budget.

The NED has seen its funding attacked in this Chamber in recent years, but each time the Senate has made a clear and sometimes overwhelming decision to preserve that funding. I understand that an appropriations bill which was filed last week zeros out funding for the NED, but I am absolutely confident those funds will be restored because there is no other federally funded organization in America that is, frankly, better connected on Capitol Hill than the National Endowment for Democracy.

Today, I am certainly being realistic and trying to be positive and helpful and trying to improve the program. I am not attempting to shut down the NED. Let me repeat, my amendment does not seek to kill the National Endowment for Democracy, nor does it cut the program funding even by one dime. Rather, I seek to reform the strange and unique grantmaking structure that has evolved at NED.

Let me describe this amendment one more time. This chart shows, again, the situation before our amendment and under current law. The distribution, the very small portion in green is available to everybody else after these four grantees are guaranteed 65 percent of the grant money. My amendment will decrease the amount in blue gradually over 5 years by a small amount each year to 52 percent in fiscal year 2001, 39 percent in fiscal year 2002, so on until 2004 when there would be no noncompetitive funds made available and the funds would go to the applicants who offer the best proposals. A novel idea: All the money goes to the best applicants. That is a pretty good use of taxpayers' dollars, in my view.

Mr. HELMS. Will the Senator yield?

Mr. FEINGOLD. I will be happy to yield to the chairman.

Mr. HELMS. Will the Senator be willing to send his amendment to the desk and count the time he has used against it?

Mr. FEINGOLD. Mr. President, it was my intention to offer the amendment at the conclusion of my remarks. I certainly anticipated the time I used would go against my time.

Mr. HELMS. I am not trying to direct the Senator. I just want the clock to start running.

Mr. FEINGOLD. Mr. President, I ask unanimous consent the time I have already consumed be counted against my time that I was allotted under the agreement.

Mr. HELMS. That sounds fair.

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

Mr. FEINGOLD. I thank the chairman.

I will conclude my remarks, and at the conclusion of those remarks, I will, in fact, send the amendment to the desk. This does not necessarily mean any of the four core grantees will have to cut their budgets, but it will mean they will have to actually make their case to NED that their proposals are the best use of taxpayers' dollars. As it now stands, these four grantees know the fix is in, so there is less incentive to make sure every single program is as efficient and well planned as it possibly can be.

My amendment will phase out this fix over a 5-year period and compel each of the four grantees to work a little harder to earn their grants, as hard as everybody else, so they can be in this big green pie of the best applicants, not just the guaranteed applicants.

Again, this is not an amendment to kill or even cut funding for the NED. It is an amendment to use old-fashioned American competition to ensure that

the best use of taxpayers' dollars in the funding of democracy programs happens abroad. My colleagues who believe in fairness and competition and the efficient use of the taxpayers' money should vote aye.

I ask unanimous consent that a list of 250 organizations which received NED funds in calendar year 1998 be printed in the RECORD.

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

ORGANIZATIONS THAT RECEIVED NED DISCRETIONARY GRANTS IN CALENDAR YEAR 1998

Afghanistan Information Center
Afghanistan Study Center
African Centre for Democratic Governance
African Leadership Forum
Al-Urdun Al-Jadid Research Center
Albanian Center for Human Rights
American Assistance for Cambodia
American Federal of Teachers Educational Foundation
American Foreign Policy Council
Andean Commission of Jurists
Arab Media Institute
Asia Plus News Agency
Assistance Center for Nonprofit Organizations
Associates to Develop Democratic Burma
Association for Civic Education
Association for Independent Electronic Media
Association in Support of Local Democracy
Association of Liberian Professional Organizations
Association of Vietnamese Overseas
Association of Women with University Education
Associaton of Young Leaders
Azerbaijan Foundation for the Development of Democracy
Balkan Forum Civil Association
Belapan Information Agency
Belgrade Center for Human Rights
BETA News Agency
Bureau d'Etudes, de Rechereche et de Consulting International
Burma Information Group
Burma Lawyers' Council
Burmese Women's Union
Cairo Institute for Human Rights Studies
Cambodian Human Rights Task Force
Campaign for Democracy
Center for a Free Cuba
Center for Anti-War Action
Center for Civil Education Poland-Belarus
Center for Cooperation-Livno
Center for Free Speech
Center for Justice and International Law
Center for Law Enforcement Education
Center for Law and Human Rights
Center for Modern China
Center for Palestinian Research and Studies
Center for Research and Popular Education
Center for Strategic and International Studies
Center for the Services of Popular Action
Center of Social Projecting ''Vozrozhdeniye''
Centre Chretien pour le Developpement des Paysans en Milieu Rural
Centre des Droits de l'Homme et du Droit Humanitaire
Chad Non-Violence
Channels Television
Children of Chernobyl Gomel NGO Resource Center
China News Digest International
Chinese VIP Reference
Citizen's Movement for Democracy
Citizen's Presence
Civic Association Justice First
Civil Association for Social Development—New Dawn
Civil Liberties Organization
Collectif d'Actions pour le Developpement des Droits de l'Homme
Colombian Commission of Jurists
Comite d'Action pour les Droits des L'Enfant et de la Femme
Committee for the Defense of Human Rights
Committee for the Defense of Human Rights in Tartarstan
Coordinating Child Center for International Development of Tajikistan
Council for the Defense of Human Rights and Freedoms
Cuban Committee for Human Rights
CubaNet
Danas (Today)
Democracy Center Foundation
Democratic Association of Moroccan Women
Democratic China
Democratic Voice of Burma
Development through Education Fund
Dialogue Turkmen Youth Leadership Center
Disadente Universal de Puerto Rico
Dr. Ismail Juma'le Human Rights Organization
Educational Choices Heightened Opportunity
Educational Society of Malpolska
Egyptian Center for Women's Rights
Egyptian Organization for Human Rights
Ethiopian Human Rights Council
European Center for Common Ground
Express Chronicle
Femmes et Enfants pour les Droits de l'Homme
Foundation for China in the 21st Century
Foundation for Defense of Human Rights
Foundation for Democracy in Zimbabwe
Foundation for Education for Democracy
Foundation for Human Rights Institute
Free Iraq Foundation
Freedom Channel
Fund for Peace
Gender Equity: Citizenship, Work and Family
Glastnost Defense Foundation
Glastnost Public Foundation
Gomel Civic Initiatives Association
Grand Vision pour la Defense des Droits de l'Homme
Group d'Etudes et de Recherche sur la Democratie et le Developpement Economique et Sociale
Group for Democratic Development
Groupe Justice et Liberation
Helsinki Citizens Assembly—Tuzla
Helsinki Citizens Assembly—Banja Luka
Helsinki Citizens Assembly—Turkey
Helsinki Committee for Human Rights in Republika Srpska
Helsinki Committee for Human Rights in Serbia
Hong Kong Human Rights Monitor
Human Rights Africa
Human Rights in China
Human Rights Documentation Unit
Human Rights Foundation of Monland
Human Rights Foundation for Civil Society
Human Rights Monitor
Human Rights Publishers
Humanitarian Law Center
HUNDEE
Huri-Laws
Ibn Khaldoun Center for Development
Ilim Educational Complex
Information and Research Centre for Civic Education
Information Bureau of the Human Rights Movement in Cuba
Institute for Democracy in Eastern Europe
Institute for Democracy in Eastern Europe/Warsaw
Institute for Far Eastern Studies, Kyungnam University
Institute for Regional Studies
Institute for Southeastern Studies
Institute for Sustainable Development Education
Institute of Human Rights and Humanitarian Law
Institute of Political and Strategic Studies
International Campaign for Tibet
International Crisis Group
International Forum for Islamic Dialogue
International Human Rights Law Group
Jan Hus Educational Foundation
Karen Information Center
KARTA (Charter) Center Foundation
Kaunas Municipal Training Center
Kharkiv's Center for Women's Studies
Kharkiv Human Rights Protection Group
Khmer Students Association
Koha Ditore
Krygyz Committee for Human Rights
Lahu National Development Organization
Laogai Research Foundation
Lawyers' Association for the Defense of Human Rights
League of Democratic Women
Lebanese Foundation for Permanent Civil Peace
Leagal Defense Institute
Les Amis de Nelson Mandela pour la Defense des Droits de l'Homme
Liberal Women's Brain Pool
Liberian Human Rights Chapter
Ligue des Electeurs
Liuboslavkii Charitable Foundation for the Defense of Human Rights
Media Rights Agenda
''Meeting of Cuban Culture'' Magazine
Mexican Commission for the Defense and Protection of Human Rights
Milan Simecka Foundation
Minnesota Advocates for Human Rights
Moscow Helsinki Group
Movement for the Survival of the Ogoni People
Museum of Political Repression and Totalitarianism
Mutawinat Benevolent Company
Mwelekeo wa NGO
Myrna Mack Foundation
Nadacia Pre Obciansku Spolocnost
National Coalition for Democracy
National Democratic Coalition
National Health and Education Committee
National Human Rights Monitor, Inc.
National League for Free and Fair Elections
Nework for Communal Justice and Conflict Mediation
Network Recherche Action
The New Era Journal
Niger Delta Human Rights and Environmental Rescue Organisation
Nizhnii Tagil Human Rights Library
Nonviolence International
NTV Zetel
Obrumankoma, Odapagyan and Oson Traditionals
Organization of Indigenous Women of the Peruvian Amazon
Organization to Improve the Quality of Life
Panorama
Panorama Center for the Dissemination of Alternative Information
Partners for Democratic Change
Peace and Development Committee
People in Need Foundation
People's Action for Free and Fair Elections
Permanent Committee of the Civil Institute
Philanthropic Amlieh Association
Polish-Czech-Slovak Solidarity Foundation
Presov Civic Foundation
Press and Society Institute
Press Freedom Guardian
Press Union of Liberia
Princeton China Initiative
Pro Democracy Association
Prologues
Promotion de la Femme Rurale
Public Research Center
Radio Anfani
Radio Drina
Radio Zid
Rally for Youth Action
''Ratusha'' Civic Association
Region Association

Rene Moawad Foundation
Rural Educational Services
Russian Association for Civic Education
Ryazan Regional Branch of the Memorial Society
Sakharov Foundation
Saratov Legal Reform Project
Search for Common Ground
Sharq Information and Analysis Center
Sisterhood is Global Institute
Smoloskyp
Snezhinsk Human Rights Defense Group
Spiral Foundation
STINA News Agency
Strategic Empowerment and Mediation Agency
Strategy Center
Studio ''N''
Sudan Human Rights Association
Sutizahnik
Synergy
Tashkent Public Education Center
Tibet Fund
Tibet Times
Tibetan Youth Congress
Tsentral'naya Aziya
Tulane University
Tuzla Citizens Forum
Uchitel'skaia gazeta
Ukrainian-American Bureau for Human Rights
Ukrainian Center for Independent Political Research
Ukrainian Congress Committee of America
Ukrainian Memorial Society
Union of Councils for Soviet Jews
Up with Citizenship Association
Urals Foundation for Social Innovation
Vijesti
Vitebsk Foundation for Democratic Reforms
Voice of the Handicapped for Human Rights
Voice of the Voiceless
Vreme
Westbourne Publishers, t/a Dar al-Saqi
Women for Democracy and Leadership
Women Living under Muslim Law
Women in Nigeria—Kaduna
Women's Affairs Technical Committee
Women's Union in Jordan
World Organization Against Torture USA
Yeni Nesil Journalists Association
Youth Alternative
Youth Center for Human Rights and Legal Culture
Youth EcoCenter Young Leaders School
Youth Human Rights Group

Mr. FEINGOLD. I thank the Chair.

I call up amendment No. 692 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 692.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 13, after line 10, add the following new section:

SEC. 106. LIMITATIONS ON NONCOMPETITIVELY AWARDED NED GRANTS.

(a) LIMITATIONS.—Of the total amount of grants made by the National Endowment for Democracy in each of the following fiscal years, not more than the following percentage for each such fiscal year shall be grants that are awarded on a noncompetitive basis to the core grantees of the National Endowment for Democracy:

(1) For fiscal year 2000, 52 percent.
(2) For fiscal year 2001, 39 percent.
(3) For fiscal year 2002, 36 percent.
(4) For fiscal year 2003, 13 percent.
(5) For fiscal year 2004, zero percent.

(b) CORE GRANTEES OF THE NATIONAL ENDOWMENT FOR DEMOCRACY DEFINED.—In this section, the term ''core grantees of the National Endowment for Democracy'' means the following:

(1) The International Republican Institute (IRI).
(2) The National Democratic Institute (NDI).
(3) The Center for International Private Enterprise (CIPE).
(4) The American Center for International Solidarity (also known as the ''Solidarity Center'').

Mr. FEINGOLD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes 44 seconds remaining.

Mr. FEINGOLD. Mr. President, I reserve the remainder of my time, and I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. 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. LUGAR. I thank the Chair.

I rise to oppose the amendment of the distinguished Senator from Wisconsin. He clearly is a strong proponent and advocate of democracy and has stimulated discussion on these issues as a valued member of the Foreign Relations Committee. The National Endowment for Democracy which was founded in 1983 included the so-called four ''core'' groups from the Republican Party, the Democratic Party, Organized Labor, and the Chamber of Commerce.

That foundation was deliberate. It was not a question of a strange arrangement in which four groups in Washington sequestered the funds for their own benefit. Very clearly, President Reagan and a bipartisan majority of the Congress found that the checks and balances inherent in that debate were very important in making certain that the National Endowment for Democracy was not politicized.

Let me mention that to have competition in which as many as 250 groups interested in democracy compete for money, almost guarantees a substantial bureaucracy to vet all of the points of view and applications. Furthermore, under the worst of circumstances, it does not necessarily bring about a strong bipartisan scrutiny of each other's proposals, quite apart from the scrutiny that organized labor might get from the Chamber of Commerce and vice versa. In fact, the system has worked remarkably well.

I have served as a member of the Board of the National Endowment for Democracy during the past 8 years. I have witnessed the process in which the Board—which is not divorced from the debate in Washington—thinks through those areas of the world that need specific emphasis.

Each of the four core groups is charged with finding proposals and finding specific groups, often in countries that are emerging democracies, to bring forward ways in which democracy might be enhanced. Sometimes it is under very arduous and dangerous circumstances. It is only after the core groups make their proposals, having reviewed them thoroughly, that the staff of the National Endowment for Democracy scrutinize them, ask for amendments, suggest changes, delays or rejection.

Specific members of the Board who have particular expertise in various areas of the world spend a great deal of time pro bono taking a very careful look at those proposals. But finally, each one of us, as Board members, must pass on each and every single one of these grant applications.

On occasion we reject a fair number during a meeting, quite apart from whether a quota of grants has been allocated specifically to the four. Each of the four ''cores'' has the ability and the talents to bring forward remarkable proposals for the advancement of democracy. That has been occurring for the past 16 years.

The Foreign Relations committee has not held hearings on this proposal. It comes literally out of the blue. It may have some merit for another organization at another time, but for this organization the genius was in its initial inception—an opportunity to bring forward proposals that were not coming from the U.S. Government, from the State Department, from the White House, or the National Security Council.

It brought forward proposals from well-defined institutions in our society that are broadly based—members of the Democratic and Republican parties, often elected officials, responsible to their constituents, who are well aware of political currents in the country, and the institutions that characterize our national Chamber of Commerce and the AFL–CIO.

As a matter of fact, the Solidarity movement found resonance with the AFL–CIO. It was the labor movement of our country that brought forward one of the most significant sets of proposals and advocacy.

It is a fact that at the recent 50th anniversary NATO celebration, one of the great honors paid in this city was by the National Endowment for Democracy to Lech Walesa. In many ways, Lech Walesa's leadership, courageous as it was at a turning point in history, was a hallmark of the work of the National Endowment. The checks and balances were at work, because other groups took a look at the labor/Solidarity situation in Poland and wondered whether it was appropriate for the United States Government to be appropriating funds that led to the change of government in that country. On balance, our Government appropriated those funds but the National

Endowment did make the decisions. They were outside the bureaucracy of the Federal Government, outside the politicization that occurs when one party or another gains dominance and a particular type of preferential structure.

I make these points because I believe this is an arrangement that works well. If the wagon isn't broke, we should not try to fix it. The situation is clearly one that does not require any fixing.

There may be institutions in our society that wish we had established a different sort of endowment. I suspect that if Members are prepared to vote for this amendment, it will be a very different National Endowment for Democracy. But I caution Members about the dangers of making these changes. Therefore, I ask for careful consideration by Members. I ask, in fact, consideration of the remarkable work that is now being done by the National Endowment for Democracy and the 16 years of very solid achievement by many great Americans who were outside of our Government, but who participated in boosting democracy through this vehicle.

I ask, therefore, for the defeat of the Feingold amendment. I am hopeful that as the votes are counted tomorrow, the National Endowment will receive a vote of endorsement.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eight minutes 44 seconds.

Mr. FEINGOLD. Mr. President, I yield myself such time as I require at this point.

Let me first say how much regard I have for the Senator from Indiana and enormous respect for his role on the Committee on Foreign Relations, his demeanor, and his knowledge. It is a pleasure to work with him. We disagree on this one.

The Senator from Indiana suggests that this point about the National Endowment for Democracy comes from out of the blue. I have been here long enough to know that year after year the former Senator from Arkansas, Mr. BUMPERS, made several attempts to eliminate the program or change the program. It has been a regular subject of scrutiny in this body, as it should be. I think to suggest that it is a surprise that there would be some oversight of NED is not quite accurate.

What the Senator from Indiana is indicating, of course, is the political parties and business and labor are at the heart of a pluralistic democratic society, that they are the fundamental concepts of American political life. I agree with him. I think it is important that as we endeavor to encourage democratization around the world that we try to include all of these elements of our democracy. But I do not think it should be primarily limited or dominantly limited to these four core grantees.

The Senator from Indiana knows far better than I do the origins of the program. I appreciate his comments about what the thinking was in the beginning, how these groups got together, and how the structure was crucial for the program to begin. I do not dispute that. I am sure there is some validity.

But I think after some 15 years, these groups and these organizations have had time enough to develop their programs so they are ready to fly on their own, that they are ready to compete against other applicants for the funding in a free and fair manner.

The fact that the NED's four core grantees are guaranteed to receive a set amount of funds every year seems to me fundamentally unfair and is a contradiction of our democratic principles, especially when you are talking about guaranteeing private groups taxpayer dollars, which is exactly what this does. Every group that conducts democracy programs should have an equal opportunity to pursue Federal funding for its programs, not just the ones that are so powerfully and politically connected. These four well-connected groups are not the only people in America that know something about political parties or business or labor, but it is only these groups that are guaranteed 65 percent of the grant money from this program. That is almost entirely taxpayers' dollars. To me, a much more appropriate system would be a competitive one.

As I understand it, since the Senator fairly raises the concern about whether the original understanding between these groups would be preserved, I am told that the board itself has representatives of both of the major political parties, as well as of business and labor, and that they are the ones that would be making these decisions.

The Senator from Indiana indicates that this is a situation where something isn't broke so do not fix it. The fact is, in recent years a number of suggestions have been made about ways to help fix the program. There have been some problems. Some of these problems have been fixed. What I am trying to do here is continue the process of fixing it, of improving it.

As I indicated earlier, some 80 percent of this money was once tied up only for these four groups. Now it is lower, but it still represents 65 percent of available grant money. What I am saying is, let us fix it, improve it, over the next 5 years, phasing this down so each year this gets a little smaller. By the time we get to the end of that 5-year period, we have all the money based on a fair competition and still have a board that has representatives of both political parties and of business and labor so there is no real possibility of unfairness or partisanship in this regard.

All of this is offered in the spirit of trying to further improve the program, acknowledging its great worth, acknowledging the many good things that are done. Let's just do a little better job of making sure our taxpayers' dollars are spent in a manner that involves the best interests and the best applicants getting the money.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes 23 seconds.

Mr. FEINGOLD. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I yield back the remainder of my time on the Feingold amendment.

Mr. HUTCHINSON. Mr. President, I rise in support of the State Department authorization bill. Specifically, I would like to commend Chairman HELMS for the inclusion of a number of provisions dealing with China. These provisions closely mirror legislation that I introduced last year and earlier this year as Senate bill 89.

Section 701 of this act contains a number of findings on the human rights situation in China from the State Department's Annual Report on human rights practices. The government of the People's Republic of China continues to commit widespread and egregious abuses of internationally recognized human rights. Its prisons are overflowing with tortured and mistreated citizens who would dare to practice their faiths or exercise a political voice. Religious persecution, crackdowns on political dissent, restrictions on the press, forced labor, forced abortions, repression of people in Tibet and Xinjiang province are, unfortunately, still a part of daily life in China.

In order to shed light on the dark practices of the Chinese government, section 702 of this bill earmarks $2.2 million of money authorized for the Department of State for additional personnel in U.S. embassies and consulates for each of FY2000 and FY2001 to monitor political and economic conditions, particularly human rights. These new personnel, along with the creation of a prison information registry for the People's Republic of China in section 703, will make it all the more difficult for the Chinese government to deny that these abuses persist. With more centralized and accessible information, we will be able to better advocate for the release of these prisoners of conscience or faith.

It is also important that the people of China have access to the truth. The U.S. may have accidentally bombed the Chinese embassy in Belgrade, but it was no accident that the people did not hear President Clinton's repeated apologies. Section 502 of this bill reauthorizes Radio Free Asia, bringing objective reporting to the people of China.

Section 705 strongly condemns the practice of organ harvesting, where organs from executed prisoners are sold

on the black market or where prisoners are executed for their organs. According to our own State Department, ''In recent years, credible reports have alleged that organs from some executed prisoners were removed, sold, and transplanted. Officials have confirmed that executed prisoners are among the sources of organs for transplant but maintain that consent is required from prisoners or their relatives before organs are removed * * * there were credible reports that patients from Taiwan had undergone organ transplant operations on the mainland, using organs removed from executed criminals.'' Where and when organ harvesting is taking place in China, it must be stopped.

Equally horrific is the practice of forcing women to undergo forced abortions or forced sterilization under the Chinese government's population control policies. Women who are pregnant with a second child find themselves and their relatives harassed, fined, and sometimes even have their homes destroyed until they are ultimately forced to undergo an abortion, even in the latest stages of pregnancy. Last June, the House International Relations Subcommittee on International Operations and Human Rights heard testimony of these practices from Gao Xiao Duan, a former administrator of forced abortion, as well as Zhou Shiu Yon, a victim of these policies. I believe that it is only appropriate that Congress act in response to this horrid devaluation of human life. Section 721 restricts visas for any foreign national whom the Secretary of State finds to have been directly involved in the establishment or enforcement of population control policies involving forced abortion or forced sterilization. There is no reason why we should welcome into our country those individuals who have no respect for human life.

United States–China relations are strained at this time. Amidst the whirlwind of controversy, including espionage, campaign donations, the accidental embassy bombing, and a near $60 billion trade deficit, there are some who would argue that we should be quiet about human rights in order to preserve the relationship. But I would argue that human rights must not be swept off our agenda. The Chinese government would like nothing more than for us to censor ourselves. I believe that this legislation will help to ensure that human rights and the defense of internationally recognized standards are kept intact.

Mr. President, there are two additional provisions it this legislation. Section 704 requires the Secretary of State to report within 180 days on the feasibility and utility of establishing an Organization for Security and Cooperation in Asia, modeled after the OSCE. Section 722 requires semiannual reports to Congress on the status of U.S. efforts to support the membership of Taiwan in international organizations that do not require statehood, and the appropriate level of participation in international organizations that do require statehood for full membership. Taiwan's entry into international organizations has been held hostage to China's wishes for too long. In many instances, such as World Trade Organization membership, Taiwan is more qualified to join than China, yet simply because of China's sensitivities, it has been prevented from joining.

In the long run, we must recognize that the Chinese government is a totalitarian regime. This dictatorship does not represent the people of China, rather it abuses them in any way necessary to maintain its power. Similarly, this regime will use any necessary means to expand its power in Asia. If we are to effectively manage these aims, we will need the help of our neglected allies in the region, namely Japan, Taiwan, and South Korea.

We cannot recover stolen information, but we must prevent future theft through increased security at our national labs and other facilities, more stringent background checks, controls on technology transfers, and a Justice Department that does not hinder its own FBI's investigations. We cannot afford to give the Chinese government the means to fulfill its military aims.

We should, however, give the people of China the means to build their own democracy. Increased funding for Radio Free Asia, the Voice of America, democracy building programs, and rule of law initiatives are vital because they represent an engagement with the people of China rather than the regime at the top. We must recognize the limits to engaging an insecure, transient government that is on the wrong side of history.

Finally, Mr. President, industry must do its part and aggressively advocate human rights. Americans doing business in China must be active advocates for human rights, to the Beijing government and to the people. They must not be complicit in slave labor or other human rights violations. The simple fact is that China desperately wants American trade and American business. U.S. companies must use this leverage to advance more than profits.

China is not yet our enemy, but neither is it our friend. Our China-centered foreign policy must be replaced with a regional policy. We must break off this Administration's obsession with trying to acede to Beijing's every demand. Such a policy can only strengthen a regime that will seek to extinguish the flames of democracy abroad as it has done so effectively at home.

MORNING BUSINESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

BUDGET SCOREKEEPING REPORT

Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the budget through June 16, 1999. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Res. 209, a resolution to provide budget levels in the Senate for purposes of fiscal year 1999, as amended by S. Res. 312. The budget levels have also been revised to include adjustments made on May 19, 1999, to reflect the amounts provided and designated as emergency requirements. The estimates show that current level spending is above the budget resolution by $0.4 billion in budget authority and above the budget resolution by $0.2 billion in outlays. Current level is $0.2 billion above the revenue floor in 1999. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $56.1 billion, less than $50 million above the maximum deficit amount for 1999 of $56.0 billion.

Since my last report, dated May 12, 1999, the Congress passed and the President signed the 1999 Emergency Supplemental Appropriations Act (P.L. 106–31). The Congress also cleared for the President's signature the Miscellaneous Trade and Technical Corrections Act (H.R. 435). These actions changed the current level of budget authority, outlays, and revenues.

I ask unanimous consent that the report be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 17, 1999.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the 1999 budget and is current through June 16, 1999. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Res. 209, a resolution to provide budget levels in the Senate for purposes of fiscal year 1999, as amended by S. Res. 312. The budget levels have also been revised to include adjustments made on May 19, 1999, to reflect the amounts provided and designated as emergency requirements. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

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changed the current level of budget authority, outlays, and revenues.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosures.

TABLE 1.—FISCAL YEAR 1999 SENATE CURRENT LEVEL REPORT, AS OF CLOSE OF BUSINESS, JUNE 16, 1999

[In billions of dollars]

	Budget resolution S. Res. 312 (adjusted)	Current level	Current level over/ under resolution
ON-BUDGET			
Budget Authority	1,465.3	1,465.7	0.4
Outlays	1,414.9	1,415.2	0.2
Revenues:			
1999	1,385.9	1,359.1	0.2
1999–2003	7,187.0	7,187.7	0.7
Deficit	56.0	56.1	(1)
Debt Subject to Limit	(2)	5,493.1	(3)
OFF-BUDGET			
Special Security Outlays:			
1999	321.3	321.3	0.0
1999–2003	1,720.7	1,720.7	0.0
Social Security Revenues:			
1999	441.7	441.7	(1)
1999–2003	2,395.6	2,395.5	−0.1

[1] Less than $50 million.
[2] Not included in S. Res. 321.
[3] Not applicable.

Note.—Current level numbers are the estimated revenue and direct spending effects of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest information from the U.S. Treasury.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE FISCAL YEAR 1999 ON-BUDGET SENATE CURRENT LEVEL REPORT, AS OF CLOSE OF BUSINESS, JUNE 16, 1999

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues			1,359,000
Permanents and other spending legislation	919,197	880,664	
Appropriation legislation	820,578	813,987	
Offsetting receipts	−296,825	−296,825	
Total previously enacted	1,442,950	1,397,826	1,359,099
Enacted this session:			
1999 Emergency Supplemental Appropriations Act (P.L. 106–31)	11,348	3,677	
Pending signature:			
1999 Miscellaneous Trade and Technical Corrections Act (H.R. 435)			5
Entitlements and mandatories:			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	11,393	13,661	
Totals:			
Total Current Level	1,465,691	1,415,164	1,359,104
Total Budget Resolution	1,465,294	1,414,916	1,358,919
Amount remaining:			
Under Budget Resolution			
Over Budget Resolution	397	248	185

Note.—Estimates include the following in emergency funding: $34,226 million in budget authority and $16,802 million in outlays.

Source: Congressional Budget Office.

COMPREHENSIVE TEST BAN TREATY

Mr. DORGAN. Mr. President, since I have a few minutes, I will speak about the Comprehensive Nuclear Test Ban Treaty.

There was a piece in today's Washington Post which caught my eye, written by Mr. Paul Nitze, a former arms control negotiator and ambassador-at-large in the Reagan administration. It was coauthored by another gentleman. They made this point:

Approval of the Comprehensive Nuclear Test Ban Treaty by the Senate is essential in order for the United States to be in the strongest possible position to press for the early enforcement of this vital agreement. Failure to act will undercut our diplomatic efforts to combat the threat from the proliferation of nuclear weapons.

I admit, I am not an expert in this area. I am not on the relevant committees, but I take a great interest in the question of the proliferation of nuclear weapons and delivery systems for nuclear weapons.

Nuclear weapons are the most destructive weapons known to mankind, the most destructive weapons that have ever been developed on this Earth. There are numerous reasons why nations in this world seek to develop nuclear weapons. They are considered by some nations as a measure of their standing and prestige in the world. Others view them as the ultimate insurance policy. But, in fact, the proliferation of nuclear weapons and the sheer number of nuclear weapons make this a pretty unsafe world.

The proposition has been, going back to President Eisenhower's time, that we ought to achieve a treaty banning the testing of nuclear weapons. In May of 1961, President Eisenhower said:

Not achieving a test ban would have to be classed as the greatest disappointment of any administration, of any decade, of any time, and of any party.

President Kennedy's speech at American University 36 years ago addressed the need for a Comprehensive Test Ban Treaty. He said:

A test ban would help check the spiraling arms race in one of its most dangerous areas.

We must check the spiraling arms race. Since the Eisenhower and Kennedy administrations, the leaders of this Nation have worked and labored with other countries to fashion an agreement that would ban further testing of nuclear weapons.

Imagine their satisfaction if they could know that today 152 nations have signed such an agreement, including China and Russia. Although 152 nations have signed such an agreement, we have not yet acted on that agreement in the Senate, and it is my profound hope that sometime in the near future, in the next weeks or the next couple of months, in this summer of 1999, that the Senate will review, debate and vote on the Comprehensive Test Ban Treaty.

I have spoken a couple of times in this Chamber on this issue. I am not critical of anyone. There are strongly held views. I do not even know how the vote would go if we had this vote. But I feel very strongly we should have this debate and vote.

I have in this desk a reminder of the danger that existed in this country during the cold war that just ended with the old Soviet Union. I ask unanimous consent to show it to my colleagues.

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

Mr. DORGAN. Mr. President, this is a vial filled with chopped up copper. This copper came from the wiring of a nuclear submarine the Soviet Union used to operate on the high seas with missiles and warheads pointed at the United States. This submarine is gone. Its wiring has been chopped up. It was done so under an arms control agreement. We did not sink it. It was dismantled under an arms control agreement.

We must continue to work in every way to make progress in nonproliferation agreements and test ban treaties, and one of those steps of progress, I hope, with the cooperation of all our colleagues, will be to debate the Comprehensive Test Ban Treaty in the next week, 2 weeks, month or 2 months, in the summer of 1999.

Mr. AKAKA. Mr. President, I rise to support Senate consideration of the Comprehensive Test Ban Treaty and to request unanimous consent that a June 21, 1999, Washington Post article written by Paul H. Nitze and Sidney D. Drell, be printed in the RECORD following my remarks. This article advocates the prompt ratification of the Comprehensive Test Ban Treaty.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1.)

Mr. AKAKA. The United States initially led the global effort to strengthen nuclear nonproliferation when we signed this treaty on September 24, 1996; however, since that time, the Senate has not taken the necessary steps towards ratification. Without the Senate's expeditious approval of this treaty, the United States will be unable to assume a leadership position at the CTBT review conference this September. We will also be undercut in our efforts to urge other countries to ratify this agreement.

Both Ambassador Nitze and Mr. Drell have a long and distinguished history of service to both Republican and Democratic presidents. President Reagan awarded Ambassador Nitze the Presidential Medal of Freedom. They both believe that America needs to lead the international effort to halt nuclear proliferation by ratifying the Comprehensive Test Ban Treaty. I urge my colleagues to read this important article. As the authors note, ''failure to ratify the CTBT would have to be regarded as the greatest disappointment of any Senate, if any time, of any party.''

EXHIBIT 1

[From the Washington Post, June 21, 1999]

THIS TREATY MUST BE RATIFIED

[By Paul H. Nitze and Sidney D. Drell]

For more than five decades, we have served in a variety of foreign policy, national security and intelligence positions for both Republican and Democratic administrations. A common thread in our experience is that our national interest is best served when America leads. When America hesitates, opportunities to improve our security and lost, and our strategic position suffers. This year, America has an opportunity to lead a global

effort to strengthen nuclear nonproliferation by ratifying the Comprehensive Test Ban Treaty (CTBT).

This fall, a review conference will meet to discuss ways to bring the CTBT into effect even if it has not been approved by all 44 nuclear-capable nations (i.e., those states with nuclear reactors for research or power). The United States was the first nation to sign the CTBT in September 1996; 151 nations have now followed that lead. The U.S. Senate, however, has refused to consider ratification of the treaty, and only those nations that have ratified it will have a seat at this fall's conference. Approval of the CTBT by the Senate is essential in order for the United States to be in the strongest possible position to press for the early enforcement of this vital agreement. Failure to act will undercut our diplomatic efforts to combat the threat from the proliferation of nuclear weapons.

The president rightly has referred to the CTBT as the ''longest-sought, hardest-fought prize in the history of arms control.'' President Eisenhower was the first American leader to pursue a ban on nuclear testing as a means to curb the nuclear arms race. Today, such a ban would constrain advanced and not-so-advanced nuclear weapons states from developing more sophisticated and dangerous nuclear weapons capabilities.

This is particularly important in South Asia. Last year, both India and Pakistan conducted nuclear tests, threatening a dangerous escalation of their nuclear arms competition. Both countries now have expressed a commitment to adhere to the CTBT this year. U.S. ratification would remove any excuse for inaction on the part of these nations and would strengthen their resolve.

The CTBT also fulfills a commitment made by the nuclear powers in gaining the agreement of 185 nations to extend indefinitely the Nuclear Nonproliferation Treaty in 1995. The NPT remains the cornerstone of the worldwide effort to limit the spread of nuclear weapons and reduce nuclear danger.

We strongly embrace President Reagan's vision of a world free of nuclear weapons. The administration needs to engage Russia on deep reductions in nuclear forces, despite the disruption in our bilateral relations resulting from the crisis in the Balkans. In the meantime, the United States will be able to maintain the safety and reliability of its own stockpile through the Department of Energy's science-based stockpile stewardship program. Our confidence in this program underpins our judgment that there is no technical reason why the CTBT is not the right thing to do.

President Reagan's maxim—trust but verify—is still true today. With the CTBT, the United States will gain new tools to assess compliance with a ban on nuclear testing—including the right to request a short-notice, on-site inspection if we had evidence that a test might have occurred. Combined with the treaty's extensive international monitoring regime and our own intelligence resources, the CTBT is effectively verifiable.

The Senate has an obligation to review expeditiously major treaties and agreements entered into by the Executive so that the world can be sure of America's course. When President Reagan signed the INF Treaty in December 1987, which eliminated an entire class of missiles, hearings in the Senate Foreign Relations Committee began within weeks, and the Senate voted to approve the treaty within six months. In comparison, the CTBT was signed by President Clinton more than 2½ years ago but still awaits its first hearing.

In May 1961, President Eisenhower said that not achieving a nuclear test ban ''would have to be classed as the greatest disappointment of any administration—of any decade—of any time and of any party.'' Similarly, failure to ratify the CTBT would have to be regarded as the geatest disappointment of any Senate, of any time, of any party. We urge the Senate to ratify the CTBT now.

Paul H. Nitze is a former arms control negotiator and was an ambassador-at-large in the Reagan administration. Sidney D. Drell is an adviser to the federal government on national security issues.

WHY I OPPOSE THE STEEL QUOTA BILL

Mr. GRASSLEY. Mr. President, I rise today in strong opposition to both cloture on the steel quota bill, and to the bill itself.

I oppose this dangerous and misguided legislation for three reasons.

First, the steel quota bill is really a phony bill of goods. It does not do what it promises. It will not restore the vitality of troubled elements of the U.S. steel industry. That's because foreign imports have little to do with the problems facing the American steel industry.

Why? Because the American steel industry is much more efficient than at almost any time in our past history. Fewer steel workers are producing more steel today than they were 10 years ago. In 1987, when the domestic industry produced 77 million short tons, 163,000 workers were employed in the steel industry. In 1997, 10 years later, when the domestic industry produced 106 million tons, employment was 112,000 workers. During that 10 year span, our steel mills made 29 million more tons with 51,000 fewer workers.

Using the logic behind this quota legislation, the more efficient our steel industry becomes, the more it requires protection from foreign imports. But in fact, the opposite is true. The more protection an industry gets, the more inefficient it becomes. That is not good for our economy, or for American consumers. During the next few years, we may see steel employment fall even further, perhaps by as much of 5,000 workers per year, as inefficient integrated mills are closed. New, more efficient minimills will take up any slack. All of this will happen whether or not steel quotas are imposed.

Who will really benefit from the quota bill?

According to the Institute For International Economics, one of this country's most distinguished and highly regarded think tanks, few steel workers will benefit. But steel importers and profitable, efficient steel makers will win big.

The Institute's report states:

> The annual costs to American households for each steel job saved would exceed $800,000. But steel workers would receive less than 20 percent of this huge sum; lucky firms would collect more than 80 percent of the jackpot. . . . Quotas will enrich lucky steel importers (often those with the best political connections) and efficient steel producers (they are doing well enough already—11 of the 13 largest mills earned more than $1 billion in 1998). . . .

The United States Senate should not help enrich a few lucky importers. It should not give windfalls to companies earning a billion dollars a year.

I have the deepest concern for any American who loses his or her job for any reason. It is a terrible, wrenching thing to lose a job. It affects families as well as communities. We must help where we can, through programs like trade adjustment assistance, that help displaced workers through job retraining and placement assistance. But the one thing we must not do is react in haste, in a way that will kill far more jobs than it will ever save, and in a way that will reward healthy companies with windfall profits.

The second reason I oppose the steel quota bill is that it flat-out violates our WTO international trade obligations.

There are some who claim this is not the case. But, I want to read the exact words of Article 11 of the GATT. This rule is part of the WTO rules that we and 133 other nations are committed to observe:

> No prohibitions or restrictions other than duties, taxes, or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

We helped write that law. We demand that our trading partners observe it. We defend it when other countries try to keep our goods out of their markets. And most of the time, we win these cases.

Now, I'm not a lawyer. Maybe that's my problem. Perhaps I'm not clever enough to figure out where Article 11 says that quotas are OK. It seems pretty clear to me. It says that you can't have restrictions other than duties, taxes, or other charges. But Article 11 goes even farther than banning quotas. It says that you can't have any type of government measure that leads to the imposition of a quota.

One important panel decision, the GATT panel on Semiconductors, affirmed this broad interpretation in 1988. It said that Article 11, unlike other GATT provisions, does not refer solely to laws or regulations. It has an even broader application, and refers to all ''measures'' that restrict exports.

There are some exceptions to Article 11's broad ban on any measures restricting exports. But the most relevant of these exceptions, the so-called Safeguard exception, does not apply because there is no proof that our domestic steel industry has suffered serious injury from import competition. Moreover, safeguard actions usually involve imposing increased customs duties, rather than quotas. Yes, there has been illegal dumping of steel by some countries into the United States. But the surge of that dumped steel has largely been stopped. And even during the highest point last year of the so-called

steel crisis, 11 of the 13 largest steel mills were profitable, earning collective profits of more than $1 billion. So much for serious injury.

The final reason I oppose the quote bill—and the most important reason—is that it will invite retaliation and perhaps spark a trade war that no one would win, and in which everyone would lose.

We are approaching the 69th anniversary of the Hawley-Smoot Tariff Act of 1930. This legislation, which was enacted in July 1930, was one of the major mistakes of the Hoover Administration and the Seventy-first Congress.

The Hawley-Smoot Tariff Act also started out with good intentions. Its aim was to help the American farmer with a limited, upward revision of tariffs on foreign produce. But it had the opposite result. It strangled foreign trade. It deepened and widened the severity of the Depression. Other countries faced with a deficit of exports to pay for their imports responded by applying quotas and embargoes on American goods.

I went back to the historical record to see what happened to United States agricultural exports when other countries stopped buying our agricultural products after we enacted that tariff. I was shocked by the depth and the severity of the retaliation.

In 1930, the United States exported just over $1 billion worth of agricultural goods. By 1932, that amount had been cut almost in half, to $589 million. Barley exports dropped by half. So did exports of soybean oil. Pork exports fell 15 percent. Almost every American export sector was hit by foreign retaliation, but particularly agriculture. As United States agricultural exports fell in the face of foreign retaliation, farm prices fell sharply, weakening the solvency of many rural banks. Their weakened condition undermined depositor confidence, leading to depositor runs, bank failures, and ultimately, a contraction in the money supply.

Farm prices for many agricultural products are already at rock-bottom levels. Can we in good conscience put so much of our economy at risk?

In 1998 the United States exported agricultural products worth more than $53 billion dollars, accounting for one-third of America's total agricultural production, and nearly one million jobs. Agriculture is perhaps the most vulnerable sector of our economy to foreign retaliation, and our trading partners know it.

If you think the Depression is ancient history, and that retaliation against agriculture is a thing of the past, just look at our recent history.

In 1995, when the United States threatened to impose 100% tariffs on imports of Japanese luxury cars, Japan appealed the case to the WTO and stated that it might retaliate imposing duties on U.S. exports of agriculture products.

In 1983, China temporarily stopped buying U.S. wheat in retaliation for the Reagan Administration's unilateral imposition of quotas on its textile and apparel exports after negotiations to renew a bilateral agreement under the Multi-Fiber Arrangement broke down.

In 1985, the European Community raised tariffs on U.S. lemons and walnuts in response to U.S. retaliation against subsidized EC pasta exports.

Even though we have made vast progress in managing our trade relationships since the passage of the Hawley-Smoot Tariff Act, in many ways the world is still just one trade war away from a global economic crisis.

In 1930, 1,000 of the nation's leading economists signed a letter urging the President and the Congress to not enact the infamous legislation we now know as the Smoot-Hawley Tariff. They were ignored. Politics carried the day. American paid a steep price. Let us not repeat the mistakes of the Seventy-first Congress. The quota bill is bad trade policy. It is bad for agriculture. It is bad for America.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, June 18, 1999, the Federal debt stood at $5,586,894,742,812.97 (Five trillion, five hundred eighty-six billion, eight hundred ninety-four million, seven hundred forty-two thousand, eight hundred twelve dollars and ninety-seven cents).

One year ago, June 18, 1998, the Federal debt stood at $5,493,496,000,000 (Five trillion, four hundred ninety-three billion, four hundred ninety-six million).

Fifteen years ago, June 18, 1984, the Federal debt stood at $1,518,979,000,000 (One trillion, five hundred eighteen billion, nine hundred seventy-nine million).

Twenty-five years ago, June 18, 1974, the Federal debt stood at $472,871,000,000 (Four hundred seventy-two billion, eight hundred seventy-one million) which reflects a debt increase of more than $5 trillion—$5,114,023,742,812.97 (Five trillion, one hundred fourteen billion, twenty-three million, seven hundred forty-two thousand, eight hundred twelve dollars and ninety-seven cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3827. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure to Directed Fishing for Pollock in Statistical Area 630 in the Gulf of Alaska'', received June 16, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3828. A communication from the Assistant Administrator for Weather Services, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Request for Proposals (for the Collaborative Science, Technology, and Applied Research {CSTAR} Program)'', received June 16, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3829. A communication from the Director, Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Pension Benefits'' (RIN2900–AJ50), received June 17, 1999; to the Committee on Veterans' Affairs.

EC–3830. A communication from the Director, Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Direct Service Connection (Post-traumatic Stress Disorder)'' (RIN2900–AI97), received June 17, 1999; to the Committee on Veterans' Affairs.

EC–3831. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3832. A communication from the Chairman, Farm Credit System Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3833. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hydrogen Peroxide; Exemption from the Requirement of a Tolerance'' (FRL #6083–9), received June 17, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3834. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology Requirements for Major Sources of Nitrogen Oxides'' (FRL #6362–2), received June 17, 1999; to the Committee on Environment and Public Works.

EC–3835. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Stay of Action on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport'' (FRL #6364–4), received June 17, 1999; to the Committee on Environment and Public Works.

EC–3836. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the

report of a rule entitled ''Change in Official or Senior Executive Officer in Credit Unions that are Newly Chartered or are in a Troubled Condition'' (RIN3133–AC03), received June 17, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3837. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Organization and Operations of Federal Credit Unions; Fidelity Bond and Insurance Coverage for Federal Credit Unions; Requirements for Insurance'', received June 17, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–3838. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to China; to the Committee on Banking, Housing, and Urban Affairs.

EC–3839. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Securities Investor Protection Corporation for calendar year 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–3840. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled ''Vaccine Injury Compensation Program (VICP) Amendments of 1999''; to the Committee on Finance.

EC–3841. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, a report relative to the operation of the U.S. trade agreements program for calendar year 1998; to the Committee on Finance.

EC–3842. A communication from the Federal Co-Chairman, Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1998, through March 31, 1999; to the Committee on Governmental Affairs.

EC–3843. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation relative to non-excess property in the Department; to the Committee on Armed Services.

EC–3844. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–83, ''Lowell School, Inc., Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 1999''; to the Committee on Governmental Affairs.

EC–3845. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–84, ''Closing and Dedication of a Public Alley in Square 275, S.O. 95–62, Act of 1999''; to the Committee on Governmental Affairs.

EC–3846. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–85, ''Peoples Involvement Corporation Equitable Real Property Tax Act of 1999''; to the Committee on Governmental Affairs.

EC–3847. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–86, ''Metropolitan Police Department Excepted Service Sworn Employees Compensation System Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–3848. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–87, ''Moratorium on the Issuance of New Retailer's Licenses Class B Temporary Amendment Act of 1999''; to the Committee on Governmental Affairs.

EC–3849. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–91, ''O Street Wall Restoration Temporary Act of 1999''; to the Committee on Governmental Affairs.

EC–3850. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–82, ''Mount Horeb Plaza Symbolic Street Designation Act of 1999''; to the Committee on Governmental Affairs.

EC–3851. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''General Services Administration Acquisition Regulation; Reissuance of 48 CFR Chapter 5'' (RIN3090–AE90), received June 18, 1999; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–207. A resolution adopted by the Commission of Knox County, Tennessee relative to the Land and Water Conservation Fund; to the Committee on Appropriations.

POM–208. A concurrent resolution adopted by the Legislature on the State of West Virginia relative to Jennings Randolph; ordered to lie on the table.

HOUSE CONCURRENT RESOLUTION NO. 58

Whereas, Jennings Randolph was born in Salem, West Virginia, on March 8, 1902, attended public schools in Harrison County, graduated from Salem Academy in 1920 and Salem College in 1924, married Mary Katherine Babb in 1933 with whom he had two sons, Jennings Jr. ''Jay'' and Frank, and made his family's home in Elkins, West Virginia; and

Whereas, Jennings Randolph served in professional capacities throughout various times in his career as a newspaperman, magazine editor, college professor, university dean, airline executive, transportation officer, and director of numerous organizations for education, business, civic and service programs; and

Whereas, Jennings Randolph was first elected to the United States House of Representatives in 1932, a body in which he served for fourteen consecutive years; and

Whereas, Jennings Randolph was first elected to the United States Senate in 1958, a body in which he served until his retirement from the Congress in January, 1985; and

Whereas, Jennings Randolph died on May 8th 1998, in St. Louis, Missouri, at the age of 96; and

Whereas, Jennings Randolph's numerous accomplishments during his lengthy and distinguished tenure in the United States Congress include: builder of the New Deal, father of the 26th Amendment to the Constitution giving 18-year-olds the right to vote, leader in aeronautics authoring legislation that created the National Air and Space Museum on the Mall in Washington, D.C., advocate for the environment, aid to victims of black lung and disabilities, pioneer of the Appalachian Regional Commission; fighter for human and civil rights, founder of the National Peace Academy and leader in the development of our national infrastructure; and

Whereas, Among all his achievements, Jennings Randolph is best known for and universally regarded as the father of the modern Interstate Highway System in the United States; and

Whereas, For nearly three-fourths of our existence as a state, West Virginia was blessed with the talent, intellect, enthusiasm, compassion and dedication of Jennings Randolph, native son of these mountains who rose to national prominence while constantly striving to better the lives of his fellow West Virginians; and

Whereas, Each and every citizen of West Virginia, whether knowingly or not, has benefited from the efforts put forth by Jennings Randolph, whose accomplishments improved the lives of millions of Americans; and

Whereas, As we come to the end of the 20th century and as West Virginia comes to the end of its 136th year of statehood, it is fitting and proper that today, on the anniversary of his birth, the West Virginia Legislature, on behalf of every citizen of this state, honors and celebrates the life of one of the greatest men of our century, Jennings Randolph; therefore, be it

Resolved by the Legislature of West Virginia: That a moment of silence be offered in this State Capitol as an expression of our utmost regard for a man of charming grace, dedication, honor and unequaled accomplishment as we remember the life of this most honored West Virginian, Jennings Randolph; and be it

Further resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the members of West Virginia's congressional delegation, to the President of Salem-Teikyo University, and to the sons of Jennings Randolph.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LOTT (for Mr. MCCAIN), from the Committee on Commerce, Science, and Transportation, with amendments:

S. 305. A bill to reform unfair and anticompetitive practices in the professional boxing industry (Rept. No. 106–83).

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 604. A bill to direct the Secretary of Agriculture to complete a land exchange with Georgia Power Company.

By Mr. ROTH, from the Committee on Finance, without amendment:

S. 1254. An original bill to establish a comprehensive strategy for the elimination of market-distorting practices affecting the global steel industry, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAMS:

S. 1245. A bill to allow access for researchers to Continuous Work History Sample data of the Social Security Administration; to the Committee on Finance.

By Mr. TORRICELLI (for himself, Mr. LIEBERMAN, Mr. DODD, and Mr. LAUTENBERG):

S. 1246. A bill to amend title 4 of the United States Code to prohibit the imposition of discriminatory commuter taxes by political subdivisions of States; to the Committee on Finance.

By Mr. GRAMS:

S. 1247. A bill to develop and apply a Consumer Price Index that accurately reflects the cost-of-living for older Americans who receive social security benefits under title II

of the Social Security Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LOTT (for Mr. MCCAIN (for himself and Mr. HOLLINGS)):

S. 1248. A bill to correct errors in the authorizations of certain programs administered by the National Highway Traffic Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. TORRICELLI:

S. 1249. A bill to deny Federal public benefits to individuals who participated in Nazi persecution; to the Committee on the Judiciary.

By Mr. ROCKEFELLER:

S. 1250. A bill to amend title 38, United States Code, to ensure a continuum of health care for veterans, to require pilot programs relating to long-term health care for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1251. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Miami, Florida metropolitan area; to the Committee on Veterans' Affairs.

By Mr. DORGAN (for himself, Mr. BINGAMAN, and Mr. BYRD):

S. 1252. A bill to provide parents, taxpayers, and educators with useful, understandable school reports; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE (for himself, Mr. AKAKA, Mr. HOLLINGS, Mr. KERRY, Mr. BREAUX, and Mrs. BOXER):

S. 1253. A bill to authorize the Secretary of Commerce, through the National Oceanic and Atmospheric Administration, to provide financial assistance for coral reef conservation projects, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH:

S. 1254. An original bill to establish a comprehensive strategy for the elimination of market-distorting practices affecting the global steel industry, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. ABRAHAM (for himself, Mr. TORRICELLI, Mr. HATCH, and Mr. MCCAIN):

S. 1255. A bill to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE:

S. 1256. A bill entitled the ''Patients' Bill of Rights''; read the first time.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMS;

S. 1245. A bill to allow access for researchers to Continuous Work History Sample data of the Social Security Administration; to the Committee on Finance.

SOCIAL SECURITY'S CONTINUOUS WORK HISTORY SAMPLE (CWHS)

Mr. GRAMS. Mr. President, I want to take this opportunity to introduce another Social Security-related bill.

This bill would give all researchers access to Social Security's Continuous Work History Sample (CWHS).

The access to the CWHS is critical for the general public and other government agencies to fully evaluate the working of the current system and estimate the budgetary impact of any changes that need to be made in the future.

The CWHS is a key set of data which holds information on the work and benefit histories of Social Security program participants. Until 1976, this data was widely available to federal, state agencies, universities and private research groups.

There is no evidence of any misuse of the CWHS in the period before 1976.

The 1976 Tax Reform Act denied access to CWHS data to almost all users outside of the Internal Revenue Service and the Social Security Administration.

Although it later extended the access to a few units of government agencies, private researchers are still denied access. The excuse was to protect privacy.

However, the IRS is covered by the same law. But it has interpreted the law to enable it to make samples of individual tax returns available to researchers on the basis that identifiers must be removed and the research must be bona fide.

Mr. President, if the IRS can make its data available to researchers, why cannot the SSA do the same?

Last year, during a Budget Committee hearing, I asked SSA Commissioner Apfel about this. Here is his reply:

> The SSA supports, in principle, the idea of making data from our administrative records available to researchers in order to better inform the ongoing debate on the future of Social Security.

The National Research Council and other academic institutions also support to give researchers access to the CWHS.

My legislation would amend the 1976 Tax Reform Act to allow bona fide researchers access to CWHS data, and at the same time protect the confidentiality and privacy of program participants.

It also requires researchers to sign a legally binding agreement that restricts use of the data to the research and forbids the disclosure of information that could be used to identify individuals.

Mr. President, this is ''good government'' legislation. Allowing access to CWHS data will open the entire Social Security system to outside scrutiny.

It will significantly improve oversight of the program and enable Americans to know everything they need to know about how the system operates and what changes are needed to make it solvent.

I, therefore, urge my colleagues to support these legislative initiatives.

By Mr. TORRICELLI (for himself, Mr. LIEBERMAN and Mr. DODD):

S. 1246. A bill to amend title 4 of the United States Code to prohibit the imposition of discriminatory commuter taxes by political subdivisions of States; to the Committee on Finance.

TAX FAIRNESS FOR COMMUTERS ACT

Mr. TORRICELLI. Mr. President, I rise today with my colleagues from Connecticut, Senator LIEBERMAN and Senator DODD to introduce the Tax Fairness for Commuters Act. Last month, Governor Pataki of New York signed legislation to ''repeal'' the New York City commuter tax. However, the legislation signed into law only repealed the tax for residents of New York. The over 300,000 residents of Connecticut and New Jersey will still be subjected to this tax.

I believe that the lawsuit jointly undertaken by New Jersey and Connecticut along with the city of New York and affected commuters will ultimately prevail and this attempt will be proven unconstitutional. However, I am concerned about the attempted precedent that has been set.

Our legislation will remove the temptation of any State or any city to impose higher taxes on non-residents than it does on residents. The bill is very simple. It says that a State or city may not impose a higher tax on the income earned by non-residents than it does on residents. I hope that each Senator, no matter what part of the country they are from, will recognize the inherent danger in discriminatory taxes of this nature and will support this effort.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON IMPOSITION OF DISCRIMINATORY COMMUTER TAXES BY POLITICAL SUBDIVISIONS OF STATES.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

''§ 116. Prohibition on imposition of discriminatory commuter taxes by political subdivisions of States

''A political subdivision of a State may not impose a tax on income earned within such political subdivision by nonresidents of the political subdivision unless the effective rate of such tax imposed on such nonresidents who are residents of such State is not less than such rate imposed on such nonresidents who are not residents of such State.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

''116. Prohibition on imposition of discriminatory commuter taxes by political subdivisions of States.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

Mr. LIEBERMAN. Mr. President, I rise today to join my distinguished colleague from New Jersey, Senator TORRICELLI, and my colleague from Connecticut, Senator DODD, to introduce legislation that would amend title 4 of the United States Code to prohibit the imposition of discriminatory commuter taxes by political subdivisions of States.

On May 26, 1999, New York Governor George Pataki signed into law a repeal of the commuter tax for people who work in New York City but live outside of the five boroughs. This repeal only applies to residents of New York state; it does not include the 330,000 people from New Jersey and Connecticut who work in New York City.

In 1966, Governor Nelson Rockefeller and Mayor John Lindsay initiated the commuter tax. To the present day, New York City has enforced the 0.45% tax on commuters' income much like a payroll tax. Estimates show that this tax generates $360 million a year in revenue that helps to supports services such as police and fire protection and emergency medical care. New York state residents contribute $210 million a year in commuter tax revenue, while New Jersey and Connecticut residents account for the remaining $150 million in tax revenue. The commuter tax repeal eliminates more than $200 million from New York City's annual tax revenue.

New York State's unilateral, partial repeal of the commuter tax only for its residents is an unfortunate development after 33 years of assessing the tax on all commuters who work in New York City. This is an unprecedented action on the part of a legislative body and state executive to repeal a tax on its residents but maintain it for nonresidents. The imposition of taxes only on out-of-state commuters could violate the equal protection clause of the 14th Amendment. Limited repeal discriminates against out-of-state commuters and inhibits interstate commerce and travel.

Approximately 86,000 of my constituents work in New York City, contributing an estimated $100 million in commuter tax revenue; 244,000 New Jersey constituents account for an estimated $50 million in tax revenue that goes to New York City. According to Connecticut Attorney General Richard Blumenthal, the taxable income of Connecticut commuters is lower than non-commuters because of this tax that commuters pay to New York. The commuter tax essentially draws away millions of dollars in tax revenue from Connecticut and gives them to New York City to subsidize services and other public works.

This Connecticut and New Jersey subsidy to New York City is unacceptable. If a commuter tax is imposed all commuters—whether they are from Newark, New Rochelle, or New Haven—are equally responsible to bear it. There is no reason that our commuter constituents should be paying for New York City services while New York state residents are not.

Senator TORRICELLI and I are joined by others who have taken action to force a repeal of the law passed by the New York state legislature. Two attorneys, Richard Swanson and Thomas Igoe, filed a complaint in Manhattan Supreme Court that seeks class-action status for other commuters from New Jersey and Connecticut. Swanson from New Jersey and Igoe from Connecticut are colleagues at the Manhattan law firm of Thelen, Reid & Priest. Moreover, Governor Rowland of Connecticut and Governor Whitman of New Jersey plan to challenge the constitutionality of the commuter tax repeal bill in federal courts. New York City Mayor Rudolph Giuliani also intends to file a lawsuit against the state, although his claim stands on different grounds than the ones brought forth by Governors Whitman and Rowland.

The partial commuter tax repeal bill that Governor Pataki signed includes a provision that says that the tax will be repealed for all commuters if a partial repeal is found unconstitutional in federal courts. Even if the lawsuits succeed in their legal challenges, we still need legislation that will prevent state governments from discriminating against nonresidents and imposing unfair commuter taxes in the future.

By Mr. GRAMS:

S. 1247. A bill to develop and apply a Consumer Price Index that accurately reflects the cost-of-living for older Americans who receive Social Security benefits under title II of the Social Security Act; to the Committee on Banking, Housing, and Urban Affairs.

FAIR COST OF LIVING ADJUSTMENT FOR SENIORS ACT OF 1999

Mr. GRAMS. Mr. President, 1999 has been declared the ''International Year of the Older Person'' by the United Nations.

In honor of this special tribute, I rise today to introduce legislation specially designed to provide fair and accurate Social Security benefits in order to help all Americans achieve retirement security.

I believe senior citizens in this country have made, and continue to make, valuable contributions to their families, communities and to society as a whole.

One of the most troubling aspects of the debate over Social Security's future has been attempts to frighten older Americans. Many seniors fear that they may lose their Social Security benefits.

To ease their fears and worries, I introduced legislation last month that would require the government to legally guarantee seniors full Social Security benefits plus accurate COLA adjustments.

In essence, this bill would give older Americans property rights to their Social Security benefits, which they do not have now. It is no wonder they now worry about loss of benefits.

However, an accurate method for how we calculate Social Security remains a subject of debate.

In order to understand this issue, Mr. President, we need to go back and take a closer look at how seniors' COLAs are currently calculated by the government.

To compensate for the effects of inflation, Congress passed legislation in 1972 to give Social Security beneficiaries an automatic cost of living adjustment, or a COLA.

This COLA is based on the Consumer Price Index (CPI) as tracked and surveyed by the Bureau of Labor Statistics (BLS) under the Labor Department.

Currently, the BLS produces two official CPIs, one for All Urban Consumers called the CPI–U, and one for Urban Wage Earners and Clerical Workers, called the CPI–W.

The CPI–U represents the spending habits of about 80 percent of the population of this nation, and the CPI–W is a subset of the formula, representing about 32 percent of the total population. The government uses the later the CPI–W to measure COLAs for Social Security benefits.

But clearly, this does not reflect the older American population and their consumption habits. Spending habits of urban wage earners cannot be equated with those seniors. Nevertheless, the government continues to use it calculating COLAs for Social Security beneficiaries.

Back in 1987, after considerable criticism of the CPI–W and its applicability to senior consumers, Congress amended the Older Americans Act of 1965 to require the BLS to develop an experimental CPI that would better reflect the buying habits of consumers 62 years of age or older. This is now known as the CPI–E.

The CPI–E places greater weight on the cost of such goods and services as medical care and prescription drugs, areas where seniors spend more than other Americans.

Although it's still experimental, the preliminary finding shows annual increases in Social Security benefit payments received by older Americans are not keeping pace with inflation on the goods and services on which they spend much of their money.

Over the past 15 years, goods purchased by seniors increased 6 percentage points more than goods purchased by the general public. Their medical costs skyrocketed 156 percent. The main reason that the CPI–E has been higher than the other two CPIs.

My concern is, as inflation on medical and pharmaceutical goods continues to rise, without a fair COLA increase, older Americans' hard-earned Social Security benefits are worth less and less. Their purchasing power will continue to diminish.

Mr. President, that's why I am introducing legislation today to prevent that from happening. My legislation is simple and straightforward. It first calls for the establishment of a CPI Review Committee made up of well-known economists who have expertise in the field, plus representatives of our senior citizens population.

The Committee will be given the task of studying how to analyze and improve the CPI–E method, make recommendations, and form an implementation plan to produce a CPI that accurately reflects the senior population

and their consumption that will be used to determine the Social Security COLA each year.

Appointing economic professionals will de-politicize this issue, and allow us to make sound policy based on merits rather than on political consideration.

This is also consistent with the measures recommended by the Advisory Commission to Study the Consumer Price Index, or the Boskin Commission, which calls for Congress to establish an independent committee or commission of experts to review progress in developing a new system of measuring the overall cost of living adjustments.

Within a year, the Committee I recommend is required to complete its work. A pilot program will test the accuracy of the CPI–E over a 3 year period by using improved and recommended methods.

However, I must point out that the experimental CPI–E currently computed by the BLS has limitations. For instance, the number of consumer units was relatively small, only 19 percent of the total sample.

Expenditure weights used in the construction of the CPI–E have a higher sampling error than those used for larger populations.

That's the reason that my legislation specifically instructs the Committee to remove this and other major limitations. To construct an improved CPI–E that is more scientific, accurate and representative of older Americans' spending habits.

We had the right idea in 1987. My legislation will improve on that law after we've had some time to analyze it.

Now, Mr. President, I know some of my colleagues will raise questions about this bill.

First, they are going to say, what about the issue of cost? Mr. President, it is perhaps true that moving from the CPI–W to the improved CPI–E to determine Social Security COLA increases may increase federal spending.

As a consistent fiscal conservative, I am concerned about the budgetary impact. I believe we must exercise caution and discipline on how government spends our money.

However, the issue of a fair Social Security COLA is not at its root a fiscal one, but rather an issue of fairness, particularly in the case of retired workers who rely upon their fixed Social Security pensions for survival.

I have argued repeatedly that the federal government has entered into a sacred covenant with the American people to provide benefits for their retirement if they pay into the system.

We have also committed to give them a fair COLA to keep up with inflation. It's our moral and contractual duty to honor that commitment, and to ensure the program will be there for current and future beneficiaries.

Senior citizens are a unique consumer population that should not be lumped into a category that considers spending habits the same as the average American family of four.

Once again, Mr. President, this is an issue of fairness and justice, not an issue of cost. All my legislation asks for is an accurate CPI and a fair COLA, up or down.

Second question: if an official CPI–E is created, wouldn't it set a potentially dangerous precedent for creating a CPI for every seemingly distinct population group? The answer is no.

Senior citizens comprise nearly 60 percent of Social Security beneficiaries, and this number will increase substantially as the Baby Boomer generation retires. Furthermore, the Social Security program is specifically intended to benefit senior citizens. It's only fair and rational to create an accurate CPI for them.

However, we have not forgotten that there is another distinct group of Social Security beneficiaries who receive disability benefits.

Because this group also spends more of their money for medical and pharmaceutical goods and services, their purchasing power could be affected by the inaccurate CPI and therefore COLA increase.

My legislation specifically requires the Committee to look into this issue and make recommendations on how to resolve it.

Third question: would this legislation overlap and contradict the study conducted by the Boskin Commission? The answer again is no.

On the contrary, my legislation is a complement to the Boskin Commission report. It parallels the general recommendations of the Boskin Commission.

These include development of a new Consumer Expenditure Survey that is larger and therefore more representative of the American consumer; development of a new market basket of goods and services that can register changes in the quality of products, the introduction of new products, and the substitution of less or more expensive goods when prices change; and development of a point-of-purchase survey that can register consumer shifts to lower price outlets.

Finally, would this legislation set back Social Security reform efforts? The answer is no. As I mentioned earlier, it would be wrong to let Social Security beneficiaries bear the burden of a mistake which is not of their own making.

In fact, when we give a legal guarantee to older Americans that they will receive Social Security benefits in full plus a fair COLA increase and take this fear away from them, it will be much easier to move the retirement system from a PAYGO system to a fully funded system.

This would in effect secure retirement income for our children and grandchildren.

In conclusion, Mr. President, retirement security for today's and tomorrow's seniors is essential to the social stability and economic prosperity of our society. This is all my legislation attempts to achieve.

I urge the Senate to make this issue the top priority for the 106th Congress. Working together, we will meet the demographic challenges and move towards a society that allows all ages to progress in the new millennium.

By Mr. LOTT (for Mr. MCCAIN (for himself and Mr. HOLLINGS)):

S. 1248. A bill to correct errors in the authorizations of certain programs administered by the National Highway Traffic Safety Administration; to the Committee on Commerce, Science, and Transportation.

LEGISLATION TO INCREASE THE NHTSA AUTHORIZATION LEVEL

● Mr. MCCAIN. Mr. President, I rise to introduce legislation that would increase the authorization level of the National Highway Traffic Safety Administration. The recently passed TEA–21 legislation authorized NHTSA at its requested level, approximately $87.4 million.

Although the Department of Transportation requested $87.4 million, Secretary Slater now informs us that this authorization level will not permit the funding of key safety initiatives. The bill would increase the funding levels to approximately $107.8 million. This amount is consistent with the amount recently reported by the House Commerce Committee. It is my intention to move this matter quickly in the committee.

I know that no one in this body wants a situation where highway safety is degraded in any way. I look forward to working with my colleagues to address this important issue of highway safety in a manner that provides the appropriate funding level to meet safety needs while also meeting our budget obligations and the consensus of the Appropriations Committee.●

By Mr. TORRICELLI:

S. 1249. A bill to deny Federal public benefits to individuals who participated in Nazi persecution; to the Committee on the Judiciary.

THE NAZI BENEFITS TERMINATION ACT OF 1998

Mr. TORRICELLI. Mr. President, I rise today to introduce, the Nazi Benefits Termination Act of 1999. This legislation seeks to halt an unintended and unwarranted series of public benefits payments to utlimately deportable individuals who assisted or otherwise participated in persecution sponsored by the Nazis or their allies during World War II. The bill also closes a loophole in the current law which allows some of these deportable individuals to avoid the suspension of their benefits by fleeing the United States. Such individuals who illegally gain access to the bounty of the United States, for example, by misrepresenting the facts of their wartime conduct, should not be allowed to benefit from their deceit at the expense of the Treasury, including the Social Security Trust Funds. So too, individuals

who avoid entry of an order of deportation or removal by fleeing the United States should not be permitted to circumvent the intent of the law at the expense of the Trust Funds.

Recognizing the excellent work of the Department of Justice's Office of Special Investigations (OSI) in bringing and winning cases against those who participated in Nazi persecution, the Nazi Benefits Termination Act of 1999 delegates to the Attorney General the discretionary authority to initiate proceedings to prohibit the payment of public benefits to any benefits receipient or applicant whom the Attorney General has reason to believe may have been a participant in persecution sponsored by the Nazis or their allies. Although OSI's success in deporting former Nazi persecutors has resulted in the cessation of social security benefits payments to numerous persons, this bill will, among other things, permit termination of benefits even before (or without) an order of deportation. This bill will apply to persons eventually subject to deportation who have assisted in Nazi persecution in any way. Proof by a preponderance of the evidence of such assistance or other participation in persecution is required. The Attorney General need not prove that a particular respondent is or was a war criminal. Rather, this legislation adopts the Seventh Circuit Court of Appeals' properly broad interpretation of the Holtzman Amendment (now Sections 212(a)(3)(E) and 237(a)(4)(D) of the Immigration and Nationality Act) terms ''participated'' or ''assisted'' in persecution. In Schellong v. I.N.S., the Sevneth Circuit properly interpreted the Holtzman Amendment, which is incorporated into this bill's statutory standard. The standard set out by the Sixth Circuit in Petkiewytsch v. I.N.S., ignores the plain language of the Holtzman Amendment and is specifically rejected by this bill. The Nazi Benefits Termination Act of 1999, like the Holtzman Amendment, applies to persons who assisted or otherwise participated in Nazi-sponsored persecution in any way, and does not require a showing by the government of personal or direct involvement in atrocities, voluntariness or motive.

Section 2(b)(2)(B)(1) of the bill is drafted to cover naturalized citizens whose admission to the United States was unlawful due, inter alia, to assistance in persecution or who otherwise procured their citizenship illegally or by concealment of a material fact or misrepresentation.

Section 3(a) of the legislation provides that Immigration Judges appointed by the Attorney General pursuant to the procedure established under the regulations implementing Section 1101(b)(4) of Title 8 will preside over the benefits hearings established by this bill. The rules, procedures, and rights applicable in these hearings are to be governed by the terms of this bill, existing regulations under Title 8, and any necessary additional implementing regulations.

The preponderance-of-the-evidence burden of proof will apply in hearings conducted under Section 3(a) of the bill. This standard is applicable in federal benefits revocation proceedings and most civil proceedings. Under this standard, we can avoid the delays incident to assembly of proof in denaturalization and deportation cases brought against this class, and consequently stem current depletion of the Treasury.

Section 3(f) of the bill makes clear that findings under section 3(c)(3)(A) of the bill may be based upon the collateral estoppel effect of denaturalization, deportation, or other appropriate judgments.

It is important to pass this legislation to help protect the public against unintended and unwarranted waste in paying benefits to ultimately deportable individuals. This measure will help to conserve resources so that future generations can continue to rely upon social security and other necessary public benefits payments.

I hope all my colleagues will be able to support this important legislation and I ask unanimous consent that the legislation be printed in the RECORD.

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

S. 1249

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 ''Nazi Benefits Termination Act of 1999''.

SEC. 2. DENIAL OF FEDERAL PUBLIC BENEFITS TO NAZI PERSECUTORS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an individual who is determined under this Act to have been a participant in Nazi persecution is not eligible for any Federal public benefit.

(b) DEFINITIONS.—In this Act:

(1) FEDERAL PUBLIC BENEFIT.—The term ''Federal public benefit'' shall have the meaning given such term by section 401(c)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, but shall not include any benefit described in section 401(b)(1) of such Act (and, for purposes of applying such section 401(b)(1), the term ''alien'' shall be considered to mean ''individual'').

(2) PARTICIPANT IN NAZI PERSECUTION.—The term ''participant in Nazi persecution'' means an individual who—

(A) if an alien, is shown by a preponderance of the evidence to fall within the class of persons who (if present within the United States) would be deportable under section 237(a)(4)(D) of the Immigration and Nationality Act; or

(B) if a citizen, is shown by a preponderance of the evidence—

(i) to have procured citizenship illegally or by concealment of a material fact or willful misrepresentation within the meaning of section 340(a) of the Immigration and Nationality Act; and

(ii) to have participated in Nazi persecution within the meaning of section 212(a)(3)(E) of the Immigration and Nationality Act.

SEC. 3. DETERMINATIONS.

(a) HEARING BY IMMIGRATION JUDGE.—If the Attorney General has reason to believe that an individual who has applied for or is receiving a Federal public benefit may have been a participant in Nazi persecution (within the meaning of section 2 of this Act), the Attorney General may provide an opportunity for a hearing on the record with respect to the matter. The Attorney General may delegate the conduct of the hearing to an immigration judge appointed by the Attorney General under section 101(b)(4) of the Immigration and Nationality Act.

(b) PROCEDURE.—

(1) RIGHT OF RESPONDENTS TO APPEAR.—

(A) CITIZENS, PERMANENT RESIDENT ALIENS, AND PERSONS PRESENT IN THE UNITED STATES.—At a hearing under this section, each respondent may appear in person if the respondent is a United States citizen, a permanent resident alien, or present within the United States when the proceeding under this section is initiated.

(B) OTHERS.—A respondent who is not a citizen, a permanent resident alien, or present within the United States when the proceeding under this section is initiated may appear by video conference.

(C) RULE OF INTERPRETATION.—This Act shall not be construed to permit the return to the United States of an individual who is inadmissible under section 212(a)(3)(E) of the Immigration and Nationality Act.

(2) OTHER RIGHTS OF RESPONDENTS.—At a hearing under this section, each respondent may be represented by counsel at no expense to the Federal Government, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas for the attendance of witnesses and presentation of evidence.

(3) RULES OF EVIDENCE.—Unless otherwise provided in this Act, rules regarding the presentation of evidence in the hearing shall apply in the same manner in which such rules would apply in a removal proceeding before a United States immigration judge under section 240 of the Immigration and Nationality Act.

(c) HEARINGS, FINDINGS AND CONCLUSIONS, AND ORDER.—

(1) FINDINGS AND CONCLUSIONS.—Within 60 days after the end of a hearing conducted under this section, the immigration judge shall make findings of fact and conclusions of law with respect to whether the respondent has been a participant in Nazi persecution (within the meaning of section 2 of this Act).

(2) ORDER.—

(A) FINDING THAT RESPONDENT HAS BEEN A PARTICIPANT IN NAZI PERSECUTION.—If the immigration judge finds, by a preponderance of the evidence, that the respondent has been a participant in Nazi persecution (within the meaning of section 2 of this Act), the immigration judge shall promptly issue an order declaring the respondent to be ineligible for any Federal public benefit, and prohibiting any person from providing such a benefit, directly or indirectly, to the respondent, and shall transmit a copy of the order to any governmental entity or person known to be so providing such a benefit.

(B) FINDING THAT RESPONDENT HAS NOT BEEN A PARTICIPANT IN NAZI PERSECUTION.—If the immigration judge finds that there is insufficient evidence for a finding under subparagraph (A) that a respondent has been a participant in Nazi persecution (within the meaning of section 2 of this Act), the immigration judge shall issue an order dismissing the proceeding.

(C) EFFECTIVE DATE; LIMITATION OF LIABILITY.—

(i) EFFECTIVE DATE.—An order issued pursuant to subparagraph (A) shall be effective on the date of issuance.

(ii) LIMITATION OF LIABILITY.—Notwithstanding clause (i), a person or entity shall not be found to have provided a benefit to an

individual in violation of this Act until the person or entity has received actual notice of the issuance of an order under subparagraph (A) with respect to the individual and has had a reasonable opportunity to comply with the order.

(d) REVIEW BY ATTORNEY GENERAL; SERVICE OF FINAL ORDER.—

(1) REVIEW BY ATTORNEY GENERAL.—The Attorney General may, in her discretion, review any finding or conclusion made, or order issued, under subsection (c), and shall complete the review not later than 30 days after the finding or conclusion is so made, or order is so issued. Otherwise, the finding, conclusion, or order shall be final.

(2) SERVICE OF FINAL ORDER.—The Attorney General shall cause the findings of fact and conclusions of law made with respect to any final order issued under this section, together with a copy of the order, to be served on the respondent involved.

(e) JUDICIAL REVIEW.—Any party aggrieved by a final order issued under this section may obtain a review of the order by the United States Court of Appeals for the Federal Circuit by filing a petition for such review not later than 30 days after the final order is issued.

(f) ISSUE AND CLAIM PRECLUSION.—In any administrative or judicial proceeding under this Act, the ordinary rules of issue preclusion and claim preclusion shall apply.

SEC. 4. JURISDICTION OF UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT OVER APPEALS UNDER THIS ACT.

Section 1295(a) of title 28, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting ''; and''; and

(3) by adding at the end the following:

''(15) of an appeal from a final order issued under the Nazi Benefits Termination Act of 1999.''.

By Mr. ROCKEFELLER:

S. 1250. A bill to amend title 38, United States Code, to ensure a continuum of health care for veterans, to require pilot programs relating to long-term health care for veterans, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' LONG-TERM CARE ENHANCEMENT ACT OF 1999

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce the ''Veterans' Long-Term Care Enhancement Act of 1999.'' There is no doubt that demand for long-term care—for veterans and non-veterans alike—is increasing. In the Department of Veterans Affairs (VA), however, we face an even more pressing demand.

The numbers are staggering. About 34 percent of the total veteran population is 65 years or older, compared with about 13 percent of the total United States population. In the year 2000, the number of veterans aged 65 or older will peak at 9.3 million. In my state of West Virginia alone, we have approximately 57,000 World War II veterans.

Because VA has already faced considerable demand for long-term care, it has been forced to become a leader in this field. I am proud of VA's work in developing geriatric evaluation teams, home-based primary care, and adult day health care. Our older veterans are leading richer lives because of these innovations. But to quote from the Report of the Federal Advisory Committee on the Future of VA Long-Term Care, despite VA's high quality and long tradition, ''VA long-term care is marginalized and unevenly funded.''

Frequently I hear from families of World War II combat veterans who need long-term care because of a debilitating disease, such as Alzheimer's or Parkinson's, or a stroke. A number of these families do not have the money to place the veteran in a private nursing home for the necessary long-term care; and because of the veteran's sacrifices during World War II, they turn to the VA.

Or I will get a call from a wife of an aging, sick veteran who wants desperately to keep her husband at home with her, but in order to do that she needs home health care services, so she turns to the VA.

But when these West Virginian families are told by VA that the services they need are not available to them, they simply cannot understand how they could be denied, and they turn to me in despair.

The challenge for all of us, of course, is to find a way to furnish the appropriate array of services, in a cost efficient way, to all those needing extended care.

As the Senate Committee on Veterans' Affairs noted in its March 15, 1999, letter to the Budget Committee with the Committee's views on VA's budget for FY 2000, ''The health care issue that VA must face over the intermediate term—indeed, the health care issue that the Nation must face over the next decade—is the need for long-term care among the aging World War II generation. WWII veterans saved Western civilization. We cannot turn our backs on them now.''

At the outset, I want to say that my wish would be for VA to provide long-term care to all veterans who need and want it. While the legislation I am introducing today is only one step toward determining what VA should be doing to meet the needs of veterans for long-term care, I believe that it is an important step in that regard.

There are three key elements in the bill. First, are provisions which clarify that long-term care is not only nursing home care, and that existing differences in law between eligibility for institutional long-term care and other types of care offered by VA do not affect VA's ability to furnish a full array of noninstitutional long-term care services.

Specifically, the provision would add ''noninstitutional extended care services'' to the definition of ''medical services,'' thereby removing any doubt about VA's authority to furnish such services to veterans eligible for and enrolled in VA care. The term would be defined to include the following: home-based primary care; adult day health care; respite care; palliative and end-of-life care; and homemaker or home health aide visits.

Second, the bill would add clear authority for VA to furnish assisted living services, including to the spouses of veterans. VA already furnishes a form of assisted living services through its domiciliary care program, but the provision in the bill would provide express authority to furnish this modality of care to older veterans, thereby expanding the continuum of extended care services offered by VA.

Third, VA would be mandated to carry out a series of pilot programs, over a period of three years, which would be designed to gauge the best way for VA to meet veterans' long-term care needs—either directly, through cooperative arrangements with community providers, or by purchasing services from non-VA providers.

While VA has developed significant expertise in long-term care over the past 20-plus years, it has not done so with any mandate to share its learning with others, nor has it pushed its program development beyond that which met the current needs at the time. Some experts even believe that VA's expertise is gradually eroding.

For VA's expertise to be of greatest use to others, it needs both to better capture what it has done and to develop new learning that would be most applicable to other health care entities.

Those who would benefit by further action to develop and capitalize on VA's long-term care expertise include older veterans, primarily our honored World War II veterans; those health organizations, including academic medicine and research entities, with which VA is now connected; and finally, the rest of the U.S. health care system, and ultimately all Americans who will need some form of long-term care services.

Each element of the pilot program would establish and carry out a comprehensive long-term care program, with a full array of services, ranging from inpatient long-term care—in intermediate care beds, in nursing homes, and in domiciliary care facilities—to comprehensive noninstitutional services, which include hospital-based home care, adult day health care, personal assistance services, respite care, and other community-base interventions.

In each element of the pilot programs, VA would also be mandated to furnish case management services, to ensure that veterans participating in the pilot programs receive the optimal treatment and placement for services. Some form of assisted living services for veterans and their families would be provided, as well. Preventive health care services, such as screening and patient education, and a particular focus on end-of-life care are also emphasized. In my view, VA must have ready access to all of these services.

As part of the pilot program, VA would be encouraged to seek the involvement of State Veterans Homes, so

as to draw them into noninstitutional approaches to long-term care. Our State Veterans Homes are valuable assets.

Finally, a key purpose of the pilot program would be to test and evaluate various approaches to meeting the long-term care needs of eligible veterans, both to develop approaches that could be expanded across VA, as well as to demonstrate to others outside of VA the effectiveness and impact of various approaches to long-term care. To this end, the pilot program within in the ''Veterans' Long-Term Care Enhancement Act of 1999'' would include specific data collection on matters such as cost effectiveness, quality of health care services provided, enrollee and health care provider satisfaction, and the ability of participants to carry out basic activities of daily living.

From this effort, a number of things would result. First, VA would gain more precise information on exactly which services to offer, how best to coordinate those services, and the relative cost and effectiveness of various services. There is no doubt that our veterans would benefit from such findings.

Second, there would be a concrete demonstration of the feasibility of furnishing a coordinated range of long-term care services, which in turn could lead to a greater likelihood that such an approach would be shared with, and replicated by, others.

Third, the value of such an approach, measured in quality of care, quality of life, cost effectiveness, and patient and provider satisfaction would be demonstrated, thereby promoting its use by others.

Mr. President, I look forward to working with the chairmen and the members of the Committees on Veterans' Affairs—in both the House of Representatives and the Senate—to advance the cause of long-term care in VA.

Mr. President, I ask unanimous consent that the full 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. 1250

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 ''Veterans' Long-Term Care Enhancement Act of 1999''.

SEC. 2. CONTINUUM OF CARE FOR VETERANS.

(a) INCLUSION OF NONINSTITUTIONAL EXTENDED CARE SERVICES IN DEFINITION OF MEDICAL SERVICES.—Section 1701 of title 38, United States Code, is amended—

(1) in paragraph (6)(A)(i), by inserting ''noninstitutional extended care services,'' after ''preventive health services,''; and

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

''(10) The term 'noninstitutional extended care services' includes—

''(A) home-based primary care;

''(B) adult day health care;

''(C) respite care;

''(D) palliative and end-of-life care; and

''(E) homemaker or home health aide visits.

''(11) The term 'respite care' means hospital or nursing home care which—

''(A) is of limited duration;

''(B) is furnished on an intermittent basis to an individual who is suffering from a chronic illness and who resides primarily at home; and

''(C) is furnished for the purpose of helping the individual to continue residing primarily at home.''.

(b) ASSISTED LIVING.—Subchapter II of chapter 17 of such title is amended by adding at the end the following new section:

''§ 1720F. Assisted living

''(a) The Secretary may, subject to subsection (b), provide assisted living services to a veteran who is eligible to receive care under section 1710 of this title and to the spouse of such veteran in connection with the provision of such services to such veteran.

''(b) The Secretary may not provide assisted living services under this section to a veteran eligible to receive care under section 1710(a)(3) of this title, or to a spouse of any veteran, unless such veteran or spouse agrees to pay the United States an amount equal to the cost, as determined in regulations prescribed by the Secretary, of the provision of such services.

''(c) For purposes of this section, the term 'assisted living services' means services which provide personal care, activities, health-related care, supervision, and other assistance on a 24-hour basis within a residential or similar setting which—

''(1) maximizes flexibility in the provision of such care, activities, supervision, and assistance;

''(2) maximizes the autonomy, privacy, and independence of an individual; and

''(3) encourages family and community involvement with the individual.''.

(c) CONFORMING AMENDMENTS.—(1)(A) Section 1720 of such title is amended by striking subsection (f).

(B) The section heading of such section is amended by striking ''**; adult day health care**''.

(2) Section 1720B of such title is repealed.

(d) CLERICAL AMENDMENTS.—The table of sections for chapter 17 of such title is amended—

(1) in the item relating to section 1720, by striking ''; adult day health care'';

(2) by striking the item relating to section 1720B; and

(3) by inserting after the item relating to section 1720E the following new item:

''1720F. Assisted living.''.

SEC. 3. PILOT PROGRAMS RELATING TO LONG-TERM CARE OF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out three pilot programs for the purpose of determining the feasibility and practicability of a variety of methods of meeting the long-term care needs of eligible veterans. The pilot programs shall be carried out in accordance with the provisions of this section.

(b) LOCATIONS OF PILOT PROGRAMS.—(1) Each pilot program under this section shall be carried out at two Veterans Integrated Service Networks (VISNs) selected by the Secretary for purposes of this section.

(2) The Secretary may not carry out more than one pilot program in any given Veterans Integrated Service Network.

(c) SCOPE OF SERVICES UNDER PILOT PROGRAMS.—(1) The services provided under the pilot programs under this section shall include a comprehensive array of health care services and other services that meet the long-term care needs of veterans, including—

(A) inpatient long-term care in intermediate care beds, in nursing homes, and in domiciliary care facilities;

(B) noninstitutional long-term care, including hospital-based primary care, adult day care, personal assistance services, respite care, and other community-based interventions and care; and

(C) assisted living services for veterans and their families.

(2) As part of the provision of services under the pilot programs, the Secretary shall also provide appropriate case management services.

(3) In providing services under the pilot programs, the Secretary shall emphasize the provision of preventive care services, including screening and education.

(d) DIRECT PROVISION OF SERVICES.—Under one of the pilot programs under this section, the Secretary shall provide long-term care services to eligible veterans directly through facilities and personnel of the Department of Veterans Affairs.

(e) PROVISION OF SERVICES THROUGH COOPERATIVE ARRANGEMENTS.—(1) Under one of the pilot programs under this section, the Secretary shall provide long-term care services to eligible veterans through a combination (as determined by the Secretary) of—

(A) services provided under cooperative arrangements with appropriate public and private non-Governmental entities, including community service organizations; and

(B) services provided through facilities and personnel of the Department.

(2) The consideration provided by the Secretary for services provided by entities under cooperative arrangements under paragraph (1)(A) shall be limited to the provision by the Secretary of appropriate in-kind services to such entities.

(f) PROVISION OF SERVICES BY NON-DEPARTMENT ENTITIES.—(1) Under one of the pilot programs under this section, the Secretary shall provide long-term care services to eligible veterans through arrangements with appropriate non-Department entities under which arrangements the Secretary acts solely as the case manager for the provision of such services.

(2) Payment for services provided to veterans under the pilot programs under this subsection shall be as follows:

(A) By the medicare program or the medicaid program, but only—

(i) if the veterans concerned are entitled to benefits under such programs; and

(ii) to the extent that payment for such services is provided for under such programs.

(B) By the Department, to the extent that payment for such services is not otherwise provided for under subparagraph (A).

(g) DATA COLLECTION.—As part of each pilot program under this section, the Secretary shall collect data regarding—

(1) the cost-effectiveness of such program, including any savings achieved under such program when compared with the medicare program, medicaid program, or other Federal program serving similar populations;

(2) the quality of the services provided under such program;

(3) the satisfaction of participating veterans, non-Department, and non-Government entities with such program; and

(4) the effect of such program on the ability of veterans to carry out basic activities of daily living over the course of such veterans' participation in such program.

(h) REPORTS.—(1) The Secretary shall annually submit to Congress a report on the pilot programs under this section.

(2) Each report under paragraph (1) shall include the following:

(A) A detailed description of activities under the pilot programs during the one-year period ending on the date of the report.

(B) An evaluation of the data collected under subsection (g) during that period.

(C) Any other matters regarding the programs that the Secretary considers appropriate.

(i) DURATION OF PROGRAMS.—(1) The Secretary shall commence carrying out the pilot programs required by this section not later than 90 days after the date of the enactment of this Act.

(2) The authority of the Secretary to provide services under the pilot programs shall cease on the date that is three years after the date of the commencement of the pilot programs under paragraph (1).

(j) DEFINITIONS.—In this section:

(1) The term ''eligible veteran'' means the following:

(A) Any veteran entitled to hospital care and medical services under section 1710(a)(1) of title 38, United States Code.

(B) Any veteran (other than a veteran described in subparagraph (A)) if the veteran is enrolled in the system of annual patient enrollment under section 1705 of title 38, United States Code.

(2) The term ''long-term care needs'' means the need by an individual for any of the following services:

(A) Personal care.

(B) Nursing home and home health care services.

(C) Habilitation and rehabilitation services.

(D) Adult day care services.

(E) Case management services.

(F) Social services.

(G) Assistive technology services.

(H) Home and community based services, including assistive living.

By Mr. DORGAN (for himself, Mr. BINGAMAN, and Mr. BYRD):

S. 1252. A bill to provide parents, taxpayers, and educators with useful, understandable school reports; to the Committee on Health, Education, Labor, and Pensions.

STANDARDIZED SCHOOL REPORT CARD ACT

Mr. DORGAN. Madam President, I am introducing today a piece of legislation called the Standardized School Report Card Act, along with my colleagues, Senator BINGAMAN and Senator BYRD.

Every 6 to 9 weeks every parent in this country who has children in our public schools gets a report card to tell him or her how that student is doing in school.

Rarely, however, do parents get a report card telling them how the school is doing for the students.

A number of States already do have school report cards—about 36, actually—but they vary around the country. Some have almost no information. Others are hundreds of pages long and very difficult to understand. Regardless, however, most parents never see a report card for their child's school.

I think it would be useful, and my colleagues do as well, to ask that there be a uniform or standardized school report card that will allow parents to understand what they are getting for the dollars they are investing in that school. What is their school doing versus the neighboring town's school? How are the schools in one State doing versus schools in another State? How can you compare what the parents and taxpayers are getting with respect to the dollars invested in education?

The Standardized School Report Card Act will require schools to report on eight key, basic areas in their report card and do so in an easily understandable manner.

The eight areas graded in the report cards would be: students' performance, attendance and graduation rates, professional qualifications of teachers, average class size, school safety, parental involvement, student drop-out rates, and access to technology.

Some might say this legislation is unnecessary because there are already some States that do have school report cards. As I have already indicated, that is true. However, the content varies widely, so they are not good tools for comparison.

In my home State of North Dakota, the State Department of Public Instruction has designed a school district profile that is published for each school district. It does include a lot of interesting information, but a numbers of areas that are required under this legislation are not covered at all.

My point is that we have a public education system in this country on which we spend a great deal of money. We send our young boys and girls to the classroom door, and we invest money, we build the schools, pay teachers, and buy the books. The question is, What do we get for all of that?

Most of the classrooms I have visited are led and taught by wonderful teachers. I am very impressed by many of the schools I have had an opportunity to visit across the country and especially in North Dakota. As a nation, when we spend $350 billion a year to provide an education to elementary and secondary students, parents and taxpayers need some uniform way to understand how there school is doing versus other schools. How is our State doing versus other States relative to the investments we are making in education?

That is the basis for the school report card legislation which I am introducing today. I am pleased to be joined by Senators BINGAMAN and BYRD in introducing this bill, and I hope others of our colleagues will join us in cosponsoring it.

Mr. BINGAMAN. Mr. President, I am pleased to join my distinguished colleagues, Senators DORGAN and BYRD, in introducing the Standardized School Report Card Act. This bill would require States and schools to distribute an annual, easy-to-read report card to parents, taxpayers, educators, and the public. One of the top issues facing the nation's education system is the need for greater accountability and the need for greater parent involvement in schools. The bill we are introducing today will go a long way in helping to achieve these goals.

In our efforts to make schools accountable for the resources they are given, we must develop better means for measuring and communicating progress in our schools; if we cannot measure progress, we cannot attain it. Our bill would require each school to report several key measures of progress. The bill would require reports of student performance in language arts and mathematics, as well as any other subject areas in which the State requires assessment. The report cards would breakdown student data by gender, major racial and ethnic groups, English proficiency, migrant status, disability status, and economic status. In this way, we can ensure that our schools are meeting the needs of all students and that all students are being taught to the same high standards. I also requested that the bill require reporting of dropout rates, because our educational system needs to do everything possible to keep our children in school until graduation. Many States with report cards do not currently report this measure of educational progress. Obviously, we are not making much progress if our children are giving up prior to graduation. We need to target our efforts to ensure that our children stay in school and an important step in achieving that goal is to monitor and raise awareness of the problem.

The report cards required in this bill also would provide parents and taxpayers with valuable information regarding the resources available and environment at each school. Our bill would require schools to report average class sizes and student access to technology, including the number of computers for educational purposes, the number of computers per classroom, and the number of computers connected to the Internet. In addition, schools would be required to report measures of school safety, including the safety of school facilities and incidents of school violence, and measures of parental involvement. Based on this information, parents—as consumers of public education—can make informed decisions about their children's education and monitor how public resources are being used in their community.

Last session, I introduced an amendment to the Higher Education Act—which was ultimately passed and signed into law—which requires colleges of education to report their performance in producing qualified teachers. That effort will help to ensure that teachers coming into a school system have been properly prepared to teach. The bill we are introducing today will build on that legislation, by holding states and schools district accountable for the training, level of preparation, and proper placement of new teachers as well as teachers already in the system. Under the Standardized Report Card Act, schools would be required to report the professional qualifications of its teachers, including the number of teachers teaching out of field and the number of teachers with emergency certification.

I have spoken with many parents in my home state of New Mexico about

their role in the public education system. These parents are eager to support their local schools and participate in their children's education. But in order to do this, they need to be better informed about how schools are performing and what resources are being devoted to each school.

With over $350 billion spent each year on education, parents and taxpayers deserve to know how their schools are performing. We owe it to them and to ourselves to provide public measures of progress which will assist our communities in their efforts to improve our systems of education. Mr. President, I ask my colleagues to join me by supporting the standardized School Report Card Act.

By Mr. INOUYE (for himself, Mr. AKAKA, Mr. HOLLINGS, Mr. KERRY, and Mr. BREAUX, and Mrs. BOXER):

S. 1253. A bill to authorize the Secretary of Commerce, through the National Oceanic and Atmospheric Administration, to provide financial assistance for coral reef conservation projects, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CORAL REEF PROTECTION ACT OF 1999

Mr. INOUYE. Mr. President, I rise today to introduce the Coral Reef Protection Act of 1999.

This legislation will provide one hundred million dollars over a period of five years to preserve, sustain and restore the health of U.S. coral reef ecosystems; assist in the conservation and protection of coral reefs by supporting conservation programs; and provide financial resources for those programs. Additionally, this legislation will leverage the federal dollars appropriated for these purposes by establishing a formal mechanism for collecting and allocating matching monetary donations from the private sector to be used for coral reef conservation projects.

The United States has substantial coral reef holdings in both the Atlantic and Pacific Oceans totaling more than 6,500 square miles. More than 83% of these reefs lie among the islands of Hawaii and another 10% of them live among the other American islands in the Pacific including American Samoa, Johnston Island, Palmyra Atoll, and the Northern Mariana Islands. Hawaii, alone, is home to 47 different species of coral. These coral reefs provide numerous recreational opportunities, are linked ecologically to adjacent coastal ecosystems such as mangroves and sea grasses, support substantial biodiversity, and protect shorelines from wave damage. They also support major economic activities, such as tourism and fishing, in coastal communities that generate billions of dollars annually. Despite this importance to both the environment and the American economy, little is currently known about the condition of coral reefs in the United States. Two points, however, are clear: coral reefs are threatened whenever they are close to large concentrations of people, and coral reefs are in decline.

This legislation will provide funding for research, conservation and restoration of these extremely important resources and will complement the efforts of the President's Coral Reef Task Force which was established by Executive Order last year. I ask that the bill be printed in the RECORD.

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

S. 1253

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 ''Coral Reef Protection Act of 1999''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Coral reefs and coral reef ecosystems are considered the marine equivalent of tropical rain forests, containing some of the planet's richest biological diversity, habitats, and systems and supporting thousands of fish, invertebrates, reef algae, plankton, sea grasses, and other species.

(2) Coral reefs and coral reef ecosystems have great commercial, recreational, cultural, and esthetic value to human communities as shoreline protection, areas of natural beauty, and sources of food, pharmaceuticals, jobs, and revenues through a wide variety of activities, including education, research, tourism, and fishing.

(3) Studies indicate that coral reefs in the United States and around the world are being degraded and severely threatened by human and environmental impacts including land-based pollution, overfishing, destructive fishing practices, vessel groundings, and climate change.

(4) Since 1994, under the United States Coral Reef Initiative, Federal agencies, State, local, territorial, commonwealth, and local governments, nongovernmental organizations, and commercial interests have worked together to design and implement additional management, education, monitoring, research, and restoration efforts to conserve coral reef ecosystems.

(5) 1997 was recognized as the Year of the Reef to raise public awareness about the importance of conserving coral reefs and to facilitate actions to protect coral reef ecosystems.

(6) On October 21, 1997, the 105th Congress passed House Concurrent Resolution 8, a concurrent resolution recognizing the significance of maintaining the health and stability of coral reef ecosystems by promoting comprehensive stewardship for coral reef ecosystems, discouraging unsustainable fisheries or other practices harmful to coral reefs, encouraging research, monitoring, assessment of, and education on coral reef ecosystems, improving coordination of coral reef efforts and activities of Federal agencies, academic institutions, nongovernmental organizations, and industry, and promoting preservation and sustainable use of coral reef resources worldwide.

(7) 1998 was declared to be the International Year of the Ocean to raise public awareness and increase actions to conserve and use in a sustainable manner the broader ocean environment, including coral reefs.

(8) On June 11, 1998, President William Jefferson Clinton signed Executive Order 13089 (64 Fed. Reg. 323701) which recognizes the importance of conserving coral reef ecosystems, establishes the Coral Reef Task Force under the joint leadership of the Departments of Commerce and Interior, and directs Federal agencies whose actions may affect United States coral reef ecosystems to take steps to protect, manage, research, and restore such ecosystems.

(9) The Nation benefits from—

(A) specific actions and programs involving coral reefs and coral reef ecosystems including National Marine Sanctuaries, National Wildlife Refuges, National Parks, and other marine protected areas that conserve for future generations vital marine resources, ecosystems, and habitats;

(B) the identification of coral habitats as essential fish habitat under the Magnuson-Stevens Fishery Conservation and Management Act, which requires aggressive efforts to minimize adverse effects on such habitat caused by fishing;

(C) identification of other actions to encourage the conservation and enhancement of such habitat; and

(D) State and territorial coastal management programs for the protection, development, and where possible, restoration and enhancement of the resources of the Nation's coastal zone for this and succeeding generations under the Coastal Zone Management Act and other related statutes.

(10) Legislation solely dedicated to the comprehensive and coordinated conservation, management, protection, and restoration of coral reefs and coral reef ecosystems would supplement Executive Order 13089 and House Concurrent Resolution 8, and complement the management, protection, and conservation provided by such programs as those administered under the National Marine Sanctuaries Act, Coastal Zone Management Act, and Magnuson-Stevens Fishery Conservation and Management Act, as well as those administered by other Federal, State, and territorial agencies.

SEC. 3. POLICY.

It is the policy of the United States—

(1) to conserve and protect the ecological integrity of coral reef ecosystems;

(2) to maintain the health, natural conditions, and dynamics of those ecosystems;

(3) to reduce and remove human stresses affecting reefs;

(4) to restore coral reef ecosystems injured by human activities; and

(5) to promote the long-term sustainable use of coral reef ecosystems.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to preserve, sustain, and restore the health of coral reef ecosystems;

(2) to assist in the conservation and protection of coral reefs by supporting conservation programs;

(3) to provide financial resources for those programs; and

(4) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects.

SEC. 5. DEFINITIONS.

In this Act:

(1) CORAL.—The term ''coral'' means species of the phylum Cnidaria, including—

(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Alcyonacea (soft corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), and Helioporacea (blue coral) of the class Anthozoa; and

(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

(2) CORAL REEF.—The term ''coral reef'' means any reef, shoal, or other natural feature composed primarily of the solid skeletal structures in which stony corals are major framework constituents, within all maritime areas and zones subject to the jurisdiction or

control of the United States (e.g. Federal, State, territorial, or commonwealth waters), including in the south Atlantic, Caribbean, Gulf of Mexico, and Pacific Ocean.

(3) CORAL REEF ECOSYSTEM.—The term ''coral reef ecosystem'' means the interacting complex of species (including reef plants of the phlya Chlorophyta, Phaeophyta, and Rhodophyta) and nonliving variables associated with coral reefs and their habitats which—

(A) function as an ecological unit in nature; and

(B) are mutually dependent on this function to continue.

(4) CONSERVATION.—The term ''conservation'' means the use of methods and procedures necessary to preserve or sustain coral reefs and coral reef ecosystems as diverse, viable, and self-perpetuating ecosystems, including—

(A) all activities associated with resource management, such as assessment, science, conservation, protection, restoration, sustainable use, management of habitat, and water quality;

(B) habitat monitoring;

(C) assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C.1801 et seq.) and other Federal, State, and territorial statutes;

(D) law enforcement;

(E) conflict resolution initiatives;

(F) community outreach and education; and

(G) promotion of safe and ecologically sound navigation.

(5) PERSON.—The term ''person'' has the meaning given that term by section 1 of title 1, United States Code, but includes departments, agencies, and instrumentalities of the United States Government or any State or local government.

(6) FOUNDATION.—The term ''foundation'' means any qualified non-profit organization that specializes in natural resource conservation.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(8) STATE.—The term ''State'' means any coastal State of the United States that contains coral within its seaward boundaries, and American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, and any other commonwealth, territory, or possession of the United States that contains coral within its seaward boundaries.

SEC. 6. CORAL REEF RESTORATION AND CONSERVATION PROGRAM.

(a) FINANCIAL ASSISTANCE.—The Secretary subject to the availability of funds, may provide financial assistance for projects that—

(1) provide for the restoration of degraded or injured coral reefs or coral reef ecosystems, including developing and implementing cost-effective methods to restore or enhance degraded or injured coral reefs and coral reef ecosystems; or

(2) provide for the conservation of coral reefs or coral reef ecosystems through projects other than those under paragraph (1), that provide for the management, conservation, and protection of coral reefs and coral reef ecosystems, including mapping and assessment, management, protection (including enforcement), scientific research, and short-term and long-term monitoring that benefits the long-term conservation of coral reefs and coral reef ecosystems.

(b) MATCHING REQUIREMENTS.—

(1) 75-PERCENT FEDERAL FUNDING.—Except as provided in paragraph (2), Federal funds for any project under this section shall not exceed 75 percent of the total cost of such project. In calculating that percentage, the non-Federal share of project costs may be provided by in-kind contributions and other noncash support.

(2) EXCEPTIONS.—

(A) SMALL PROJECTS.—There are no matching requirements for grants under subsection (a) for projects costing not more than $25,000.

(B) HIGHER LEVEL OF SUPPORT REQUIRED.—If the Secretary determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, then the Secretary may approve grants under this section with a matching requirement other than that specified in paragraph (1).

(c) ELIGIBILITY.—Any relevant natural resource management authority of a State or territory of the United States or other government authority with jurisdiction over coral reefs or whose activities directly or indirectly affect coral reefs or coral reef ecosystems, or educational or non-governmental institutions with demonstrated expertise in the conservation of coral reefs, may submit a coral reef restoration or conservation proposal to the Secretary under subsection (a).

(d) ALLOCATION.—The Secretary shall ensure that financial assistance provided under subsection (a) during a fiscal year is distributed so that—

(1) not less than 40 percent of the funds available are awarded for coral reef restoration and conservation projects in the Pacific Ocean;

(2) not less than 40 percent of the funds available are awarded for coral reef restoration and conservation projects in the Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea; and

(3) remaining funds are awarded for coral reef restoration and conservation projects that address emerging priorities or threats identified by the Secretary in consultation with the Coral Reef Task Force under subsection (j).

(e) PROJECT PROPOSALS.—Each proposal for a grant under this section shall include the following:

(1) The name of the individual or entity responsible for conducting the project.

(2) A succinct statement of the purposes of the project.

(3) A description of the qualifications of the individuals who will conduct the project.

(4) An estimate of the funds and time required to complete the project.

(5) Evidence of support of the project by appropriate representatives of States or territories of the United States or other government jurisdictions in which the project will be conducted.

(6) Information regarding the source and amount of matching funding available to the applicant, as appropriate.

(7) A description of how the project meets one or more of the criteria in subsection (g) of this section.

(8) Any other information the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(f) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall review each final coral reef conservation project proposal to determine if it meets the criteria set forth in subsection (g).

(2) REVIEW; APPROVAL OR DISAPPROVAL.—Not later than 3 months after receiving a final project proposal under this section, the Secretary shall—

(A) request written comments on the proposal from each Federal, State or territorial agency of the United States and other government jurisdictions, including the relevant regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), or any National Marine Sanctuary, with jurisdiction or management authority over coral reefs or coral reef ecosystems in the area where the project is to be conducted, including the extent to which the project is consistent with locally-established priorities;

(B) for projects costing less than $25,000, provide for expedited peer review of the proposal;

(C) for projects costing $25,000 or greater, provide for the regional, merit-based peer review of the proposal and require standardized documentation of that peer review;

(D) after considering any written comments and recommendations based on the reviews under subparagraphs (A) and (B), approve or disapprove the proposal; and

(E) provide written notification of that approval or disapproval to the person who submitted the proposal, and each of those States, territories, and other government jurisdictions.

(g) CRITERIA FOR APPROVAL.—The Secretary may approve a final project proposal under this section based on the written comments received and the extent that the project will enhance the conservation of coral reefs by—

(1) implementing coral reef conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reefs;

(2) addressing the conflicts arising from the use of environments near coral reefs or from the use of any living or dead specimens, port, or derivatives, or any product containing specimens, ports, or derivatives, of any coral or coral reef ecosystem;

(3) enhancing compliance with laws that prohibit or regulate the taking of corals, species associated with coral reefs, and coral products or regulate the use and management of coral reef ecosystems;

(4) developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems;

(5) promoting cooperative projects on coral reef conservation that involve affected local communities, non-governmental organizations, or others in the private sector; or

(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long term conservation.

(h) IMPLEMENTATION GUIDELINES.—Within 90 days after the date of enactment of this Act, the Secretary shall promulgate necessary guidelines for implementing this section. In developing those guidelines, the Secretary shall consult with regional and local entities, including States and territories, involved in setting priorities for conservation of coral reefs.

(i) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to any State or Federal agency with jurisdiction over coral reefs and coral reef ecosystems to further the purposes of this Act.

(j) CORAL REEF TASK FORCE.—The Secretary shall consult with the Coral Reef Task Force established under Executive Order 13089 (64 Fed. Reg. 323701), to obtain guidance in establishing coral reef conservation project priorities under this section.

SEC. 7. NATIONAL PROGRAM.

(a) IN GENERAL.—The Secretary may conduct activities that further the conservation of coral reefs or coral reef ecosystems on a regional, national, or international scale, or that further public awareness and education regarding coral reefs and coral reef ecosystems on a regional, national, or international scale. The activities should supplement and be consistent with the programs, policies, and statutes of affected States and territories, the National Marine Sanctuaries

Act, the Coastal Zone Management Act, and the Magnuson-Stevens Fishery Conservation and Management Act, other applicable Federal statutes, and, at a minimum, should include mapping and assessment, monitoring, management, and scientific research that benefits the long-term conservation of coral reefs and coral reef ecosystems.

(b) FINANCIAL ASSISTANCE.—The Secretary may enter into joint projects with any Federal, State, territorial, or local authority, or provide financial assistance to any person for projects consistent with subsection (a), including projects that—

(1) support, promote, and coordinate the assessment of, scientific research on, monitoring of, or restoration of coral reefs and coral reef ecosystems of the United States;

(2) cooperate with global programs that conserve, manage, protect, and study coral reefs and coral reef ecosystems; or

(3) enhance public awareness, understanding, and appreciation of coral reefs and coral reef ecosystems.

SEC. 8. DOCUMENTATION OF CERTAIN VESSELS.

Section 12102 of title 46, United States Code, is amended by adding at the end thereof the following:

''(e) A vessel otherwise eligible to be documented under this section may not be documented as a vessel of the United States if—

''(1) the owner of the vessel has abandoned any vessel on a coral reef located in waters subject to the jurisdiction of the United States; and

''(2) the abandoned vessel remains on the coral reef or was removed from the coral reef under section 5 or 6 of the Coral Reef Protection Act of 1999 (or any other provision of law in pari materia enacted after 1998),

unless the owner of the vessel has reimbursed the United States for environmental damage caused by the vessel and the funds expended to remove it.''.

SEC. 9. CERTAIN GROUNDED VESSELS.

(a) IN GENERAL.—The vessels described in subsection (b), and the reefs upon which such vessels may be found, are hereby designated for purposes of section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604) as a site at which there is a substantial threat of release of a hazardous substance into the environment. For purposes of that Act, the site shall not be considered to have resulted from an act of God.

(b) DESCRIPTION OF SITE.—The vessels to which subsection (a) applies are 9 fishing vessels driven by Typhoon Val in 1991 onto coral reefs inside Pago Pago harbor near the villages of Leloaloa and Aua.

SEC. 10. REGULATIONS; CORAL REEF CONSERVATION FUND.

(a) REGULATIONS.—Within 90 days after the date of enactment of this Act, the Secretary shall promulgate necessary regulations for implementing this section. In developing those regulations, the Secretary shall consult with regional and local entities, including States and territories, involved in setting priorities for conservation of coral reefs.

(b) FUND.—The Secretary may enter into an agreement with a foundation authorizing the foundation to receive, hold, and administer funds received by the foundation pursuant to this section. The foundation shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest bearing account, hereafter referred to as the Fund, established by the foundation solely to support partnerships between the public and private sectors that further the purposes of this Act.

(c) AUTHORIZATION TO SOLICIT DONATIONS.—Consistent with section 3703 of title 16, United States Code, and pursuant to the agreement entered into under subsection (b) of this section, a foundation may accept, receive, solicit, hold, administer, and use any gift or donation to further the purposes of this Act. Such funds shall be deposited and maintained in the Fund established by a foundation under subsection (b) of this section.

(d) REVIEW OF PERFORMANCE.—The Secretary shall conduct a continuing review of the grant program administered by a foundation under this section. Each review shall include a written assessment concerning the extent to which that foundation has implemented the goals and requirements of this section.

(e) ADMINISTRATION.—Under the agreement entered into pursuant to subsection (b) of this section, the Secretary may transfer funds appropriated under section 11(b)(1) to a foundation. Amounts received by a foundation under this subsection may be used for matching, in whole or in part, contributions (whether in currency, services, or property) made to the foundation by private persons and State and local government agencies.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $20,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004 to carry out this Act, which may remain available until expended.

(b) USE OF AMOUNTS APPROPRIATED.—

(1) RESTORATION AND CONSERVATION PROJECTS.—Not more than $15,000,000 of the amounts appropriated under subsection (a) shall be used by the Secretary to support coral reef restoration and conservation projects under section 6(a), of which not more than 20 percent shall be used for technical assistance provided by the Secretary.

(2) NATIONAL PROGRAM.—Not more than $5,000,000 of the amounts appropriated under subsection (a) shall be used by the Secretary to support coral reef conservation projects under section 7.

(3) ADMINISTRATION.—Not more than 1 percent of the amounts appropriated under paragraph 1 may be used by the Secretary for administration of this Act.

By Mr. ABRAHAM (for himself, Mr. TORRICELLI, Mr. HATCH, and Mr. MCCAIN):

S. 1255. A bill to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws, and for other purposes; to the Committee on the Judiciary.

ANTICYBERSQUATTING CONSUMER PROTECTION ACT

Mr. ABRAHAM. Mr. President, I rise today to introduce the Anticybersquatting Consumer Protection Act on behalf of myself, Senator TORRICELLI, Senator HATCH, and Senator MCCAIN. This legislation will combat a new form of high-tech fraud that is causing confusion and inconvenience for consumers, increasing costs for people doing business on the internet, and posing an enormous threat to a century of pre-Internet American business efforts. The fraud is commonly called ''cybersquatting,'' a practice whereby individuals reserve internet domain names or other identifiers of online locations that are similar or identical to trademarked names. The easiest prey for cybersquatters has turned out to be computer-unsavvy trademark-owners in the non-internet world. Once a ''brick and mortar'' trademark is registered as an on-line identifier or domain name, the ''cybersquatter'' can engage in a variety of nefarious activities—from the relatively-benign parody of a business or individual, to the obscene prank of redirecting an unsuspecting consumer to pornographic content, to the destructive worldwide slander of a centuries-old brand name. For the enterprising cybersquatter, holding out a domain name for extortionate compensation is a tried-and-true business practice, and the net effect of this behavior is to undermine consumer confidence, discourage consumer use of the internet, and destroy the value of brand-names and trademarks of this nation's businesses.

Many companies simply pay extortionate prices to cybersquatters in order to rid themselves of a headache with no certain outcome. For example, Gateway recently paid $100,000 to a cybersquatter who had placed pornographic images to the website ''www.gateway20000''. Rather than simply give up, several companies already have instead sought protection from cybersquatters through the legal system. For example, the investment firm Paine Webber was forced to sue an internet Web site, wwwpainewebber.com'' and its creator. The domain name at issue took advantage of a typographical error—the missing ''.'' (dot) between ''www'' and ''painewebber''—in order to direct consumers desiring to do business with Paine Webber to a website containing pornographic images. As with much of the pre-internet law that is applied to this post-internet world, precedent is still developing, and at this point, one cannot predict with certainty which party to a dispute will win, and on what grounds, in the future.

Mr. President, some Americans continue to do a thriving, if unethical, business collecting and selling internet addresses containing trademarked names. Whether perpetrated to defraud the public or to extort the trademark owner, squatting on internet addresses using trademarked names is wrong. It must be stopped for the sake of consumers, for the sake of trademark owners and for the sake of the vast, growing electronic commerce that is doing so much to spur economic growth and innovation in this country.

Mr. President, the Anticybersquatting Consumer Protection Act will help to establish uniform rules for dealing with this attack on interstate commerce. This legislation would establish penalties for criminal use of a counterfeit trademark as a domain name. Using a company's trademark or its variant as the address of an internet site would constitute criminal use of a counterfeit trademark if the defendant registered the address either knowingly and fraudulently or in bad faith. Among the evidence establishing bad faith would be registry of a domain name with (1) intent to cause confusion

or mistake or deception, to dilute the distinctive quality of a famous trademark, or intent to divert consumers from the trademark owner's domain to one's own; and (2) providing false information on the application to register the identifier, or offering to transfer the registration to a rightful owner for consideration for any thing of value. Bad faith could not be shown where the identifier is the defendant's legal first name or surname or where the defendant used the identifier in legitimate commerce before the earlier of either the first use of the registered trademark or the effective date of its registration. Violation of this prohibition would constitute a Class B misdemeanor for the first offense; subsequent offenses would be classified as Class E felonies.

In addition, Mr. President, the Anticybersquatting Consumer Protection Act provides for statutory civil damages in trademark cases of at least $1,000, but not more than $100,000 ($300,000 if the registration or use of the trademark was willful) per trademark per identifier. The plaintiff may elect these damages in lieu of actual damages or profits at any time before final judgment.

These provisions will discourage anyone from ''squatting'' on addresses in cyberspace to which they are not entitled. In the process it will protect consumers from fraud, protect the value of countless trademarks, and encourage continued growth in our electronic commerce industry.

Mr President, the growth of the Internet has provided businesses and individuals with unprecedented access to a worldwide source of information, commerce, and community. Unfortunately, those bad actors seeking to cause harm to businesses and individuals have seen their opportunities increase as well. In my opinion, on-line extortion in this form is unacceptable and outrageous. Whether it's people extorting companies by registering company names, misdirecting Internet users to inappropriate sites, or otherwise attempting to damage a trademark that a business has spent decades building into a recognizable brand, persons engaging in cybersquatting activity should be held accountable for their actions.

I urge my colleagues to support this important legislation, and I ask unanimous consent that the full text of the bill, a section by section analysis and additional materials be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1255

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 ''Anticybersquatting Consumer Protection Act''.

SEC. 2. FINDINGS.

Congress finds that the unauthorized registration or use of trademarks as Internet domain names or other identifiers of online locations (commonly known as ''cybersquatting'')—

(1) results in consumer fraud and public confusion as to the true source or sponsorship of products and services;

(2) impairs electronic commerce, which is important to the economy of the United States; and

(3) deprives owners of trademarks of substantial revenues and consumer goodwill.

SEC. 3. TRADEMARK REMEDIES.

(a) RECOVERY FOR VIOLATION OF RIGHTS.—Section 35 of the Act entitled ''An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946, (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1117) is amended by adding at the end the following:

''(d)(1) In this subsection, the term 'Internet' has the meaning given that term in section 230(f)(1) of the Communications Act of 1934 (47 U.S.C. 230(f)(1)).

''(2)(A) In a case involving the registration or use of an identifier described in subparagraph (B), the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits under subsection (a)—

''(i) an award of statutory damages in the amount of—

''(I) not less than $1,000 or more than $100,000 per trademark per identifier, as the court considers just; or

''(II) if the court finds that the registration or use of the registered trademark as an identifier was willful, not less than $3,000 or more than $300,000 per trademark per identifier, as the court considers just; and

''(ii) full costs and reasonable attorney's fees.

''(B) An identifier referred to in subparagraph (A) is an Internet domain name or other identifier of an online location that is—

''(i) the trademark of a person or entity other than the person or entity registering or using the identifier; or

''(ii) sufficiently similar to a trademark of a person or entity other than the person or entity registering or using the identifier as to be likely to—

''(I) cause confusion or mistake;

''(II) deceive; or

''(III) cause dilution of the distinctive quality of a famous trademark.''.

(b) REMEDIES FOR DILUTION OF FAMOUS MARKS.—Section 43(c)(2) of the Act entitled ''An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946, (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1125(c)(2)) is amended by striking ''35(a)'' and inserting ''35 (a) and (d)''.

SEC. 4. CRIMINAL USE OF COUNTERFEIT TRADEMARK.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking ''section that occurs'' and inserting ''paragraph that occurs''; and

(3) by adding at the end the following:

''(2)(A) In this paragraph, the term 'Internet' has the meaning given that term in section 230(f)(1) of the Communications Act of 1934 (47 U.S.C. 230(f)(1)).

''(B)(i) Except as provided in clause (ii), whoever knowingly and fraudulently or in bad faith registers or uses an identifier described in subparagraph (C) shall be guilty of a Class B misdemeanor.

''(ii) In the case of an offense by a person under this paragraph that occurs after that person is convicted of another offense under this section, that person shall be guilty of a Class E felony.

''(C) An identifier referred to in subparagraph (B) is an Internet domain name or other identifier of an online location that is—

''(i) the trademark of a person or entity other than the person or entity registering or using the identifier; or

''(ii) sufficiently similar to a trademark of a person or entity other than the person or entity registering or using the identifier as to be likely to—

''(I) cause confusion or mistake;

''(II) deceive; or

''(III) cause dilution of the distinctive quality of a famous trademark.

''(D)(i) For the purposes of a prosecution under this paragraph, if all of the conditions described in clause (ii) apply to the registration or use of an identifier described in subparagraph (C) by a defendant, those conditions shall constitute prima facie evidence that the registration or use was fraudulent or in bad faith.

''(ii) The conditions referred to in clause (i) are as follows:

''(I) The defendant registered or used an identifier described in subparagraph (C)—

''(aa) with intent to cause confusion or mistake, deceive, or cause dilution of the distinctive quality of a famous trademark; or

''(bb) with the intention of diverting consumers from the domain or other online location of the person or entity who is the owner of a trademark described in subparagraph (C) to the domain or other online location of the defendant.

''(II) The defendant—

''(aa) provided false information in the defendant's application to register the identifier; or

''(bb) offered to transfer the registration of the identifier to the trademark owner or another person or entity in consideration for any thing of value.

''(III) The identifier is not—

''(aa) the defendant's legal first name or surname; or

''(bb) a trademark of the defendant used in legitimate commerce before the earlier of the first use of the registered trademark referred to in subparagraph (C) or the effective date of the registration of that trademark.

''(iii) The application of this subparagraph shall not be exclusive. Nothing in this subparagraph may be construed to limit the applicability of subparagraph (B).''.

(b) SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines for crimes against intellectual property (including offenses under section 2320 of title 18, United States Code); and

(B) promulgate such amendments to the Federal Sentencing Guidelines as are necessary to ensure that the applicable sentence for a defendant convicted of a crime against intellectual property is sufficiently stringent to deter such a crime.

(2) FACTORS FOR CONSIDERATION.—In carrying out this subsection, the United States Sentencing Commission shall—

(A) take into account the findings under section 2; and

(B) ensure that the amendments promulgated under paragraph (1)(B) adequately provide for sentencing for crimes described in paragraph (2) of section 2320(a) of title 18, United States Code, as added by subsection (a).

SEC. 5. LIMITATION OF LIABILITY.

Section 39 of the Act entitled ''An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946, (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1121) is amended by adding at the end the following:

''(c)(1) In this subsection, the term 'Internet' has the meaning given that term in section 230(f)(1) of the Communications Act of 1934 (47 U.S.C. 230(f)(1)).

''(2)(A) An Internet service provider, domain name registrar, or registry described in subparagraph (B) shall not be liable for monetary relief to any person for a removal or transfer described in that subparagraph, without regard to whether the domain name or other identifier is ultimately determined to be infringing or dilutive.

''(B) An Internet service provider, domain name registrar, or registry referred to in subparagraph (A) is a provider, registrar, or registry that, upon receipt of a written notice from the owner of a trademark registered in the Patent and Trademark Office, removes from domain name service (DNS) service or registration, or transfers to the trademark owner, an Internet domain name or other identifier of an online location alleged to be infringing or dilutive, in compliance with—

''(i) a court order; or

''(ii) the reasonable implementation of a policy prohibiting the unauthorized registration or use of another's registered trademark as an Internet domain name or other identifier of an online location.''.

THE ANTICYBERSQUATTING CONSUMER PROTECTION ACT—SECTION-BY-SECTION ANALYSIS

A bill to protect consumers and promote electronic commerce by amending certain trademark infringement, dilution, and counterfeiting laws, and for other purposes.

SECTION 1: SHORT TITLE

This Act may be cited as the ''Anticybersquatting Consumer Protection Act.''

SECTION 2: FINDINGS

This section sets out Congressional findings concerning the effect of ''unauthorized registration or use of trademarks as Internet domain names or other identifiers of online locations'' (''cybersquatting''). Cyber- squatting (1) results in consumer fraud, (2) impairs electronic interstate commerce, and (3) deprives trademark owners of revenue and consumer goodwill.

SECTION 3: TRADEMARK REMEDIES

(a) Recovery for violation of rights

The Trademark Act of 1946 (15 U.S.C. 1117) shall incorporate the definition of ''Internet'' used in the Communications Act of 1934 (47 U.S.C. 230 (f) (1)).

An ''identifier'' refers to an Internet domain name or another identifier of an online location that is (i) the plaintiff's trademark, or (ii) so sufficiently similar to the plaintiff's trademark as to be likely to ''cause confusion or mistake,'' ''deceive,'' or ''cause dilution of the distinctive quality of a famous trademark.''

This section expands civil penalties for cybersquatting by providing that before final judgment in a case involving the registration or use of an identifier, a plaintiff may—instead of seeking actual damages or profits—elect to recover statutory damages of at least $1,000, but not more than $100,000 (at least $3,000, but not more than $300,000 if court finds that the registration or use of the trademark was willful) per trademark per identifier, as the court considers just. Furthermore, the plaintiff may recover full costs and reasonable attorney's fees.

(b) Remedies for dilution of famous marks

This section amends the Trademark Act of 1946 (15 U.S.C. 1125 (c) (2)) by making the remedies set forth in section 3 (a) also available for the willful dilution of famous marks or trade on the owner's reputation.

SECTION 4: CRIMINAL USE OF COUNTERFEIT TRADEMARK

(a) In general

This section amends 18 U.S.C. 2320 (a) (''Trafficking in Counterfeit Goods or Services'') by adding criminal penalties for the use of a counterfeit trademark on the Internet. Like section 3 (a), this section incorporates the definition of Internet used in the Communications Act of 1934 (47 U.S.C. 230 (f) (1)). It also incorporates the same definition of ''identifier'' found in section 3 (a).

Under this section, whoever knowingly and fraudulently or in bad faith registers or uses the trademark of another would be guilty of a Class B misdemeanor. Repeat offenders would be guilty of Class E felony.

Prima facie evidence that a registration or use was fraudulent or in bad faith would require satisfaction of the following elements:

(1) the defendant registered or used an identifier with intent to (a) cause confusion or mistake, deceive, or cause dilution of the distinctive quality of a famous trademark, or (b) with intention of diverting consumers from the trademark owner to the defendant; and

(2) the defendant provided false information in its application to register the identifier or offered to transfer the identifier's registration to the trademark owner or other person or entity for something of value; and

(3) the identifier is not the defendant's legal first name or surname or the defendant had not used the identifier in legitimate commerce before the earlier of either the first use of the registered trademark or the effective date of its registration.

(b) Sentencing guidelines

(1) In general

The United States Sentencing Commission shall provide for penalties for the criminal use of counterfeit trademarks by amending the sentencing guidelines in accordance with the guidelines for crimes against intellectual property (18 U.S.C. 2320).

(2) Factors for consideration

The United States Sentencing Commission shall take into account the Findings promulgated in Section 2 and ensure that the amendments to the sentencing guidelines adequately provide penalties for the crimes described in this Act.

SECTION 5: LIMITATION OF LIABILITY

An Internet service provider (ISP) or domain name registrar shall not be liable for monetary damages to any person if it removes an infringing identifier from domain name server (DNS) service or from registration, or transfers it to the trademark owner: (1) upon written notice from the trademark owner and (2) in compliance with either a court order or the reasonable implementation of a policy prohibiting the unauthorized registration or use of another's registered trademark.

This limitation shall apply without regard to whether the domain name or other identifier is ultimately determined to be infringing or dilutive.

INFORMATION TECHNOLOGY INDUSTRY COUNCIL,
Washington, DC, June 21, 1999.

Hon. SPENCER ABRAHAM,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of ITI's member companies, I am writing to thank you, Senator Hatch and Senator Torricelli for your leadership in introducing the Anti-Cybersquatting Consumer Protection Act today.

ITI is the association of leading U.S. providers of information technology products and services. It advocates growing the economy through innovation and supports free-market policies. ITI members had worldwide revenue of more than $440 billion in 1998 and employ more than 1.2 million people in the United States.

Over the past several years, trademark holders have found it difficult and expensive to prevent infringement and dilution of their marks online, especially as ''cybersquatters'' have made a cottage industry out of intentionally registering others' trademarks as domain names and seeking to sell the domain name back to the rightful owners. Such activity damages electronic commerce by sowing confusion among consumers and other Internet users.

While some ITI members have concerns about the bill's criminal provisions, we believe the importance of federal legislation to stop cybersquatting should not be underestimated and we look forward to working with you as this legislation is considered by the Senate.

Best regards,

PHILLIP BOND,
Senior Vice President, Government Relations.

ADDITIONAL COSPONSORS

S. 25

At the request of Ms. LANDRIEU, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 25, a bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes.

S. 37

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 37, a bill to amend title XVIII of the Social Security Act to repeal the restriction on payment for certain hospital discharges to post-acute care imposed by section 4407 of the Balanced Budget Act of 1997.

S. 57

At the request of Ms. MIKULSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 57, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

S. 61

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 61, a bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

S. 71

At the request of Ms. SNOWE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 71, a bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes.

S. 115

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 115, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 288

At the request of Mr. JEFFORDS, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 288, a bill to amend the Internal Revenue Code of 1986 to exclude from income certain amounts received under the National Health Service Corps Scholarship Program and F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program.

S. 311

At the request of Mr. MCCAIN, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 311, a bill to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 459

At the request of Mr. BREAUX, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 512

At the request of Mr. GORTON, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 514

At the request of Mr. COCHRAN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 514, a bill to improve the National Writing Project.

S. 542

At the request of Mr. ABRAHAM, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers.

S. 664

At the request of Mr. CHAFEE, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 676

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 676, a bill to locate and secure the return of Zachary Baumel, a citizen of the United States, and other Israeli soldiers missing in action.

S. 789

At the request of Mr. MCCAIN, the names of the Senator from Georgia (Mr. COVERDELL), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 789, a bill to amend title 10, United States Code, to authorize payment of special compensation to certain severely disabled uniformed services retirees.

S. 796

At the request of Mr. WELLSTONE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 796, a bill to provide for full parity with respect to health insurance coverage for certain severe biologically based mental illnesses and to prohibit limits on the number of mental illness-related hospital days and outpatient visits that are covered for all mental illnesses.

S. 801

At the request of Mr. SANTORUM, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 801, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 821

At the request of Mr. LAUTENBERG, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 821, a bill to provide for the collection of data on traffic stops.

S. 835

At the request of Mr. CHAFEE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 835, a bill to encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes.

S. 878

At the request of Mr. TORRICELLI, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 878, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 951

At the request of Mr. DOMENICI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 951, a bill to amend the Internal Revenue Code of 1986 to establish a permanent tax incentive for research and development, and for other purposes.

S. 978

At the request of Mr. WARNER, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 978, a bill to specify that the legal public holiday known as Washington's Birthday be called by that name.

S. 1024

At the request of Mr. MOYNIHAN, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1024, a bill to amend title XVIII of the Social Security Act to carve out from payments to Medicare+Choice organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care.

S. 1044

At the request of Mr. KENNEDY, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1044, a bill to require coverage for colorectal cancer screenings.

S. 1131

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1131, a bill to promote research into, and the development of an ultimate cure for, the disease known as Fragile X.

S. 1185

At the request of Mr. ABRAHAM, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1185, a bill to provide small business certain protections from litigation excesses and to limit the product liability of non-manufacturer product sellers.

S. 1187

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1207

At the request of Mr. KOHL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1207, a bill to amend the Internal Revenue Code of 1986 to ensure that income averaging for farmers not increase a farmer's liability for the alternative minimum tax.

S. 1244

At the request of Mr. THOMPSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1244, a bill to establish a 3-year pilot project for the General Accounting Office to report to Congress on economically significant rules of Federal agencies, and for other purposes.

SENATE CONCURRENT RESOLUTION 36

At the request of Mr. SCHUMER, the names of the Senator from Iowa (Mr. GRASSLEY), and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of Senate Concurrent Resolution 36, a concurrent resolution condemning Palestinian efforts to revive the original Palestine partition plan of November 29, 1947, and condemning the United Nations Commission on Human Rights for its April 27, 1999, resolution endorsing Palestinian self-determination on the basis of the original Palestine partition plan.

SENATE CONCURRENT RESOLUTION 39

At the request of Mr. SCHUMER, the names of the Senator from Colorado (Mr. ALLARD), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Kansas (Mr. BROWNBACK), the Senator from California (Mrs. FEINSTEIN), the Senator from Minnesota (Mr. GRAMS), the Senator from Nebraska (Mr. HAGEL), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. REED), the Senator from Nevada (Mr. REID), the Senator from Delaware (Mr. ROTH), the Senator from Oregon (Mr. SMITH), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of Senate Concurrent Resolution 39, a concurrent resolution expressing the sense of the Congress regarding the treatment of religious minorities in the Islamic Republic of Iran, and particularly the recent arrests of members of that country's Jewish community.

SENATE RESOLUTION 99

At the request of Mr. REID, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of Senate Resolution 99, a resolution designating November 20, 1999, as ''National Survivors for Prevention of Suicide Day.''

SENATE RESOLUTION 115

At the request of Mr. SPECTER, his name was withdrawn as a cosponsor of Senate Resolution 115, a resolution expressing the sense of the Senate regarding United States citizens killed in terrorist attacks in Israel.

SENATE RESOLUTION 118

At the request of Mr. REID, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of Senate Resolution 118, a resolution designating December 12, 1999, as ''National Children's Memorial Day.''

AMENDMENTS SUBMITTED

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

GRAHAM (AND HOLLINGS) AMENDMENT NO. 700

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by them to the bill (S. 1233) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7____. INDICATION OF COUNTRY OF ORIGIN OF IMPORTED PERISHABLE AGRICULTURAL COMMODITIES.—(a) DEFINITIONS.—In this section, the terms ''perishable agricultural commodity'' and ''retailer'' have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

(b) NOTICE OF COUNTRY OF ORIGIN REQUIRED.—A retailer of a perishable agricultural commodity imported into the United States shall inform consumers, at the final point of sale of the perishable agricultural commodity to consumers, of the country of origin of the perishable agricultural commodity.

(c) METHOD OF NOTIFICATION.—

(1) IN GENERAL.—The information required by subsection (b) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the imported perishable agricultural commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

(2) LABELED COMMODITIES.—If the imported perishable agricultural commodity is already individually labeled regarding country of origin by the packer, importer, or another person, the retailer shall not be required to provide any additional information to comply with this section.

(d) VIOLATIONS.—If a retailer fails to indicate the country of origin of an imported perishable agricultural commodity as required by subsection (b), the Secretary of Agriculture may impose a monetary penalty on the retailer in an amount not to exceed—

(1) $1,000 for the first day on which the violation occurs; and

(2) $250 for each day on which the same violation continues.

(e) DEPOSIT OF FUNDS.—Amounts collected under subsection (d) shall be deposited in the Treasury of the United States as miscellaneous receipts.

(f) APPLICATION OF SECTION.—This section shall apply with respect to a perishable agricultural commodity imported into the United States after the end of the 6-month period beginning on the date of the enactment of this section.

ABRAHAM AMENDMENT NO. 701

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill, S. 1233, supra; as follows:

On page 13, line 14, before the semicolon insert the following: '', of which not less than $600,000 shall be used to0 provide a special grant for bovine tuberculosis research at Michigan State University''.

DASCHLE AMENDMENT NO. 702

Mr. DORGAN (for Mr. DASCHLE) proposed an amendment to the bill, S. 1233, supra; as follows:

At the appropriate place, insert the following:

TITLE ____—PATIENTS' BILL OF RIGHTS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Patients' Bill of Rights Act of 1999''.

Subtitle A—Health Insurance Bill of Rights

CHAPTER 1—ACCESS TO CARE

SEC. ___101. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider without prior authorization by the plan or issuer, the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization by the plan or issuer; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection), if the services are maintenance care or post-stabilization care covered under such guidelines.

SEC. ___102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.

(a) REQUIREMENT.—

(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage; and

(B) one or more coverage options that do not provide benefits only through participating health care providers.

(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term ''point-of-service coverage'' means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) CONSTRUCTION.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) NO REQUIREMENT FOR GUARANTEED AVAILABILITY.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

SEC. ___103. CHOICE OF PROVIDERS.

(a) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. ___104. ACCESS TO SPECIALTY CARE.

(a) OBSTETRICAL AND GYNECOLOGICAL CARE.—

(1) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating health professional as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) SPECIALTY CARE.—

(1) SPECIALTY CARE FOR COVERED SERVICES.—

(A) IN GENERAL.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) SPECIALIST DEFINED.—For purposes of this subsection, the term ''specialist'' means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term ''special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

SEC. ___105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. ___106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. ___107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section ___121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section ___115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. ___108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage. This subsection shall only apply to a plan's or issuer's application of restrictions on the participation of health care providers in a network and shall not be construed as requiring a plan or issuer to create or establish new health care providers in an area.

(b) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. ___109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage. Pursuant to section ___192(b), except as provided in section ___152, nothing in this subtitle shall be construed as requiring a group health plan or health insurance issuer to provide specific benefits under the terms of such plan or coverage.

CHAPTER 2—QUALITY ASSURANCE

SEC. ___111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section ___112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program in accordance with section ___114.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least a stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. ___112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction (including satisfaction with respect to services to children) of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section ___121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

(e) EXCEPTION FOR NON-MEDICAL, RELIGIOUS CARE PROVIDERS.—The requirements of subsection (a), insofar as they may apply to a provider of health care, do not apply to a provider that provides no medical care and that provides only a religious method of healing or religious nonmedical nursing care.

SEC. ___113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.—

(1) IN GENERAL.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.—

(1) IN GENERAL.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) RULES.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. ___114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section ___111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

SEC. ___115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section ___111(b)(4)(B).

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term ''health care professional'' means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) PEER REVIEW OF SAMPLE OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers (as defined in section ___191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section ___101, respectively.

(e) NOTICE OF ADVERSE DETERMINATIONS.—

(1) IN GENERAL.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section ___132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. ___116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) NUMBER AND APPOINTMENT.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) DUTIES.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section ___112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) REPORT.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL CONSULTATION.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) CONTINUATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

CHAPTER 3—PATIENT INFORMATION

SEC. ___121. PATIENT INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section ___103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) QUALITY ASSURANCE.—A summary description of the data on quality collected under section ___112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section ___112(b)(4).

(10) SUMMARY OF PROVIDER FINANCIAL INCENTIVES.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone

numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section ___115, including under any drug formulary program under section ___107.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) CONFIDENTIALITY POLICIES AND PROCEDURES.—A description of the policies and procedures established to carry out section ___122.

(6) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(7) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) FORM OF DISCLOSURE.—

(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) UPDATING PARTICIPATING PROVIDER INFORMATION.—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

(e) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. ___122. PROTECTION OF PATIENT CONFIDENTIALITY.

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

SEC. ___123. HEALTH INSURANCE OMBUDSMEN.

(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) CONSTRUCTION.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

CHAPTER 4—GRIEVANCE AND APPEALS PROCEDURES

SEC. ___131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) SCOPE.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this subtitle.

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section ___111(a) of all grievances and appeals relating to quality of care.

SEC. ___132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section ___133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section ___121(b)(8).

(2) APPEALABLE DECISION DEFINED.—In this section, the term ''appealable decision'' means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section ___101.

(C) Failure to provide a choice of provider under section ___103.

(D) Failure to provide qualified health care providers under section ___103.

(E) Failure to provide access to specialty and other care under section ___104.

(F) Failure to provide continuation of care under section ___105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section ___106.

(H) Failure to provide access to needed drugs under section ___107(a)(3) or 107(b).

(I) Discrimination in delivery of services in violation of section ___109.

(J) An adverse determination under a utilization review program under section ___115.

(K) The imposition of a limitation that is prohibited under section ___151.

(b) INTERNAL APPEAL PROCESS.—

(1) IN GENERAL.—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, or enrollee, or any provider or other person acting on behalf of such an individual with the individual's consent, who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal appeal process. The appeal may be communicated orally.

(2) CONDUCT OF REVIEW.—

(A) IN GENERAL.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) AVAILABILITY AND PARTICIPATION OF CLINICAL PEERS.—The individuals conducting such review shall include one or more clinical peers (as defined in section ___191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) DEADLINE.—

(A) IN GENERAL.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) EXTENSION.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) NOTICE.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee (including in the case of a child, development) or such an individual's ability to regain maximum function.

(2) PROCESS.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal; and

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method.

(d) DIRECT USE OF FURTHER APPEALS.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

SEC. ___133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—For purposes of this section, the term ''externally appealable decision'' means an appealable decision (as defined in section ___132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized (including, in the case of a child, development) as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) EXHAUSTION OF INTERNAL APPEALS PROCESS.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section ___132, but only if the decision is made in a timely basis consistent with the deadlines provided under this chapter.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) RESTRICTIONS ON QUALIFIED EXTERNAL APPEAL ENTITY.—

(i) BY STATE FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) BY FEDERAL GOVERNMENT FOR GROUP HEALTH PLANS.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) LIMITATION ON PLAN OR ISSUER SELECTION.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR PROCESS; DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination.

(B) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term ''qualified external appeal entity'' means, in relation to a plan or issuer, an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the State has not established an adequate certification and recertification process, by the Secretary of Health and Human Services,

or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this subtitle shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

CHAPTER 5—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

SEC. ___141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of paragraph (1) shall be null and void.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) MEDICAL COMMUNICATION DEFINED.—In this section:

(1) IN GENERAL.—The term ''medical communication'' means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term ''medical communication'' does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. ___142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. ___143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) PROCEDURES.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

SEC. ___144. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this subtitle.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

CHAPTER 6—PROMOTING GOOD MEDICAL PRACTICE

SEC. ___151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term ''manner or setting'' means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital. Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term ''medically necessary or appropriate'' means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. ___152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, to be medically appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

CHAPTER 7—DEFINITIONS

SEC. ___191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this subtitle in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this subtitle under sections 2707 and 2753 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this subtitle under section 714 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this

subtitle under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this subtitle:

(1) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this subtitle, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term ''clinical peer'' means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. ___192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this subtitle shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this subtitle.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this subtitle shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) RULES OF CONSTRUCTION.—Except as provided in section ___152, nothing in this subtitle shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

SEC. ___193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this subtitle. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this subtitle.

Subtitle B—Application of Patient Protection Standards to Group Health Plans and Health Insurance Coverage Under Public Health Service Act

SEC. ___201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1999, and each health insurance issuer shall comply with patient protection requirements under such subtitle with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.''.

(b) 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''.

SEC. ___202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Subpart 3 of part B of title XXVII of the Public Health Service Act, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1999 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such subtitle as if such section applied to such issuer and such issuer were a group health plan.''.

Subtitle C—Amendments to the Employee Retirement Income Security Act of 1974

SEC. ___301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following:

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of subtitle A of the Patients' Bill of Rights Act of 1999 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) Section ___101 (relating to access to emergency care).

''(B) Section ___102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

''(C) Section ___103 (relating to choice of providers).

''(D) Section ___104 (relating to access to specialty care).

''(E) Section ___105(a)(1) (relating to continuity in case of termination of provider contract) and section ___105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(F) Section ___106 (relating to coverage for individuals participating in approved clinical trials.)

''(G) Section ___107 (relating to access to needed prescription drugs).

''(H) Section ___108 (relating to adequacy of provider network).

''(I) Chapter 2 of subtitle A (relating to quality assurance).

''(J) Section ___143 (relating to additional rules regarding participation of health care professionals).

''(K) Section ___152 (relating to standards relating to benefits for certain breast cancer treatment).

''(2) INFORMATION.—With respect to information required to be provided or made available under section ___121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if

the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections 131 and 132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section ___133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) Section ___109 (relating to nondiscrimination in delivery of services).

''(B) Section ___141 (relating to prohibition of interference with certain medical communications).

''(C) Section ___142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

''(D) Section ___144 (relating to prohibition on retaliation).

''(E) Section ___151 (relating to promoting good medical practice).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section ___144(b)(1) of the Patients' Bill of Rights Act of 1999, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section ___144(b)(1) of the Patients' Bill of Rights Act of 1999 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''SEC. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of chapter 4 (and section ___115) of subtitle A of the Patients' Bill of Rights Act of 1999 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—

(1) 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''.

(2) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Patient protection standards.''.

(3) Section 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 144(b))'' after ''part 7''.

SEC. ___302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

''(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

''(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

''(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

''(2) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

''(i) any cause of action against an employer or other plan sponsor maintaining the group health plan or against an employee of such an employer or sponsor acting within the scope of employment, or

''(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

''(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

''(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

''(ii) the exercise by such employer or other plan sponsor (or employee of such authority) resulted in personal injury or wrongful death.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.

''(4) PERSONAL INJURY DEFINED.—For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

SEC. ___303. LIMITATION IN ACTIONS.

Section 502 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n)(1) Except as provided in this section, no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in chapter 1 (other than section ___109) of subtitle A, chapter 5 of subtitle A, or section ___115 or ___151 of the Patient's Bill of Rights Act of 1999 (as incorporated under section 714).

''(2) An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section ___101, ___104, ___105, ___106, ___107(a)(3), ___107(b), ___115, or ___151 of the Patient's Bill of Rights Act of 1999 (as incorporated under section 714) to the individual circumstances of that participant or beneficiary; except that—

''(A) such an action may not be brought or maintained as a class action; and

''(B) in such an action relief may only provide for the provision of (or payment for) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary and for any relief to any other person.

''(3) Nothing in this subsection shall be construed as affecting any action brought by the Secretary.''.

Subtitle D—Application to Group Health Plans Under the Internal Revenue Code of 1986

SEC. ___401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patient freedom of choice.''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1999 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

Subtitle E—Effective Dates; Coordination in Implementation

SEC. ___501. EFFECTIVE DATES AND RELATED RULES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 201(a), 301, and 401 (and subtitle A insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance

coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2000 (in this section referred to as the ''general effective date'').

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this title, the amendments made by sections ___201(a), ___301, and ___401 (and subtitle A insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section ___202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this title (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ''religious nonmedical provider'' means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

SEC. ___502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, chapter 100 of the Internal Revenue Code of 1986, and subtitle A of the Patients' Bill of Rights Act of 1999''.

SEC. ___503. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this title shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this title has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this title has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such title.

Subtitle F—Revenue-Related Provisions

SEC. ___601. INFORMATION REQUIREMENTS.

(a) INFORMATION FROM GROUP HEALTH PLANS.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following:

''(7) INFORMATION FROM GROUP HEALTH PLANS.—

''(A) PROVISION OF INFORMATION BY GROUP HEALTH PLANS.—The administrator of a group health plan subject to the requirements of paragraph (1) shall provide to the Secretary such of the information elements described in subparagraph (C) as the Secretary specifies, and in such manner and at such times as the Secretary may specify (but not more frequently than 4 times per year), with respect to each individual covered under the plan who is entitled to any benefits under this title.

''(B) PROVISION OF INFORMATION BY EMPLOYERS AND EMPLOYEE ORGANIZATIONS.—An employer (or employee organization) that maintains or participates in a group health plan subject to the requirements of paragraph (1) shall provide to the administrator of the plan such of the information elements required to be provided under subparagraph (A), and in such manner and at such times as the Secretary may specify, at a frequency consistent with that required under subparagraph (A) with respect to each individual described in subparagraph (A) who is covered under the plan by reason of employment with that employer or membership in the organization.

''(C) INFORMATION ELEMENTS.—The information elements described in this subparagraph are the following:

''(i) ELEMENTS CONCERNING THE INDIVIDUAL.—

''(I) The individual's name.

''(II) The individual's date of birth.

''(III) The individual's sex.

''(IV) The individual's social security insurance number.

''(V) The number assigned by the Secretary to the individual for claims under this title.

''(VI) The family relationship of the individual to the person who has or had current or employment status with the employer.

''(ii) ELEMENTS CONCERNING THE FAMILY MEMBER WITH CURRENT OR FORMER EMPLOYMENT STATUS.—

''(I) The name of the person in the individual's family who has current or former employment status with the employer.

''(II) That person's social security insurance number.

''(III) The number or other identifier assigned by the plan to that person.

''(IV) The periods of coverage for that person under the plan.

''(V) The employment status of that person (current or former) during those periods of coverage.

''(VI) The classes (of that person's family members) covered under the plan.

''(iii) PLAN ELEMENTS.—

''(I) The items and services covered under the plan.

''(II) The name and address to which claims under the plan are to be sent.

''(iv) ELEMENTS CONCERNING THE EMPLOYER.—

''(I) The employer's name.

''(II) The employer's address.

''(III) The employer identification number of the employer.

''(D) USE OF IDENTIFIERS.—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

''(E) PENALTY FOR NONCOMPLIANCE.—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed $1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of the enactment of this Act.

SEC. ___602. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 1998, and before January 1, 2010.''

(2) EXCISE TAXES.—Section 4611(e) of such Code is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after September 15, 1999, and before October 1, 2009.''

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1998.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on September 15, 1999.

SEC. ___603. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 2001.

SEC. ___604. LIMITATIONS ON WELFARE BENEFIT FUNDS OF 10 OR MORE EMPLOYER PLANS.

(a) BENEFITS TO WHICH EXCEPTION APPLIES.—Section 419A(f)(6)(A) of the Internal

Revenue Code of 1986 (relating to exception for 10 or more employer plans) is amended to read as follows:

''(A) IN GENERAL.—This subpart shall not apply to a welfare benefit fund which is part of a 10 or more employer plan if the only benefits provided through the fund are 1 or more of the following:

''(i) Medical benefits.

''(ii) Disability benefits.

''(iii) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed, or pledged for collateral for a loan.

The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.''

(b) LIMITATION ON USE OF AMOUNTS FOR OTHER PURPOSES.—Section 4976(b) of the Internal Revenue Code of 1986 (defining disqualified benefit) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR 10 OR MORE EMPLOYER PLANS EXEMPTED FROM PREFUNDING LIMITS.—For purposes of paragraph (1)(C), if—

''(A) subpart D of part I of subchapter D of chapter 1 does not apply by reason of section 419A(f)(6) to contributions to provide 1 or more welfare benefits through a welfare benefit fund under a 10 or more employer plan, and

''(B) any portion of the welfare benefit fund attributable to such contributions is used for a purpose other than that for which the contributions were made,

then such portion shall be treated as reverting to the benefit of the employers maintaining the fund.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions paid or accrued after the date of the enactment of this Act, in taxable years ending after such date.

SEC. ___605. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.

(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 453 of the Internal Revenue Code of 1986 (relating to installment method) is amended to read as follows:

''(a) USE OF INSTALLMENT METHOD.—

''(1) IN GENERAL.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

''(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (l)(2).''

(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) of the Internal Revenue Code of 1986 are each amended by striking ''(a)'' each place it appears and inserting ''(a)(1)''.

(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: ''A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

LOTT AMENDMENT NO. 703

Mr. LOTT proposed an amendment to amendment No. 702 proposed by Mr. DASCHLE to the bill, S. 1233, supra; as follows:

Beginning on page 1 of the amendment, line 2, strike all after the first word and insert the following:

___—ACCESS TO QUALITY, AFFORDABLE HEALTH CARE

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Patients' Bill of Rights Plus Act''.

Subtitle A—Patients' Bill of Rights

CHAPTER 1—RIGHT TO ADVICE AND CARE

SEC. ___101. PATIENT RIGHT TO MEDICAL ADVICE AND CARE.

(a) IN GENERAL.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.) is amended—

(1) by redesignating subpart C as subpart D; and

(2) by inserting after subpart B the following:

''Subpart C—Patient Right to Medical Advice and Care

''SEC. 721. PATIENT ACCESS TO EMERGENCY MEDICAL CARE.

''(a) IN GENERAL.—To the extent that the group health plan (other than a fully insured group health plan) provides coverage for benefits consisting of emergency medical care (as defined in subsection (c)), except for items or services specifically excluded—

''(1) the plan shall provide coverage for benefits, without requiring preauthorization, for appropriate emergency medical screening examinations (within the capability of the emergency facility, including ancillary services routinely available to the emergency facility) to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary to determine whether emergency medical care (as so defined) is necessary; and

''(2) the plan shall provide coverage for benefits, without requiring preauthorization, for additional emergency medical care to stabilize an emergency medical condition following an emergency medical screening examination (if determined necessary under paragraph (1)), pursuant to the definition of stabilize under section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

''(b) UNIFORM COST-SHARING REQUIRED AND OUT-OF-NETWORK CARE.—

''(1) UNIFORM COST-SHARING.—Nothing in this section shall be construed as preventing a group health plan (other than a fully insured group health plan) from imposing any form of cost-sharing applicable to any participant or beneficiary (including coinsurance, copayments, deductibles, and any other charges) in relation to coverage for benefits described in subsection (a), if such form of cost-sharing is uniformly applied under such plan, with respect to similarly situated participants and beneficiaries, to all benefits consisting of emergency medical care (as defined in subsection (c)) provided to such similarly situated participants and beneficiaries under the plan.

''(2) OUT-OF-NETWORK CARE.—If a group health plan (other than a fully insured group health plan) provides any benefits with respect to emergency medical care (as defined in subsection (c)), the plan shall cover emergency medical care under the plan in a manner so that, if such care is provided to a participant or beneficiary by a nonparticipating health care provider, the participant or beneficiary is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating provider.

''(c) DEFINITION OF EMERGENCY MEDICAL CARE.—In this section:

''(1) IN GENERAL.—The term 'emergency medical care' means, with respect to a participant or beneficiary under a group health plan (other than a fully insured group health plan), covered inpatient and outpatient services that—

''(A) are furnished by any provider, including a nonparticipating provider, that is qualified to furnish such services; and

''(B) are needed to evaluate or stabilize (as such term is defined in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd)(e)(3)) an emergency medical condition (as defined in paragraph (2)).

''(2) EMERGENCY MEDICAL CONDITION.—The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(A) placing the health of the participant or beneficiary (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

''(B) serious impairment to bodily functions, or

''(C) serious dysfunction of any bodily organ or part.

''SEC. 722. OFFERING OF CHOICE OF COVERAGE OPTIONS.

''(a) REQUIREMENT.—

''(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (other than a fully insured group health plan) provides coverage for benefits only through a defined set of participating health care professionals, the plan shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan and at such other times as the plan offers the participant a choice of coverage options.

''(2) EXCEPTION IN THE CASE OF MULTIPLE ISSUER OR COVERAGE OPTIONS.—Paragraph (1) shall not apply with respect to a participant in a group health plan (other than a fully insured group health plan) if the plan offers the participant 2 or more coverage options that differ significantly with respect to the use of participating health care professionals or the networks of such professionals that are used.

''(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term 'point-of-service coverage' means, with respect to benefits covered under a group health plan (other than a fully insured group health plan), coverage of such benefits when provided by a nonparticipating health care professional.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (other than a fully insured group health plan) of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan (other than a fully insured group health plan) with respect to a calendar year and a

plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. For purposes of this paragraph, the provisions of subparagraph (C) of section 712(c)(1) shall apply in determining employer size.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring coverage for benefits for a particular type of health care professional;

''(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options;

''(3) as preventing a group health plan (other than a fully insured group health plan) from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option; or

''(4) to require that a group health plan (other than a fully insured group health plan) include coverage of health care professionals that the plan excludes because of fraud, quality of care, or other similar reasons with respect to such professionals.

''SEC. 723. PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

''(a) GENERAL RIGHTS.—

''(1) WAIVER OF PLAN REFERRAL REQUIREMENT.—If a group health plan described in subsection (b) requires a referral to obtain coverage for speciality care, the plan shall waive the referral requirement in the case of a female participant or beneficiary who seeks coverage for routine obstetrical care or routine gynecological care.

''(2) RELATED ROUTINE CARE.—With respect to a participant or beneficiary described in paragraph (1), a group health plan described in subsection (b) shall treat the ordering of other routine care that is related to routine obstetric or gynecologic care, by a physician who specializes in obstetrics and gynecology as the authorization of the primary care provider for such other routine care.

''(b) APPLICATION OF SECTION.—A group health plan described in this subsection is a group health plan (other than a fully insured group health plan), that—

''(1) provides coverage for routine obstetric care (such as pregnancy-related services) or routine gynecologic care (such as preventive women's health examinations); and

''(2) requires the designation by a participant or beneficiary of a participating primary care provider who is not a physician who specializes in obstetrics or gynecology.

''(c) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as waiving any coverage requirement relating to medical necessity or appropriateness with respect to the coverage of obstetric or gynecologic care described in subsection (a);

''(2) to preclude the plan from requiring that the physician who specializes in obstetrics or gynecology notify the designated primary care provider or the plan of treatment decisions; or

''(3) to preclude a group health plan from allowing health care professionals other than physicians to provide routine obstetric or routine gynecologic care.

''SEC. 724. PATIENT ACCESS TO PEDIATRIC CARE.

''(a) IN GENERAL.—In the case of a group health plan (other than a fully insured group health plan) that provides coverage for routine pediatric care and that requires the designation by a participant or beneficiary of a participating primary care provider, if the designated primary care provider is not a physician who specializes in pediatrics—

''(1) the plan may not require authorization or referral by the primary care provider in order for a participant or beneficiary to obtain coverage for routine pediatric care; and

''(2) the plan shall treat the ordering of other routine care related to routine pediatric care by such a specialist as having been authorized by the designated primary care provider.

''(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed—

''(1) as waiving any coverage requirement relating to medical necessity or appropriateness with respect to the coverage of any pediatric care provided to, or ordered for, a participant or beneficiary;

''(2) to preclude a group health plan from requiring that a specialist described in subsection (a) notify the designated primary care provider or the plan of treatment decisions; or

''(3) to preclude a group health plan from allowing health care professionals other than physicians to provide routine pediatric care.

''SEC. 725. ACCESS TO SPECIALISTS.

''(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) shall ensure that participants and beneficiaries have access to specialty care when such care is covered under the plan. Such access may be provided through contractual arrangements with specialized providers outside of the network of the plan.

''(b) TREATMENT PLANS.—

''(1) IN GENERAL.—Nothing in this section shall be construed to prohibit a group health plan (other than a fully insured group health plan) from requiring that speciality care be provided pursuant to a treatment plan so long as the treatment plan is—

''(A) developed by the specialist, in consultation with the primary care provider, and the participant or beneficiary;

''(B) approved by the plan; and

''(C) in accordance with the applicable quality assurance and utilization review standards of the plan.

''(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan from requiring the specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all other necessary medical information.

''(c) REFERRALS.—Nothing in this section shall be construed to prohibit a plan from requiring an authorization by the primary care provider of the participant or beneficiary in order to obtain coverage for speciality services so long as such authorization is for an adequate number of referrals under an approved treatment plan if such a treatment plan is required by the plan.

''(d) SPECIALITY CARE DEFINED.—For purposes of this subsection, the term ''speciality care'' means, with respect to a condition, care and treatment provided by a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise (including age-appropriate expertise) through appropriate training and experience.

''SEC. 726. CONTINUITY OF CARE.

''(a) IN GENERAL.—

''(1) TERMINATION OF PROVIDER.—If a contract between a group health plan (other than a fully insured group health plan) and a health care provider is terminated (as defined in paragraph (2)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such group health plan, and an individual who is a participant or beneficiary in the plan is undergoing a course of treatment from the provider at the time of such termination, the plan shall—

''(A) notify the individual on a timely basis of such termination;

''(B) provide the individual with an opportunity to notify the plan of a need for transitional care; and

''(C) in the case of termination described in paragraph (2), (3), or (4) of subsection (b), and subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider's consent during a transitional period (as provided under subsection (b)).

''(2) TERMINATED.—In this section, the term 'terminated' includes, with respect to a contract, the expiration or nonrenewal of the contract by the group health plan, but does not include a termination of the contract by the plan for failure to meet applicable quality standards or for fraud.

''(3) CONTRACTS.—For purposes of this section, the term 'contract between a group health plan (other than a fully insured group health plan) and a health care provider' shall include a contract between such a plan and an organized network of providers.

''(b) TRANSITIONAL PERIOD.—

''(1) GENERAL RULE.—Except as provided in paragraph (3), the transitional period under this subsection shall permit the participant or beneficiary to extend the coverage involved for up to 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

''(2) INSTITUTIONAL CARE.—Subject to paragraph (1), the transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

''(3) PREGNANCY.—Notwithstanding paragraph (1), if—

''(A) a participant or beneficiary has entered the second trimester of pregnancy at the time of a provider's termination of participation; and

''(B) the provider was treating the pregnancy before the date of the termination;

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

''(4) TERMINAL ILLNESS.—Subject to paragraph (1), if—

''(A) a participant or beneficiary was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) prior to a provider's termination of participation; and

''(B) the provider was treating the terminal illness before the date of termination;

the transitional period under this subsection shall be for care directly related to the treatment of the terminal illness.

''(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan (other than a fully insured group health plan) may condition coverage of continued treatment by a provider under subsection (a)(1)(C) upon the provider agreeing to the following terms and conditions:

''(1) The provider agrees to accept reimbursement from the plan and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or at the rates applicable under the replacement plan after the date of the termination of the contract with the group health plan) and not to impose cost-sharing with respect to the individual in an amount that would exceed

the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

''(2) The provider agrees to adhere to the quality assurance standards of the plan responsible for payment under paragraph (1) and to provide to such plan necessary medical information related to the care provided.

''(3) The provider agrees otherwise to adhere to such plan's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

''(e) DEFINITION.—In this section, the term 'health care provider' or 'provider' means—

''(1) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

''(2) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

''SEC. 727. PROTECTION OF PATIENT-PROVIDER COMMUNICATIONS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (other than a fully insured group health plan and in relation to a participant or beneficiary) shall not prohibit or otherwise restrict a health care professional from advising such a participant or beneficiary who is a patient of the professional about the health status of the participant or beneficiary or medical care or treatment for the condition or disease of the participant or beneficiary, regardless of whether coverage for such care or treatment are provided under the contract, if the professional is acting within the lawful scope of practice.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a group health plan (other than a fully insured group health plan) to provide specific benefits under the terms of such plan.

''SEC. 728. PATIENT'S RIGHT TO PRESCRIPTION DRUGS.

''To the extent that a group health plan (other than a fully insured group health plan) provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan shall—

''(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

''(2) in accordance with the applicable quality assurance and utilization review standards of the plan, provide for exceptions from the formulary limitation when a nonformulary alternative is medically necessary and appropriate.

''SEC. 729. SELF-PAYMENT FOR BEHAVIORAL HEALTH CARE SERVICES.

''(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) may not—

''(1) prohibit or otherwise discourage a participant or beneficiary from self-paying for behavioral health care services once the plan has denied coverage for such services; or

''(2) terminate a health care provider because such provider permits participants or beneficiaries to self-pay for behavioral health care services—

''(A) that are not otherwise covered under the plan; or

''(B) for which the group health plan provides limited coverage, to the extent that the group health plan denies coverage of the services.

''(b) RULE OF CONSTRUCTION.—Nothing in subsection (a)(2)(B) shall be construed as prohibiting a group health plan from terminating a contract with a health care provider for failure to meet applicable quality standards or for fraud.

''SEC. 730. GENERALLY APPLICABLE PROVISION.

''In the case of a group health plan that provides benefits under 2 or more coverage options, the requirements of this subpart, other than section 722, shall apply separately with respect to each coverage option.''.

(b) RULE WITH RESPECT TO CERTAIN PLANS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, health insurance issuers may offer, and eligible individuals may purchase, high deductible health plans described in section 220(c)(2)(A) of the Internal Revenue Code of 1986. Effective for the 4-year period beginning on the date of the enactment of this Act, such health plans shall not be required to provide payment for any health care items or services that are exempt from the plan's deductible.

(2) EXISTING STATE LAWS.—A State law relating to payment for health care items and services in effect on the date of enactment of this Act that is preempted under paragraph (1), shall not apply to high deductible health plans after the expiration of the 4-year period described in such paragraph unless the State reenacts such law after such period.

(c) DEFINITION.—Section 733(a) of the Employee Retirement Income Security Act of 1974 (42 U.S.C. 1191(a)) is amended by adding at the end the following:

''(3) FULLY INSURED GROUP HEALTH PLAN.—The term 'fully insured group health plan' means a group health plan where benefits under the plan are provided pursuant to the terms of an arrangement between a group health plan and a health insurance issuer and are guaranteed by the health insurance issuer under a contract or policy of insurance.''.

(d) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended—

(1) in the item relating to subpart C, by striking ''Subpart C'' and inserting ''Subpart D''; and

(2) by adding at the end of the items relating to subpart B of part 7 of subtitle B of title I of such Act the following new items:

''SUBPART C—PATIENT RIGHT TO MEDICAL ADVICE AND CARE

''Sec. 721. Patient access to emergency medical care.
''Sec. 722. Offering of choice of coverage options.
''Sec. 723. Patient access to obstetric and gynecological care.
''Sec. 724. Patient access to pediatric care.
''Sec. 725. Access to specialists.
''Sec. 726. Continuity of care.
''Sec. 727. Protection of patient-provider communications.
''Sec. 728. Patient's right to prescription drugs.
''Sec. 729. Self-payment for behavioral health care services.
''Sec. 730. Generally applicable provisions.''.

SEC. ___102. COMPREHENSIVE INDEPENDENT STUDY OF PATIENT ACCESS TO CLINICAL TRIALS AND COVERAGE OF ASSOCIATED ROUTINE COSTS.

(a) STUDY BY THE INSTITUTE OF MEDICINE.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall enter into a contract with the Institute of Medicine to conduct a comprehensive study of patient access to clinical trials and the coverage of routine patient care costs by private health plans and insurers.

(b) MATTERS TO BE ASSESSED.—The study shall assess the following:

(1) The factors that hinder patient participation in clinical trials, including health plan and insurance policies and practices.

(2) The ability of health plans and investigators to distinguish between routine patient care costs and costs associated with clinical trials.

(3) The potential impact of health plan coverage of routine costs associated with clinical trials on health care premiums.

(c) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of the execution of the contract referred to in subsection (a), the Institute of Medicine shall submit a report on the study conducted pursuant to that contract to the Committee on Health, Education, Labor and Pensions of the Senate.

(2) MATTERS INCLUDED.—The report submitted under paragraph (1) shall set forth the findings, conclusions, and recommendations of the Institute of Medicine for—

(A) increasing patient participation in clinical trials;

(B) encouraging collaboration between the public and private sectors; and

(C) improving analysis of determining routine costs associated with the conduct of clinical trials.

(3) COPY TO SECRETARY.—Concurrent with the submission of the report under paragraph (1), the Institute of Medicine shall transmit a copy of the report to the Secretary.

(d) FUNDING.—Out of funds appropriated to the Department of Health and Human Services for fiscal year 2000, the Secretary shall provide for such funding as the Secretary determines is necessary in order to carry out the study and report by the Institute of Medicine under this section.

SEC. ___103. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—The amendments made by this chapter shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this chapter, against a group health plan with respect to a violation of a requirement imposed by such amendments before the date of issuance of t B of part 7 of subtitle B of title I of such Act the following new items:

''SUBPART C—PATIENT RIGHT TO MEDICAL ADVICE AND CARE

''Sec. 721. Patient access to emergency medical care.
''Sec. 722. Offering of choice of coverage options.
''Sec. 723. Patient access to obstetric and gynecological care.
''Sec. 724. Patient access to pediatric care.
''Sec. 725. Access to specialists.
''Sec. 726. Continuity of care.
''Sec. 727. Protection of patient-provider communications.
''Sec. 728. Patient's right to prescription drugs.
''Sec. 729. Self-payment for behavioral health care services.
''Sec. 730. Generally applicable provisions.''.

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(b) MATTERS TO BE ASSESSED.—The study shall assess the following:

(1) The factors that hinder patient participation in clinical trials, including health plan and insurance policies and practices.

(2) The ability of health plans and investigators to distinguish between routine patient care costs and costs associated with clinical trials.

(3) The potential impact of health plan coverage of routine costs associated with clinical trials on health care premiums.

(c) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of the execution of the contract referred to in subsection (a), the Institute of Medicine shall submit a report on the study conducted pursuant to that contract to the Committee on Health, Education, Labor and Pensions of the Senate.

(2) MATTERS INCLUDED.—The report submitted under paragraph (1) shall set forth the findings, conclusions, and recommendations of the Institute of Medicine for—

(A) increasing patient participation in clinical trials;

(B) encouraging collaboration between the public and private sectors; and

(C) improving analysis of determining routine costs associated with the conduct of clinical trials.

(3) COPY TO SECRETARY.—Concurrent with the submission of the report under paragraph (1), the Institute of Medicine shall transmit a copy of the report to the Secretary.

(d) FUNDING.—Out of funds appropriated to the Department of Health and Human Services for fiscal year 2000, the Secretary shall provide for such funding as the Secretary determines is necessary in order to carry out the study and report by the Institute of Medicine under this section.

SEC. ___103. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—The amendments made by this chapter shall apply with respect to plan years beginning on or after January 1 of the second calendar year following the date of the enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

(b) LIMITATION ON ENFORCEMENT ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this chapter, against a group health plan with respect to a violation of a requirement imposed by such amendments before the date of issuance of ''(III) The number or other identifier assigned by the plan to that person.

''(IV) The periods of coverage for that person under the plan.

''(V) The employment status of that person (current or former) during those periods of coverage.

''(VI) The classes (of that person's family members) covered under the plan.

''(iii) PLAN ELEMENTS.—

''(I) The items and services covered under the plan.

''(II) The name and address to which claims under the plan are to be sent.

''(iv) ELEMENTS CONCERNING THE EMPLOYER.—

''(I) The employer's name.

''(II) The employer's address.

''(III) The employer identification number of the employer.

''(D) USE OF IDENTIFIERS.—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

''(E) PENALTY FOR NONCOMPLIANCE.—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed $1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of the enactment of this Act.

SEC. ___602. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 1998, and before January 1, 2010.''

(2) EXCISE TAXES.—Section 4611(e) of such Code is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) CONSTRUCTION.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

CHAPTER 4—GRIEVANCE AND APPEALS PROCEDURES

SEC. ___131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) SCOPE.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this subtitle.

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section ___111(a) of all grievances and appeals relating to quality of care.

SEC. ___132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual regulations issued in connection with such requirement, if the plan has sought to comply in good faith with such requirement.

CHAPTER 2—RIGHT TO INFORMATION ABOUT PLANS AND PROVIDERS

SEC. ___111. INFORMATION ABOUT PLANS.

(a) 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, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is amended by adding at the end the following:

''SEC. 714. HEALTH PLAN COMPARATIVE INFORMATION.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with group health insurance coverage, shall, not later than 12 months after the date of enactment of this section, and at least annually thereafter, provide for the disclosure, in a clear and accurate form to each participant and each beneficiary who does not reside at the same address as the participant, or upon request to an individual eligible for coverage under the plan, of the information described in subsection (b).

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a plan or issuer from entering into any agreement under which the issuer agrees to assume responsibility for compliance with the requirements of this section and the plan is released from liability for such compliance.

''(3) PROVISION OF INFORMATION.—Information shall be provided to participants and beneficiaries under this section at the address maintained by the plan or issuer with respect to such participants or beneficiaries.

''(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each package option available under a group health plan the following:

''(1) A description of the covered items and services under each such plan and any in-and out-of-network features of each such plan, including a summary description of the specific exclusions from coverage under the plan.

''(2) A description of any cost-sharing, including premiums, deductibles, coinsurance, and copayment amounts, for which the participant or beneficiary will be responsible, including any annual or lifetime limits on benefits, for each such plan.

''(3) A description of any optional supplemental benefits offered by each such plan

and the terms and conditions (including premiums or cost-sharing) for such supplemental coverage.

''(4) A description of any restrictions on payments for services furnished to a participant or beneficiary by a health care professional that is not a participating professional and the liability of the participant or beneficiary for additional payments for these services.

''(5) A description of the service area of each such plan, including the provision of any out-of-area coverage.

''(6) A description of the extent to which participants and beneficiaries may select the primary care provider of their choice, including providers both within the network and outside the network of each such plan (if the plan permits out-of-network services).

''(7) A description of the procedures for advance directives and organ donation decisions if the plan maintains such procedures.

''(8) A description of the requirements and procedures to be used to obtain preauthorization for health services (including telephone numbers and mailing addresses), including referrals for specialty care.

''(9) A description of the definition of medical necessity used in making coverage determinations by each such plan.

''(10) A summary of the rules and methods for appealing coverage decisions and filing grievances (including telephone numbers and mailing addresses), as well as other available remedies.

''(11) A summary description of any provisions for obtaining off-formulary medications if the plan utilizes a defined formulary for providing specific prescription medications.

''(12) A summary of the rules for access to emergency room care. Also, any available educational material regarding proper use of emergency services.

''(13) A description of whether or not coverage is provided for experimental treatments, investigational treatments, or clinical trials and the circumstances under which access to such treatments or trials is made available.

''(14) A description of the specific preventative services covered under the plan if such services are covered.

''(15) A statement regarding—

''(A) the manner in which a participant or beneficiary may access an obstetrician, gynecologist, or pediatrician in accordance with section 723 or 724; and

''(B) the manner in which a participant or beneficiary obtains continuity of care as provided for in section 726.

''(16) A statement that the following information, and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request:

''(A) The names, addresses, telephone numbers, and State licensure status of the plan's participating health care professionals and participating health care facilities, and, if available, the education, training, speciality qualifications or certifications of such professionals.

''(B) A summary description of the methods used for compensating participating health care professionals, such as capitation, fee-for-service, salary, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

''(C) A summary description of the methods used for compensating health care facilities, including per diem, fee-for-service, capitation, bundled payments, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

''(D) A summary description of the procedures used for utilization review.

''(E) The list of the specific prescription medications included in the formulary of the plan, if the plan uses a defined formulary.

''(F) A description of the specific exclusions from coverage under the plan.

''(G) Any available information related to the availability of translation or interpretation services for non-English speakers and people with communication disabilities, including the availability of audio tapes or information in Braille.

''(H) Any information that is made public by accrediting organizations in the process of accreditation if the plan is accredited, or any additional quality indicators that the plan makes available.

''(c) MANNER OF DISTRIBUTION.—The information described in this section shall be distributed in an accessible format that is understandable to an average plan participant or beneficiary.

''(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit a group health plan, or health insurance issuer in connection with group health insurance coverage, from distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants and beneficiaries or upon request potential participants and beneficiaries in the selection of a health plan or from providing information under subsection (b)(15) as part of the required information.

''(e) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under part 1, to reduce duplication with respect to any information that is required to be provided under any such requirements.

''(f) HEALTH CARE PROFESSIONAL.—In this section, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the health plan involved for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(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 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713, the following:

''Sec. 714. Health plan comparative information.''.

(b) 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. Health plan comparative information.''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. HEALTH PLAN COMPARATIVE INFORMATION.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—A group health plan shall, not later than 12 months after the date of enactment of this section, and at least annually thereafter, provide for the disclosure, in a clear and accurate form to each participant and each beneficiary who does not reside at the same address as the participant, or upon request to an individual eligible for coverage under the plan, of the information described in subsection (b).

''(2) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a plan from entering into any agreement under which a health insurance issuer agrees to assume responsibility for compliance with the requirements of this section and the plan is released from liability for such compliance.

''(3) PROVISION OF INFORMATION.—Information shall be provided to participants and beneficiaries under this section at the address maintained by the plan with respect to such participants or beneficiaries.

''(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each package option available under a group health plan the following:

''(1) A description of the covered items and services under each such plan and any in- and out-of-network features of each such plan, including a summary description of the specific exclusions from coverage under the plan.

''(2) A description of any cost-sharing, including premiums, deductibles, coinsurance, and copayment amounts, for which the participant or beneficiary will be responsible, including any annual or lifetime limits on benefits, for each such plan.

''(3) A description of any optional supplemental benefits offered by each such plan and the terms and conditions (including premiums or cost-sharing) for such supplemental coverage.

''(4) A description of any restrictions on payments for services furnished to a participant or beneficiary by a health care professional that is not a participating professional and the liability of the participant or beneficiary for additional payments for these services.

''(5) A description of the service area of each such plan, including the provision of any out-of-area coverage.

''(6) A description of the extent to which participants and beneficiaries may select the primary care provider of their choice, including providers both within the network and outside the network of each such plan (if the plan permits out-of-network services).

''(7) A description of the procedures for advance directives and organ donation decisions if the plan maintains such procedures.

''(8) A description of the requirements and procedures to be used to obtain preauthorization for health services (including telephone numbers and mailing addresses), including referrals for specialty care.

''(9) A description of the definition of medical necessity used in making coverage determinations by each such plan.

''(10) A summary of the rules and methods for appealing coverage decisions and filing grievances (including telephone numbers and mailing addresses), as well as other available remedies.

''(11) A summary description of any provisions for obtaining off-formulary medications if the plan utilizes a defined formulary for providing specific prescription medications.

''(12) A summary of the rules for access to emergency room care. Also, any available educational material regarding proper use of emergency services.

''(13) A description of whether or not coverage is provided for experimental treatments, investigational treatments, or clinical trials and the circumstances under which access to such treatments or trials is made available.

''(14) A description of the specific preventative services covered under the plan if such services are covered.

''(15) A statement regarding—

''(A) the manner in which a participant or beneficiary may access an obstetrician, gynecologist, or pediatrician in accordance with section 723 or 724; and

''(B) the manner in which a participant or beneficiary obtains continuity of care as provided for in section 726.

''(16) A statement that the following information, and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request:

''(A) The names, addresses, telephone numbers, and State licensure status of the plan's participating health care professionals and participating health care facilities, and, if available, the education, training, speciality qualifications or certifications of such professionals.

''(B) A summary description of the methods used for compensating participating health care professionals, such as capitation, fee-for-service, salary, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

''(C) A summary description of the methods used for compensating health care facilities, including per diem, fee-for-service, capitation, bundled payments, or a combination thereof. The requirement of this subparagraph shall not be construed as requiring plans to provide information concerning proprietary payment methodology.

''(D) A summary description of the procedures used for utilization review.

''(E) The list of the specific prescription medications included in the formulary of the plan, if the plan uses a defined formulary.

''(F) A description of the specific exclusions from coverage under the plan.

''(G) Any available information related to the availability of translation or interpretation services for non-English speakers and people with communication disabilities, including the availability of audio tapes or information in Braille.

''(H) Any information that is made public by accrediting organizations in the process of accreditation if the plan is accredited, or any additional quality indicators that the plan makes available.

''(c) MANNER OF DISTRIBUTION.—The information described in this section shall be distributed in an accessible format that is understandable to an average plan participant or beneficiary.

''(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit a group health plan from distributing any other additional information determined by the plan to be important or necessary in assisting participants and beneficiaries or upon request potential participants and beneficiaries in the selection of a health plan or from providing information under subsection (b)(15) as part of the required information.

''(e) HEALTH CARE PROFESSIONAL.—In this section, the term 'health care professional' means a physician (as defined in section 1861(r) of the Social Security Act) or other health care professional if coverage for the professional's services is provided under the health plan involved for the services of the professional. Such term includes a podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist and therapy assistant, speech-language pathologist, audiologist, registered or licensed practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, and certified nurse-midwife), licensed certified social worker, registered respiratory therapist, and certified respiratory therapy technician.''.

SEC. ___112. INFORMATION ABOUT PROVIDERS.

(a) STUDY.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study, and the submission to the Secretary of a report, that includes—

(1) an analysis of information concerning health care professionals that is currently available to patients, consumers, States, and professional societies, nationally and on a State-by-State basis, including patient preferences with respect to information about such professionals and their competencies;

(2) an evaluation of the legal and other barriers to the sharing of information concerning health care professionals; and

(3) recommendations for the disclosure of information on health care professionals, including the competencies and professional qualifications of such practitioners, to better facilitate patient choice, quality improvement, and market competition.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall forward to the appropriate committees of Congress a copy of the report and study conducted under subsection (a).

CHAPTER 3—RIGHT TO HOLD HEALTH PLANS ACCOUNTABLE

SEC. ___121. AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended to read as follows:

''SEC. 503. CLAIMS PROCEDURE, COVERAGE DETERMINATION, GRIEVANCES AND APPEALS.

''(a) CLAIMS PROCEDURE.—In accordance with regulations of the Secretary, every employee benefit plan shall—

''(1) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant; and

''(2) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate named fiduciary of the decision denying the claim.

''(b) COVERAGE DETERMINATIONS UNDER GROUP HEALTH PLANS.—

''(1) PROCEDURES.—

''(A) IN GENERAL.—A group health plan or health insurance issuer conducting utilization review shall ensure that procedures are in place for—

''(i) making determinations regarding whether a participant or beneficiary is eligible to receive a payment or coverage for health services under the plan or coverage involved and any cost-sharing amount that the participant or beneficiary is required to pay with respect to such service;

''(ii) notifying a covered participant or beneficiary (or the authorized representative of such participant or beneficiary) and the treating health care professionals involved regarding determinations made under the plan or issuer and any additional payments that the participant or beneficiary may be required to make with respect to such service; and

''(iii) responding to requests, either written or oral, for coverage determinations or for internal appeals from a participant or beneficiary (or the authorized representative of such participant or beneficiary) or the treating health care professional with the consent of the participant or beneficiary.

''(B) ORAL REQUESTS.—With respect to an oral request described in subparagraph (A)(iii), a group health plan or health insurance issuer may require that the requesting individual provide written evidence of such request.

''(2) TIMELINE FOR MAKING DETERMINATIONS.—

''(A) ROUTINE DETERMINATION.—A group health plan or a health insurance issuer shall maintain procedures to ensure that prior authorization determinations concerning the provision of non-emergency items or services are made within 30 days from the date on which the request for a determination is submitted, except that such period may be extended where certain circumstances exist that are determined by the Secretary to be beyond control of the plan or issuer.

''(B) EXPEDITED DETERMINATION.—

''(i) IN GENERAL.—A prior authorization determination under this subsection shall be made within 72 hours, in accordance with the medical exigencies of the case, after a request is received by the plan or issuer under clause (ii) or (iii).

''(ii) REQUEST BY PARTICIPANT OR BENEFICIARY.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection upon the request of a participant or beneficiary if, based on such a request, the plan or issuer determines that the normal time for making such a determination could seriously jeopardize the life or health of the participant or beneficiary.

''(iii) DOCUMENTATION BY HEALTH CARE PROFESSIONAL.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection if the request involved indicates that the treating health care professional has reasonably documented, based on the medical exigencies, that a determination under the procedures described in subparagraph (A) could seriously jeopardize the life or health of the participant or beneficiary.

''(C) CONCURRENT DETERMINATIONS.—A plan or issuer shall maintain procedures to certify or deny coverage of an extended stay or additional services.

''(D) RETROSPECTIVE DETERMINATION.—A plan or issuer shall maintain procedures to ensure that, with respect to the retrospective review of a determination made under paragraph (1), the determination shall be made within 30 working days of the date on which the plan or issuer receives necessary information.

''(3) NOTICE OF DETERMINATIONS.—

''(A) ROUTINE DETERMINATION.—With respect to a coverage determination of a plan or issuer under paragraph (2)(A), the plan or issuer shall issue notice of such determination to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and, consistent with the medical exigencies of the case, to the treating health care professional involved not later than 2 working days after the date on which the determination is made.

''(B) EXPEDITED DETERMINATION.—With respect to a coverage determination of a plan or issuer under paragraph (2)(B), the plan or issuer shall issue notice of such determination to the participant or beneficiary (or the authorized representative of the participant or beneficiary), and consistent with the medical exigencies of the case, to the treating health care professional involved within the 72 hour period described in paragraph (2)(B).

''(C) CONCURRENT REVIEWS.—With respect to the determination under a plan or issuer

under paragraph (2)(C) to certify or deny coverage of an extended stay or additional services, the plan or issuer shall issue notice of such determination to the treating health care professional and to the participant or beneficiary involved (or the authorized representative of the participant or beneficiary) within 1 working day of the determination.

''(D) RETROSPECTIVE REVIEWS.—With respect to the retrospective review under a plan or issuer of a determination made under paragraph (2)(D), the plan or issuer shall issue written notice of an approval or disapproval of a determination under this subparagraph to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and health care provider involved within 5 working days of the date on which such determination is made.

''(E) REQUIREMENTS OF NOTICE OF ADVERSE COVERAGE DETERMINATIONS.—A written notice of an adverse coverage determination under this subsection, or of an expedited adverse coverage determination under paragraph (2)(B), shall be provided to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and treating health care professional (if any) involved and shall include—

''(i) the reasons for the determination (including the clinical or scientific-evidence based rationale used in making the determination) written in a manner to be understandable to the average participant or beneficiary;

''(ii) the procedures for obtaining additional information concerning the determination; and

''(iii) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with subsection (d).

''(c) GRIEVANCES.—A group health plan or a health insurance issuer shall have written procedures for addressing grievances between the plan or issuer offering health insurance coverage in connection with a group health plan and a participant or beneficiary. Determinations under such procedures shall be non-appealable.

''(d) INTERNAL APPEAL OF COVERAGE DETERMINATIONS.—

''(1) RIGHT TO APPEAL.—

''(A) IN GENERAL.—A participant or beneficiary (or the authorized representative of the participant or beneficiary) or the treating health care professional with the consent of the participant or beneficiary (or the authorized representative of the participant or beneficiary), may appeal any adverse coverage determination under subsection (b) under the procedures described in this subsection.

''(B) TIME FOR APPEAL.—A plan or issuer shall ensure that a participant or beneficiary has a period of not less than 180 days beginning on the date of an adverse coverage determination under subsection (b) in which to appeal such determination under this subsection.

''(C) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination under subsection (b) within the applicable timeline established for such a determination under such subsection shall be treated as an adverse coverage determination for purposes of proceeding to internal review under this subsection.

''(2) RECORDS.—A group health plan and a health insurance issuer shall maintain written records, for at least 6 years, with respect to any appeal under this subsection for purposes of internal quality assurance and improvement. Nothing in the preceding sentence shall be construed as preventing a plan and issuer from entering into an agreement under which the issuer agrees to assume responsibility for compliance with the requirements of this section and the plan is released from liability for such compliance.

''(3) ROUTINE DETERMINATIONS.—A group health plan or a health insurance issuer shall complete the consideration of an appeal of an adverse routine determination under this subsection not later than 30 working days after the date on which a request for such appeal is received.

''(4) EXPEDITED DETERMINATION.—

''(A) IN GENERAL.—An expedited determination with respect to an appeal under this subsection shall be made in accordance with the medical exigencies of the case, but in no case more than 72 hours after the request for such appeal is received by the plan or issuer under subparagraph (B) or (C).

''(B) REQUEST BY PARTICIPANT OR BENEFICIARY.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection upon the request of a participant or beneficiary if, based on such a request, the plan or issuer determines that the normal time for making such a determination could seriously jeopardize the life or health of the participant or beneficiary.

''(C) DOCUMENTATION BY HEALTH CARE PROFESSIONAL.—A plan or issuer shall maintain procedures for expediting a prior authorization determination under this subsection if the request involved indicates that the treating health care professional has reasonably documented, based on the medical exigencies of the case that a determination under the procedures described in paragraph (2) could seriously jeopardize the life or health of the participant or beneficiary.

''(5) CONDUCT OF REVIEW.—A review of an adverse coverage determination under this subsection shall be conducted by an individual with appropriate expertise who was not directly involved in the initial determination.

''(6) LACK OF MEDICAL NECESSITY.—A review of an appeal under this subsection relating to a determination to deny coverage based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, shall be made only by a physician with appropriate expertise, including age-appropriate expertise, who was not involved in the initial determination.

''(7) NOTICE.—

''(A) IN GENERAL.—Written notice of a determination made under an internal review process shall be issued to the participant or beneficiary (or the authorized representative of the participant or beneficiary) and the treating health care professional not later than 2 working days after the completion of the review (or within the 72-hour period referred to in paragraph (4) if applicable).

''(B) ADVERSE COVERAGE DETERMINATIONS.—With respect to an adverse coverage determination made under this subsection, the notice described in subparagraph (A) shall include—

''(i) the reasons for the determination (including the clinical or scientific-evidence based rationale used in making the determination) written in a manner to be understandable to the average participant or beneficiary;

''(ii) the procedures for obtaining additional information concerning the determination; and

''(iii) notification of the right to an independent external review under subsection (e) and instructions on how to initiate such a review.

''(e) INDEPENDENT EXTERNAL REVIEW.—

''(1) ACCESS TO REVIEW.—

''(A) IN GENERAL.—A group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan shall have written procedures to permit a participant or beneficiary (or the authorized representative of the participant or beneficiary) access to an independent external review with respect to an adverse coverage determination concerning a particular item or service (including a circumstance treated as an adverse coverage determination under subparagraph (B)) where—

''(i) the particular item or service involved—

''(I)(aa) would be a covered benefit, when medically necessary and appropriate under the terms and conditions of the plan, and the item or service has been determined not to be medically necessary and appropriate under the internal appeals process required under subsection (d) or there has been a failure to issue a coverage determination as described in subparagraph (B); and

''(bb)(AA) the amount of such item or service involved exceeds a significant financial threshold; or

''(BB) there is a significant risk of placing the life or health of the participant or beneficiary in jeopardy; or

''(II) would be a covered benefit, when not considered experimental or investigational under the terms and conditions of the plan, and the item or service has been determined to be experimental or investigational under the internal appeals process required under subsection (d) or there has been a failure to issue a coverage determination as described in subparagraph (B); and

''(ii) the participant or beneficiary has completed the internal appeals process under subsection (d) with respect to such determination.

''(B) FAILURE TO ACT.—The failure of a plan or issuer to issue a coverage determination under subsection (d)(6) within the applicable timeline established for such a determination under such subsection shall be treated as an adverse coverage determination for purposes of proceeding to independent external review under this subsection.

''(2) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

''(A) FILING OF REQUEST.—A participant or beneficiary (or the authorized representative of the participant or beneficiary) who desires to have an independent external review conducted under this subsection shall file a written request for such a review with the plan or issuer involved not later than 30 working days after the receipt of a final denial of a claim under subsection (d). Any such request shall include the consent of the participant or beneficiary (or the authorized representative of the participant or beneficiary) for the release of medical information and records to independent external reviewers regarding the participant or beneficiary.

''(B) INFORMATION AND NOTICE.—Not later than 5 working days after the receipt of a request under subparagraph (A), or earlier in accordance with the medical exigencies of the case, the plan or issuer involved shall select an external appeals entity under paragraph (3)(A) that shall be responsible for designating an independent external reviewer under paragraph (3)(B).

''(C) PROVISION OF INFORMATION.—The plan or issuer involved shall forward necessary information (including medical records, any relevant review criteria, the clinical rationale consistent with the terms and conditions of the contract between the plan or issuer and the participant or beneficiary for the coverage denial, and evidence of the coverage of the participant or beneficiary) to the independent external reviewer selected under paragraph (3)(B).

''(D) NOTIFICATION.—The plan or issuer involved shall send a written notification to

the participant or beneficiary (or the authorized representative of the participant or beneficiary) and the plan administrator, indicating that an independent external review has been initiated.

''(3) CONDUCT OF INDEPENDENT EXTERNAL REVIEW.—

''(A) DESIGNATION OF EXTERNAL APPEALS ENTITY BY PLAN OR ISSUER.—

''(i) IN GENERAL.—A plan or issuer that receives a request for an independent external review under paragraph (2)(A) shall designate a qualified entity described in clause (ii), in a manner designed to ensure that the entity so designated will make a decision in an unbiased manner, to serve as the external appeals entity.

''(ii) QUALIFIED ENTITIES.—A qualified entity shall be—

''(I) an independent external review entity licensed or credentialed by a State;

''(II) a State agency established for the purpose of conducting independent external reviews;

''(III) any entity under contract with the Federal Government to provide independent external review services;

''(IV) any entity accredited as an independent external review entity by an accrediting body recognized by the Secretary for such purpose; or

''(V) any other entity meeting criteria established by the Secretary for purposes of this subparagraph.

''(B) DESIGNATION OF INDEPENDENT EXTERNAL REVIEWER BY EXTERNAL APPEALS ENTITY.—The external appeals entity designated under subparagraph (A) shall, not later than 30 days after the date on which such entity is designated under subparagraph (A), or earlier in accordance with the medical exigencies of the case, designate one or more individuals to serve as independent external reviewers with respect to a request received under paragraph (2)(A). Such reviewers shall be independent medical experts who shall—

''(i) be appropriately credentialed or licensed in any State to deliver health care services;

''(ii) not have any material, professional, familial, or financial affiliation with the case under review, the participant or beneficiary involved, the treating health care professional, the institution where the treatment would take place, or the manufacturer of any drug, device, procedure, or other therapy proposed for the participant or beneficiary whose treatment is under review;

''(iii) have expertise (including age-appropriate expertise) in the diagnosis or treatment under review and, when reasonably available, be of the same specialty as the physician treating the participant or beneficiary or recommending or prescribing the treatment in question;

''(iv) receive only reasonable and customary compensation from the group health plan or health insurance issuer in connection with the independent external review that is not contingent on the decision rendered by the reviewer; and

''(v) not be held liable for decisions regarding medical determinations (but may be held liable for actions that are arbitrary and capricious).

''(4) STANDARD OF REVIEW.—

''(A) IN GENERAL.—An independent external reviewer shall—

''(i) make an independent determination based on the valid, relevant, scientific and clinical evidence to determine the medical necessity, appropriateness, experimental or investigational nature of the proposed treatment; and

''(ii) take into consideration appropriate and available information, including any evidence-based decision making or clinical practice guidelines used by the group health plan or health insurance issuer; timely evidence or information submitted by the plan, issuer, patient or patient's physician; the patient's medical record; expert consensus; and medical literature as defined in section 556(5) of the Federal Food, Drug, and Cosmetic Act.

''(B) NOTICE.—The plan or issuer involved shall ensure that the participant or beneficiary receives notice, within 30 days after the determination of the independent medical expert, regarding the actions of the plan or issuer with respect to the determination of such expert under the independent external review.

''(5) TIMEFRAME FOR REVIEW.—

''(A) IN GENERAL.—The independent external reviewer shall complete a review of an adverse coverage determination in accordance with the medical exigencies of the case.

''(B) LIMITATION.—Notwithstanding subparagraph (A), a review described in such subparagraph shall be completed not later than 30 working days after the later of—

''(i) the date on which such reviewer is designated; or

''(ii) the date on which all information necessary to completing such review is received.

''(6) BINDING DETERMINATION.—The determination of an independent external reviewer under this subsection shall be binding upon the plan or issuer if the provisions of this subsection or the procedures implemented under such provisions were complied with by the independent external reviewer.

''(7) STUDY.—Not later than 2 years after the date of enactment of this section, the General Accounting Office shall conduct a study of a statistically appropriate sample of completed independent external reviews. Such study shall include an assessment of the process involved during an independent external review and the basis of decision-making by the independent external reviewer. The results of such study shall be submitted to the appropriate committees of Congress.

''(8) EFFECT ON CERTAIN PROVISIONS.—Nothing in this section shall be construed as affecting or modifying section 514 of this Act with respect to a group health plan.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a plan administrator or plan fiduciary or health plan medical director from requesting an independent external review by an independent external reviewer without first completing the internal review process.

''(g) DEFINITIONS.—In this section:

''(1) ADVERSE COVERAGE DETERMINATION.—The term 'adverse coverage determination' means a coverage determination under the plan which results in a denial of coverage or reimbursement.

''(2) COVERAGE DETERMINATION.—The term 'coverage determination' means with respect to items and services for which coverage may be provided under a health plan, a determination of whether or not such items and services are covered or reimbursable under the coverage and terms of the contract.

''(3) GRIEVANCE.—The term 'grievance' means any complaint made by a participant or beneficiary that does not involve a coverage determination.

''(4) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given such term in section 733(a). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2).

''(7) PRIOR AUTHORIZATION DETERMINATION.—The term 'prior authorization determination' means a coverage determination prior to the provision of the items and services as a condition of coverage of the items and services under the coverage.

''(8) TREATING HEALTH CARE PROFESSIONAL.—The term 'treating health care professional' with respect to a group health plan, health insurance issuer or provider sponsored organization means a physician (medical doctor or doctor of osteopathy) or other health care practitioner who is acting within the scope of his or her State licensure or certification for the delivery of health care services and who is primarily responsible for delivering those services to the participant or beneficiary.

''(9) UTILIZATION REVIEW.—The term 'utilization review' with respect to a group health plan or health insurance coverage means a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review.''

(b) ENFORCEMENT.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by inserting after ''or section 101(e)(1)'' the following: '', or fails to comply with a coverage determination as required under section 503(e)(6),''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by striking the item relating to section 503 and inserting the following new item:

''Sec. 503. Claims procedures, coverage determination, grievances and appeals.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after 1 year after the date of enactment of this Act. The Secretary shall issue all regulations necessary to carry out the amendments made by this section before the effective date thereof.

Subtitle B—Genetic Information and Services

SEC. ___201. SHORT TITLE.

This subtitle may be cited as the ''Genetic Information Nondiscrimination in Health Insurance Act of 1999''.

SEC. ___202. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by section ___111(a), is further amended by adding at the end the following:

''SEC. 715. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health

plan, shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).''.

(3) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 715.''.

(B) TABLE OF CONTENTS.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974, as amended by section ___111(a), is further amended by inserting after the item relating to section 714 the following new item:

''Sec. 715. Prohibiting premium discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan or issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.''.

(c) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(7) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(8) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(9) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(d) EFFECTIVE DATE.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning 1 year after the date of the enactment of this Act.

SEC. ___203. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION IN THE GROUP MARKET.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg-1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(B) NO DISCRIMINATION IN PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—Subpart 2 of part A of title XXVII of the Public Health Service Act, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277), is amended by adding at the end the following new section:

''SEC. 2707. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION IN THE GROUP MARKET.

''A group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or family member of the individual (including information about a request for or receipt of genetic services).''.

(C) CONFORMING AMENDMENT.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or receipt of genetic services), see section 2707.''.

(D) LIMITATION ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part

of a request under subparagraph (A), the group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan or issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan or issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.''.

(2) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(17) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(18) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(19) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements), as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

''SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''(a) PROHIBITION ON PREDICTIVE GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not use predictive genetic information as a condition of eligibility of an individual to enroll in individual health insurance coverage (including information about a request for or receipt of genetic services).

''(b) PROHIBITION ON PREDICTIVE GENETIC INFORMATION IN SETTING PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium rates for individuals on the basis of predictive genetic information concerning such an individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(c) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a health insurance issuer offering health insurance coverage in the individual market shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a health insurance issuer offering health insurance coverage in the individual market that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the health insurance issuer offering health insurance coverage in the individual market shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

''(d) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A health insurance issuer offering health insurance coverage in the individual market shall post or provide, in writing and in a clear and conspicuous manner, notice of the issuer's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the issuer for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A health insurance issuer offering health insurance coverage in the individual market shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such issuer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after 1 year after the date of enactment of this Act; and

(2) health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after 1 year after the date of enactment of this Act.

SEC. ___204. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section ___111(b), is further amended by adding at the end the following:

''SEC. 9814. PROHIBITING PREMIUM DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan shall not adjust premium or contribution amounts for a group on the basis of predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).''.

(B) CONFORMING AMENDMENT.—Section 9802(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(3) REFERENCE TO RELATED PROVISION.—For a provision prohibiting the adjustment of premium or contribution amounts for a group under a group health plan on the basis of predictive genetic information (including information about a request for or the receipt of genetic services), see section 9814.''.

(C) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section ___111(b), is further amended by adding at the end the following:

''Sec. 9814. Prohibiting premium discrimination against groups on the basis of predictive genetic information.''.

(b) LIMITATION ON COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(d) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—

''(1) LIMITATION ON REQUESTING OR REQUIRING PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan shall not request or require predictive genetic information concerning any individual (including a dependent) or a family member of the individual (including information about a request for or receipt of genetic services).

''(2) INFORMATION NEEDED FOR DIAGNOSIS, TREATMENT, OR PAYMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a group health plan that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

''(B) NOTICE OF CONFIDENTIALITY PRACTICES; DESCRIPTION OF SAFEGUARDS.—As a part of a request under subparagraph (A), the group health plan shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (e), of such predictive genetic information.

''(e) CONFIDENTIALITY WITH RESPECT TO PREDICTIVE GENETIC INFORMATION.—

''(1) NOTICE OF CONFIDENTIALITY PRACTICES.—

''(A) PREPARATION OF WRITTEN NOTICE.—A group health plan shall post or provide, in writing and in a clear and conspicuous manner, notice of the plan's confidentiality practices, that shall include—

''(i) a description of an individual's rights with respect to predictive genetic information;

''(ii) the procedures established by the plan for the exercise of the individual's rights; and

''(iii) the right to obtain a copy of the notice of the confidentiality practices required under this subsection.

''(B) MODEL NOTICE.—The Secretary, in consultation with the National Committee on Vital and Health Statistics and the National Association of Insurance Commissioners, and after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices. Use of the model notice shall serve as a defense against claims of receiving inappropriate notice.

''(2) ESTABLISHMENT OF SAFEGUARDS.—A group health plan shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan.''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member (including information about a request for or receipt of genetic services).

''(8) GENETIC SERVICES.—The term 'genetic services' means health services provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(9) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means, in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information—

''(i) information about an individual's genetic tests;

''(ii) information about genetic tests of family members of the individual; or

''(iii) information about the occurrence of a disease or disorder in family members.

''(B) EXCEPTIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information derived from physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and

''(iii) information about physical exams of the individual.

''(10) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes, for the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, and physical exams of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.''.

(d) EFFECTIVE DATE.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after 1 year after the date of the enactment of this Act.

Subtitle C—Healthcare Research and Quality

SEC. ___301. SHORT TITLE.

This subtitle may be cited as the ''Healthcare Research and Quality Act of 1999''.

SEC. ___302. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended to read as follows:

''TITLE IX—AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

''PART A—ESTABLISHMENT AND GENERAL DUTIES

''SEC. 901. MISSION AND DUTIES.

''(a) IN GENERAL.—There is established within the Public Health Service an agency to be known as the Agency for Healthcare Research and Quality. In carrying out this subsection, the Secretary shall redesignate the Agency for Health Care Policy and Research as the Agency for Healthcare Research and Quality.

''(b) MISSION.—The purpose of the Agency is to enhance the quality, appropriateness, and effectiveness of healthcare services, and access to such services, through the establishment of a broad base of scientific research and through the promotion of improvements in clinical and health system practices, including the prevention of diseases and other health conditions. The Agency shall promote healthcare quality improvement by—

''(1) conducting and supporting research that develops and presents scientific evidence regarding all aspects of healthcare, including—

''(A) the development and assessment of methods for enhancing patient participation in their own care and for facilitating shared patient-physician decision-making;

''(B) the outcomes, effectiveness, and cost-effectiveness of healthcare practices, including preventive measures and long-term care;

''(C) existing and innovative technologies;

''(D) the costs and utilization of, and access to healthcare;

''(E) the ways in which healthcare services are organized, delivered, and financed and the interaction and impact of these factors on the quality of patient care;

''(F) methods for measuring quality and strategies for improving quality; and

''(G) ways in which patients, consumers, purchasers, and practitioners acquire new information about best practices and health benefits, the determinants and impact of their use of this information;

''(2) synthesizing and disseminating available scientific evidence for use by patients, consumers, practitioners, providers, purchasers, policy makers, and educators; and

''(3) advancing private and public efforts to improve healthcare quality.

''(c) REQUIREMENTS WITH RESPECT TO RURAL AREAS AND PRIORITY POPULATIONS.—In carrying out subsection (b), the Director shall undertake and support research, demonstration projects, and evaluations with respect to the delivery of health services—

''(1) in rural areas (including frontier areas);

''(2) for low-income groups, and minority groups;

''(3) for children;

''(4) for elderly; and

''(5) for people with special healthcare needs, including disabilities, chronic care and end-of-life healthcare.

''(d) APPOINTMENT OF DIRECTOR.—There shall be at the head of the Agency an official to be known as the Director for Healthcare Research and Quality. The Director shall be appointed by the Secretary. The Secretary, acting through the Director, shall carry out the authorities and duties established in this title.

''SEC. 902. GENERAL AUTHORITIES.

''(a) IN GENERAL.—In carrying out section 901(b), the Director shall support demonstration projects, conduct and support research, evaluations, training, research networks, multi-disciplinary centers, technical assistance, and the dissemination of information, on healthcare, and on systems for the delivery of such care, including activities with respect to—

''(1) the quality, effectiveness, efficiency, appropriateness and value of healthcare services;

''(2) quality measurement and improvement;

''(3) the outcomes, cost, cost-effectiveness, and use of healthcare services and access to such services;

''(4) clinical practice, including primary care and practice-oriented research;

''(5) healthcare technologies, facilities, and equipment;

''(6) healthcare costs, productivity, organization, and market forces;

''(7) health promotion and disease prevention, including clinical preventive services;

''(8) health statistics, surveys, database development, and epidemiology; and

''(9) medical liability.

''(b) HEALTH SERVICES TRAINING GRANTS.—

''(1) IN GENERAL.—The Director may provide training grants in the field of health services research related to activities authorized under subsection (a), to include pre- and post-doctoral fellowships and training programs, young investigator awards, and other programs and activities as appropriate. In carrying out this subsection, the Director shall make use of funds made available under section 487 as well as other appropriated funds.

''(2) REQUIREMENTS.—In developing priorities for the allocation of training funds under this subsection, the Director shall take into consideration shortages in the number of trained researchers addressing the priority populations.

''(c) MULTIDISCIPLINARY CENTERS.—The Director may provide financial assistance to assist in meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services research, demonstration projects, evaluations, training, and policy analysis with respect to the matters referred to in subsection (a).

''(d) RELATION TO CERTAIN AUTHORITIES REGARDING SOCIAL SECURITY.—Activities authorized in this section shall be appropriately coordinated with experiments, demonstration projects, and other related activities authorized by the Social Security Act and the Social Security Amendments of 1967. Activities under subsection (a)(2) of this section that affect the programs under titles XVIII, XIX and XXI of the Social Security Act shall be carried out consistent with section 1142 of such Act.

''(e) DISCLAIMER.—The Agency shall not mandate national standards of clinical practice or quality healthcare standards. Recommendations resulting from projects funded and published by the Agency shall include a corresponding disclaimer.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to imply that the Agency's role is to mandate a national standard or specific approach to quality measurement and reporting. In research and quality improvement activities, the Agency shall consider a wide range of choices, providers, healthcare delivery systems, and individual preferences.

''PART B—HEALTHCARE IMPROVEMENT RESEARCH

''SEC. 911. HEALTHCARE OUTCOME IMPROVEMENT RESEARCH.

''(a) EVIDENCE RATING SYSTEMS.—In collaboration with experts from the public and private sector, the Agency shall identify and disseminate methods or systems that it uses to assess healthcare research results, particularly methods or systems that it uses to rate the strength of the scientific evidence behind healthcare practice, recommendations in the research literature, and technology assessments. The Agency shall make methods or systems for evidence rating widely available. Agency publications containing healthcare recommendations shall indicate the level of substantiating evidence using such methods or systems.

''(b) HEALTHCARE IMPROVEMENT RESEARCH CENTERS AND PROVIDER-BASED RESEARCH NETWORKS.—In order to address the full continuum of care and outcomes research, to link research to practice improvement, and to speed the dissemination of research findings to community practice settings, the Agency shall employ research strategies and mechanisms that will link research directly with clinical practice in geographically diverse locations throughout the United States, including—

''(1) Healthcare Improvement Research Centers that combine demonstrated multidisciplinary expertise in outcomes or quality improvement research with linkages to relevant sites of care;

''(2) Provider-based Research Networks, including plan, facility, or delivery system sites of care (especially primary care), that can evaluate and promote quality improvement; and

''(3) other innovative mechanisms or strategies to link research with clinical practice.

''SEC. 912. PRIVATE-PUBLIC PARTNERSHIPS TO IMPROVE ORGANIZATION AND DELIVERY.

''(a) SUPPORT FOR EFFORTS TO DEVELOP INFORMATION ON QUALITY.—

''(1) SCIENTIFIC AND TECHNICAL SUPPORT.—In its role as the principal agency for healthcare research and quality, the Agency may provide scientific and technical support for private and public efforts to improve healthcare quality, including the activities of accrediting organizations.

''(2) ROLE OF THE AGENCY.—With respect to paragraph (1), the role of the Agency shall include—

''(A) the identification and assessment of methods for the evaluation of the health of—

''(i) enrollees in health plans by type of plan, provider, and provider arrangements; and

''(ii) other populations, including those receiving long-term care services;

''(B) the ongoing development, testing, and dissemination of quality measures, including measures of health and functional outcomes;

''(C) the compilation and dissemination of healthcare quality measures developed in the private and public sector;

''(D) assistance in the development of improved healthcare information systems;

''(E) the development of survey tools for the purpose of measuring participant and beneficiary assessments of their healthcare; and

''(F) identifying and disseminating information on mechanisms for the integration of information on quality into purchaser and consumer decision-making processes.

''(b) CENTERS FOR EDUCATION AND RESEARCH ON THERAPEUTICS.—

''(1) IN GENERAL.—The Secretary, acting through the Director and in consultation with the Commissioner of Food and Drugs, shall establish a program for the purpose of making one or more grants for the establishment and operation of one or more centers to carry out the activities specified in paragraph (2).

''(2) REQUIRED ACTIVITIES.—The activities referred to in this paragraph are the following:

''(A) The conduct of state-of-the-art clinical research for the following purposes:

''(i) To increase awareness of—

''(I) new uses of drugs, biological products, and devices;

''(II) ways to improve the effective use of drugs, biological products, and devices; and

''(III) risks of new uses and risks of combinations of drugs and biological products.

''(ii) To provide objective clinical information to the following individuals and entities:

''(I) Healthcare practitioners and other providers of healthcare goods or services.

''(II) Pharmacists, pharmacy benefit managers and purchasers.

''(III) Health maintenance organizations and other managed healthcare organizations.

''(IV) Healthcare insurers and governmental agencies.

''(V) Patients and consumers.

''(iii) To improve the quality of healthcare while reducing the cost of Healthcare through—

''(I) an increase in the appropriate use of drugs, biological products, or devices; and

''(II) the prevention of adverse effects of drugs, biological products, and devices and the consequences of such effects, such as unnecessary hospitalizations.

''(B) The conduct of research on the comparative effectiveness, cost-effectiveness, and safety of drugs, biological products, and devices.

''(C) Such other activities as the Secretary determines to be appropriate, except that grant funds may not be used by the Secretary in conducting regulatory review of new drugs.

''(c) REDUCING ERRORS IN MEDICINE.—The Director shall conduct and support research and build private-public partnerships to—

''(1) identify the causes of preventable healthcare errors and patient injury in healthcare delivery;

''(2) develop, demonstrate, and evaluate strategies for reducing errors and improving patient safety; and

''(3) promote the implementation of effective strategies throughout the healthcare industry.

''SEC. 913. INFORMATION ON QUALITY AND COST OF CARE.

''(a) IN GENERAL.—In carrying out 902(a), the Director shall—

''(1) conduct a survey to collect data on a nationally representative sample of the population on the cost, use and, for fiscal year 2001 and subsequent fiscal years, quality of healthcare, including the types of healthcare services Americans use, their access to healthcare services, frequency of use, how much is paid for the services used, the source of those payments, the types and costs of private health insurance, access, satisfaction, and quality of care for the general population including rural residents and for the populations identified in section 901(c); and

''(2) develop databases and tools that provide information to States on the quality, access, and use of healthcare services provided to their residents.

''(b) QUALITY AND OUTCOMES INFORMATION.—

''(1) IN GENERAL.—Beginning in fiscal year 2001, the Director shall ensure that the survey conducted under subsection (a)(1) will—

''(A) identify determinants of health outcomes and functional status, and their relationships to healthcare access and use, determine the ways and extent to which the priority populations enumerated in section 901(c) differ from the general population with respect to such variables, measure changes over time with respect to such variable, and monitor the overall national impact of changes in Federal and State policy on healthcare;

''(B) provide information on the quality of care and patient outcomes for frequently occurring clinical conditions for a nationally representative sample of the population including rural residents; and

''(C) provide reliable national estimates for children and persons with special healthcare needs through the use of supplements or periodic expansions of the survey.

In expanding the Medical Expenditure Panel Survey, as in existence on the date of enactment of this title, in fiscal year 2001 to collect information on the quality of care, the Director shall take into account any outcomes measurements generally collected by private sector accreditation organizations.

''(2) ANNUAL REPORT.—Beginning in fiscal year 2003, the Secretary, acting through the Director, shall submit to Congress an annual report on national trends in the quality of healthcare provided to the American people.

''SEC. 914. INFORMATION SYSTEMS FOR HEALTHCARE IMPROVEMENT.

''(a) IN GENERAL.—In order to foster a range of innovative approaches to the management and communication of health information, the Agency shall support research, evaluations and initiatives to advance—

''(1) the use of information systems for the study of healthcare quality, including the generation of both individual provider and plan-level comparative performance data;

''(2) training for healthcare practitioners and researchers in the use of information systems;

''(3) the creation of effective linkages between various sources of health information, including the development of information networks;

''(4) the delivery and coordination of evidence-based healthcare services, including the use of real-time healthcare decision-support programs;

''(5) the utility and comparability of health information data and medical vocabularies by addressing issues related to the content, structure, definitions and coding of such information and data in consultation with appropriate Federal, State and private entities;

''(6) the use of computer-based health records in all settings for the development of personal health records for individual health assessment and maintenance, and for monitoring public health and outcomes of care within populations; and

''(7) the protection of individually identifiable information in health services research and healthcare quality improvement.

''(b) DEMONSTRATION.—The Agency shall support demonstrations into the use of new information tools aimed at improving shared decision-making between patients and their care-givers.

''SEC. 915. RESEARCH SUPPORTING PRIMARY CARE AND ACCESS IN UNDERSERVED AREAS.

''(a) PREVENTIVE SERVICES TASK FORCE.—

''(1) ESTABLISHMENT AND PURPOSE.—The Director may periodically convene a Preventive Services Task Force to be composed of individuals with appropriate expertise. Such a task force shall review the scientific evidence related to the effectiveness, appropriateness, and cost-effectiveness of clinical preventive services for the purpose of developing recommendations for the healthcare community, and updating previous clinical preventive recommendations.

''(2) ROLE OF AGENCY.—The Agency shall provide ongoing administrative, research, and technical support for the operations of the Preventive Services Task Force, including coordinating and supporting the dissemination of the recommendations of the Task Force.

''(3) OPERATION.—In carrying out its responsibilities under paragraph (1), the Task Force is not subject to the provisions of Appendix 2 of title 5, United States Code.

''(b) PRIMARY CARE RESEARCH.—

''(1) IN GENERAL.—There is established within the Agency a Center for Primary Care Research (referred to in this subsection as the 'Center') that shall serve as the principal source of funding for primary care practice research in the Department of Health and Human Services. For purposes of this paragraph, primary care research focuses on the first contact when illness or health concerns arise, the diagnosis, treatment or referral to specialty care, preventive care, and the relationship between the clinician and the patient in the context of the family and community.

''(2) RESEARCH.—In carrying out this section, the Center shall conduct and support research concerning—

''(A) the nature and characteristics of primary care practice;

''(B) the management of commonly occurring clinical problems;

''(C) the management of undifferentiated clinical problems; and

''(D) the continuity and coordination of health services.

''SEC. 916. CLINICAL PRACTICE AND TECHNOLOGY INNOVATION.

''(a) IN GENERAL.—The Director shall promote innovation in evidence-based clinical practice and healthcare technologies by—

''(1) conducting and supporting research on the development, diffusion, and use of healthcare technology;

''(2) developing, evaluating, and disseminating methodologies for assessments of healthcare practices and healthcare technologies;

''(3) conducting intramural and supporting extramural assessments of existing and new healthcare practices and technologies;

''(4) promoting education, training, and providing technical assistance in the use of healthcare practice and healthcare technology assessment methodologies and results; and

''(5) working with the National Library of Medicine and the public and private sector to develop an electronic clearinghouse of currently available assessments and those in progress.

''(b) SPECIFICATION OF PROCESS.—

''(1) IN GENERAL.—Not later than December 31, 2000, the Director shall develop and publish a description of the methodology used by the Agency and its contractors in conducting practice and technology assessment.

''(2) CONSULTATIONS.—In carrying out this subsection, the Director shall cooperate and consult with the Assistant Secretary for Health, the Administrator of the Health Care Financing Administration, the Director of the National Institutes of Health, the Commissioner of Food and Drugs, and the heads of any other interested Federal department or agency, and shall seek input, where appropriate, from professional societies and other private and public entities.

''(3) METHODOLOGY.—The Director, in developing assessment methodology, shall consider—

''(A) safety, efficacy, and effectiveness;

''(B) legal, social, and ethical implications;

''(C) costs, benefits, and cost-effectiveness;

''(D) comparisons to alternate technologies and practices; and

''(E) requirements of Food and Drug Administration approval to avoid duplication.

''(c) SPECIFIC ASSESSMENTS.—

''(1) IN GENERAL.—The Director shall conduct or support specific assessments of healthcare technologies and practices.

''(2) REQUESTS FOR ASSESSMENTS.—The Director is authorized to conduct or support assessments, on a reimbursable basis, for the Health Care Financing Administration, the Department of Defense, the Department of Veterans Affairs, the Office of Personnel Management, and other public or private entities.

''(3) GRANTS AND CONTRACTS.—In addition to conducting assessments, the Director may make grants to, or enter into cooperative agreements or contracts with, entities described in paragraph (4) for the purpose of conducting assessments of experimental, emerging, existing, or potentially outmoded healthcare technologies, and for related activities.

''(4) ELIGIBLE ENTITIES.—An entity described in this paragraph is an entity that is determined to be appropriate by the Director, including academic medical centers, research institutions and organizations, professional organizations, third party payers, governmental agencies, and consortia of appropriate research entities established for the purpose of conducting technology assessments.

''SEC. 917. COORDINATION OF FEDERAL GOVERNMENT QUALITY IMPROVEMENT EFFORTS.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—To avoid duplication and ensure that Federal resources are used efficiently and effectively, the Secretary, acting through the Director, shall coordinate all research, evaluations, and demonstrations related to health services research, quality measurement and quality improvement activities undertaken and supported by the Federal Government.

''(2) SPECIFIC ACTIVITIES.—The Director, in collaboration with the appropriate Federal officials representing all concerned executive agencies and departments, shall develop and manage a process to—

''(A) improve interagency coordination, priority setting, and the use and sharing of research findings and data pertaining to Federal quality improvement programs, technology assessment, and health services research;

''(B) strengthen the research information infrastructure, including databases, pertaining to Federal health services research and healthcare quality improvement initiatives;

''(C) set specific goals for participating agencies and departments to further health services research and healthcare quality improvement; and

''(D) strengthen the management of Federal healthcare quality improvement programs.

''(b) STUDY BY THE INSTITUTE OF MEDICINE.—

''(1) IN GENERAL.—To provide Congress, the Department of Health and Human Services, and other relevant departments with an independent, external review of their quality oversight, quality improvement and quality research programs, the Secretary shall enter into a contract with the Institute of Medicine—

''(A) to describe and evaluate current quality improvement, quality research and quality monitoring processes through—

''(i) an overview of pertinent health services research activities and quality improvement efforts conducted by all Federal programs, with particular attention paid to those under titles XVIII, XIX, and XXI of the Social Security Act; and

''(ii) a summary of the partnerships that the Department of Health and Human Services has pursued with private accreditation, quality measurement and improvement organizations; and

''(B) to identify options and make recommendations to improve the efficiency and effectiveness of quality improvement programs through—

''(i) the improved coordination of activities across the medicare, medicaid and child health insurance programs under titles XVIII, XIX and XXI of the Social Security Act and health services research programs;

''(ii) the strengthening of patient choice and participation by incorporating state-of-the-art quality monitoring tools and making information on quality available; and

''(iii) the enhancement of the most effective programs, consolidation as appropriate, and elimination of duplicative activities within various federal agencies.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine for the preparation—

''(i) not later than 12 months after the date of enactment of this title, of a report providing an overview of the quality improvement programs of the Department of Health and Human Services for the medicare, medicaid, and CHIP programs under titles XVIII, XIX, and XXI of the Social Security Act; and

''(ii) not later than 24 months after the date of enactment of this title, of a final report containing recommendations.

''(B) REPORTS.—The Secretary shall submit the reports described in subparagraph (A) to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Commerce of the House of Representatives.

''PART C—GENERAL PROVISIONS

''SEC. 921. ADVISORY COUNCIL FOR HEALTHCARE RESEARCH AND QUALITY.

''(a) ESTABLISHMENT.—There is established an advisory council to be known as the Advisory Council for Healthcare Research and Quality.

''(b) DUTIES.—

''(1) IN GENERAL.—The Advisory Council shall advise the Secretary and the Director with respect to activities proposed or undertaken to carry out the purpose of the Agency under section 901(b).

''(2) CERTAIN RECOMMENDATIONS.—Activities of the Advisory Council under paragraph (1) shall include making recommendations to the Director regarding—

''(A) priorities regarding healthcare research, especially studies related to quality, outcomes, cost and the utilization of, and access to, healthcare services;

''(B) the field of healthcare research and related disciplines, especially issues related to training needs, and dissemination of information pertaining to healthcare quality; and

''(C) the appropriate role of the Agency in each of these areas in light of private sector activity and identification of opportunities for public-private sector partnerships.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The Advisory Council shall, in accordance with this subsection, be composed of appointed members and ex officio members. All members of the Advisory Council shall be voting members other than the individuals designated under paragraph (3)(B) as ex officio members.

''(2) APPOINTED MEMBERS.—The Secretary shall appoint to the Advisory Council 21 appropriately qualified individuals. At least 17 members of the Advisory Council shall be representatives of the public who are not officers or employees of the United States. The Secretary shall ensure that the appointed members of the Council, as a group, are representative of professions and entities concerned with, or affected by, activities under this title and under section 1142 of the Social Security Act. Of such members—

''(A) 4 shall be individuals distinguished in the conduct of research, demonstration projects, and evaluations with respect to healthcare;

''(B) 4 shall be individuals distinguished in the practice of medicine of which at least 1 shall be a primary care practitioner;

''(C) 3 shall be individuals distinguished in the other health professions;

''(D) 4 shall be individuals either representing the private healthcare sector, including health plans, providers, and purchasers or individuals distinguished as administrators of healthcare delivery systems;

''(E) 4 shall be individuals distinguished in the fields of healthcare quality improvement, economics, information systems, law, ethics, business, or public policy, including at least 1 individual specializing in rural aspects in 1 or more of these fields; and

''(F) 2 shall be individuals representing the interests of patients and consumers of healthcare.

''(3) EX OFFICIO MEMBERS.—The Secretary shall designate as ex officio members of the Advisory Council—

''(A) the Assistant Secretary for Health, the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, the Administrator of the Health Care Financing Administration, the Assistant Secretary of Defense (Health Affairs), and the Under Secretary for Health of the Department of Veterans Affairs; and

''(B) such other Federal officials as the Secretary may consider appropriate.

''(d) TERMS.—Members of the Advisory Council appointed under subsection (c)(2) shall serve for a term of 3 years. A member of the Council appointed under such subsection may continue to serve after the expiration of the term of the members until a successor is appointed.

''(e) VACANCIES.—If a member of the Advisory Council appointed under subsection (c)(2) does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

''(f) CHAIR.—The Director shall, from among the members of the Advisory Council appointed under subsection (c)(2), designate an individual to serve as the chair of the Advisory Council.

''(g) MEETINGS.—The Advisory Council shall meet not less than once during each discrete 4-month period and shall otherwise meet at the call of the Director or the chair.

''(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

''(1) APPOINTED MEMBERS.—Members of the Advisory Council appointed under subsection (c)(2) shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Advisory Council unless declined by the member. Such compensation may not be in an amount in excess of the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which such member is engaged in the performance of the duties of the Advisory Council.

''(2) EX OFFICIO MEMBERS.—Officials designated under subsection (c)(3) as ex officio members of the Advisory Council may not receive compensation for service on the Advisory Council in addition to the compensation otherwise received for duties carried out as officers of the United States.

''(i) STAFF.—The Director shall provide to the Advisory Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

''SEC. 922. PEER REVIEW WITH RESPECT TO GRANTS AND CONTRACTS.

''(a) REQUIREMENT OF REVIEW.—

''(1) IN GENERAL.—Appropriate technical and scientific peer review shall be conducted with respect to each application for a grant, cooperative agreement, or contract under this title.

''(2) REPORTS TO DIRECTOR.—Each peer review group to which an application is submitted pursuant to paragraph (1) shall report its finding and recommendations respecting the application to the Director in such form and in such manner as the Director shall require.

''(b) APPROVAL AS PRECONDITION OF AWARDS.—The Director may not approve an application described in subsection (a)(1) unless the application is recommended for approval by a peer review group established under subsection (c).

''(c) ESTABLISHMENT OF PEER REVIEW GROUPS.—

''(1) IN GENERAL.—The Director shall establish such technical and scientific peer review groups as may be necessary to carry out this section. Such groups shall be established without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and without regard to the provisions of chapter 51, and subchapter III of chapter 53, of such title that relate to classification and pay rates under the General Schedule.

''(2) MEMBERSHIP.—The members of any peer review group established under this section shall be appointed from among individuals who by virtue of their training or experience are eminently qualified to carry out the duties of such peer review group. Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for these duties carried out as such officers and employees.

''(3) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, peer review groups established under this section may continue in existence until otherwise provided by law.

''(4) QUALIFICATIONS.—Members of any peer-review group shall, at a minimum, meet the following requirements:

''(A) Such members shall agree in writing to treat information received, pursuant to their work for the group, as confidential information, except that this subparagraph shall not apply to public records and public information.

''(B) Such members shall agree in writing to recuse themselves from participation in the peer-review of specific applications which present a potential personal conflict of interest or appearance of such conflict, including employment in a directly affected organization, stock ownership, or any financial or other arrangement that might introduce bias in the process of peer-review.

''(d) AUTHORITY FOR PROCEDURAL ADJUSTMENTS IN CERTAIN CASES.—In the case of applications for financial assistance whose direct costs will not exceed $100,000, the Director may make appropriate adjustments in the procedures otherwise established by the Director for the conduct of peer review under this section. Such adjustments may be made for the purpose of encouraging the entry of individuals into the field of research, for the purpose of encouraging clinical practice-oriented or provider-based research, and for such other purposes as the Director may determine to be appropriate.

''(e) REGULATIONS.—The Director shall issue regulations for the conduct of peer review under this section.

''SEC. 923. CERTAIN PROVISIONS WITH RESPECT TO DEVELOPMENT, COLLECTION, AND DISSEMINATION OF DATA.

''(a) STANDARDS WITH RESPECT TO UTILITY OF DATA.—

''(1) IN GENERAL.—To ensure the utility, accuracy, and sufficiency of data collected by or for the Agency for the purpose described in section 901(b), the Director shall establish standard methods for developing and collecting such data, taking into consideration—

''(A) other Federal health data collection standards; and

''(B) the differences between types of healthcare plans, delivery systems, healthcare providers, and provider arrangements.

''(2) RELATIONSHIP WITH OTHER DEPARTMENT PROGRAMS.—In any case where standards

under paragraph (1) may affect the administration of other programs carried out by the Department of Health and Human Services, including the programs under title XVIII, XIX or XXI of the Social Security Act, or may affect health information that is subject to a standard developed under part C of title XI of the Social Security Act, they shall be in the form of recommendations to the Secretary for such program.

''(b) STATISTICS AND ANALYSES.—The Director shall—

''(1) take appropriate action to ensure that statistics and analyses developed under this title are of high quality, timely, and duly comprehensive, and that the statistics are specific, standardized, and adequately analyzed and indexed; and

''(2) publish, make available, and disseminate such statistics and analyses on as wide a basis as is practicable.

''(c) AUTHORITY REGARDING CERTAIN REQUESTS.—Upon request of a public or private entity, the Director may conduct or support research or analyses otherwise authorized by this title pursuant to arrangements under which such entity will pay the cost of the services provided. Amounts received by the Director under such arrangements shall be available to the Director for obligation until expended.

''SEC. 924. DISSEMINATION OF INFORMATION.

''(a) IN GENERAL.—The Director shall—

''(1) without regard to section 501 of title 44, United States Code, promptly publish, make available, and otherwise disseminate, in a form understandable and on as broad a basis as practicable so as to maximize its use, the results of research, demonstration projects, and evaluations conducted or supported under this title;

''(2) ensure that information disseminated by the Agency is science-based and objective and undertakes consultation as necessary to assess the appropriateness and usefulness of the presentation of information that is targeted to specific audiences;

''(3) promptly make available to the public data developed in such research, demonstration projects, and evaluations;

''(4) provide, in collaboration with the National Library of Medicine where appropriate, indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on research, demonstration projects, and evaluations with respect to healthcare to public and private entities and individuals engaged in the improvement of healthcare delivery and the general public, and undertake programs to develop new or improved methods for making such information available; and

''(5) as appropriate, provide technical assistance to State and local government and health agencies and conduct liaison activities to such agencies to foster dissemination.

''(b) PROHIBITION AGAINST RESTRICTIONS.—Except as provided in subsection (c), the Director may not restrict the publication or dissemination of data from, or the results of, projects conducted or supported under this title.

''(c) LIMITATION ON USE OF CERTAIN INFORMATION.—No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under this title may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Director) to its use for such other purpose. Such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Director) to its publication or release in other form.

''(d) PENALTY.—Any person who violates subsection (c) shall be subject to a civil monetary penalty of not more than $10,000 for each such violation involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A of the Social Security Act are imposed and collected.

''SEC. 925. ADDITIONAL PROVISIONS WITH RESPECT TO GRANTS AND CONTRACTS.

''(a) FINANCIAL CONFLICTS OF INTEREST.—With respect to projects for which awards of grants, cooperative agreements, or contracts are authorized to be made under this title, the Director shall by regulation define—

''(1) the specific circumstances that constitute financial interests in such projects that will, or may be reasonably expected to, create a bias in favor of obtaining results in the projects that are consistent with such interests; and

''(2) the actions that will be taken by the Director in response to any such interests identified by the Director.

''(b) REQUIREMENT OF APPLICATION.—The Director may not, with respect to any program under this title authorizing the provision of grants, cooperative agreements, or contracts, provide any such financial assistance unless an application for the assistance is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out the program in involved.

''(c) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.—

''(1) IN GENERAL.—Upon the request of an entity receiving a grant, cooperative agreement, or contract under this title, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the entity in carrying out the project involved and, for such purpose, may detail to the entity any officer or employee of the Department of Health and Human Services.

''(2) CORRESPONDING REDUCTION IN FUNDS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of the financial assistance involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Director. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

''(d) APPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO CONTRACTS.—Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

''SEC. 926. CERTAIN ADMINISTRATIVE AUTHORITIES.

''(a) DEPUTY DIRECTOR AND OTHER OFFICERS AND EMPLOYEES.—

''(1) DEPUTY DIRECTOR.—The Director may appoint a deputy director for the Agency.

''(2) OTHER OFFICERS AND EMPLOYEES.—The Director may appoint and fix the compensation of such officers and employees as may be necessary to carry out this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

''(b) FACILITIES.—The Secretary, in carrying out this title—

''(1) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Director of General Services, buildings or portions of buildings in the District of Columbia or communities located adjacent to the District of Columbia for use for a period not to exceed 10 years; and

''(2) may acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary.

''(c) PROVISION OF FINANCIAL ASSISTANCE.—The Director, in carrying out this title, may make grants to public and nonprofit entities and individuals, and may enter into cooperative agreements or contracts with public and private entities and individuals.

''(d) UTILIZATION OF CERTAIN PERSONNEL AND RESOURCES.—

''(1) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The Director, in carrying out this title, may utilize personnel and equipment, facilities, and other physical resources of the Department of Health and Human Services, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, and provide technical assistance and advice.

''(2) OTHER AGENCIES.—The Director, in carrying out this title, may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, or of any foreign government, with or without reimbursement of such agencies.

''(e) CONSULTANTS.—The Secretary, in carrying out this title, may secure, from time to time and for such periods as the Director deems advisable but in accordance with section 3109 of title 5, United States Code, the assistance and advice of consultants from the United States or abroad.

''(f) EXPERTS.—

''(1) IN GENERAL.—The Secretary may, in carrying out this title, obtain the services of not more than 50 experts or consultants who have appropriate scientific or professional qualifications. Such experts or consultants shall be obtained in accordance with section 3109 of title 5, United States Code, except that the limitation in such section on the duration of service shall not apply.

''(2) TRAVEL EXPENSES.—

''(A) IN GENERAL.—Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a), 5724a(c), and 5726(C) of title 5, United States Code.

''(B) LIMITATION.—Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless and until the expert agrees in writing to complete the entire period of assignment, or 1 year, whichever is shorter, unless separated or reassigned for reasons that are beyond the control of the expert or consultant and that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a statutory obligation owed to the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

''(g) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Director, in carrying out this title, may accept voluntary and uncompensated services.

''SEC. 927. FUNDING.

''(a) INTENT.—To ensure that the United States's investment in biomedical research is rapidly translated into improvements in the quality of patient care, there must be a

corresponding investment in research on the most effective clinical and organizational strategies for use of these findings in daily practice. The authorization levels in subsections (b) and (c) provide for a proportionate increase in healthcare research as the United State's investment in biomedical research increases.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $250,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 through 2006.

''(c) EVALUATIONS.—In addition to amounts available pursuant to subsection (b) for carrying out this title, there shall be made available for such purpose, from the amounts made available pursuant to section 241 (relating to evaluations), an amount equal to 40 percent of the maximum amount authorized in such section 241 to be made available for a fiscal year.

''SEC. 928. DEFINITIONS.

''In this title:

''(1) ADVISORY COUNCIL.—The term 'Advisory Council' means the Advisory Council on Healthcare Research and Quality established under section 921.

''(2) AGENCY.—The term 'Agency' means the Agency for Healthcare Research and Quality.

''(3) DIRECTOR.—The term 'Director' means the Director for the Agency for Healthcare Research and Quality.''.

SEC. ___303. REFERENCES.

Effective upon the date of enactment of this Act, any reference in law to the ''Agency for Health Care Policy and Research'' shall be deemed to be a reference to the ''Agency for Healthcare Research and Quality''.

Subtitle D—Enhanced Access to Health Insurance Coverage

SEC. ___401. FULL DEDUCTION OF HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Section 162(l)(1) of the Internal Revenue Code of 1986 (relating to allowance of deductions) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and his dependents.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. ___402. FULL AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) AVAILABILITY NOT LIMITED TO ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 220(c)(1)(A) of the Internal Revenue Code of 1986 (relating to eligible individual) is amended to read as follows:

''(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual if—

''(i) such individual is covered under a high deductible health plan as of the 1st day of such month, and

''(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

''(I) which is not a high deductible health plan, and

''(II) which provides coverage for any benefit which is covered under the high deductible health plan.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 220(c)(1) of such Code is amended by striking subparagraphs (C) and (D).

(B) Section 220(c) of such Code is amended by striking paragraph (4) (defining small employer) and by redesignating paragraph (5) as paragraph (4).

(C) Section 220(b) of such Code is amended by striking paragraph (4) (relating to deduction limited by compensation) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(b) REMOVAL OF LIMITATION ON NUMBER OF TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 220 of the Internal Revenue Code of 1986 (relating to medical savings accounts) is amended by striking subsections (i) and (j).

(2) MEDICARE+CHOICE.—Section 138 of such Code (relating to Medicare+Choice MSA) is amended by striking subsection (f).

(c) REDUCTION IN HIGH DEDUCTIBLE PLAN MINIMUM ANNUAL DEDUCTIBLE.—Section 220(c)(2)(A) of the Internal Revenue Code of 1986 (relating to high deductible health plan) is amended—

(1) by striking ''$1,500'' in clause (i) and inserting ''$1,000'', and

(2) by striking ''$3,000'' in clause (ii) and inserting ''$2,000''.

(d) INCREASE IN CONTRIBUTION LIMIT TO 100 PERCENT OF ANNUAL DEDUCTIBLE.—

(1) IN GENERAL.—Section 220(b)(2) of the Internal Revenue Code of 1986 (relating to monthly limitation) is amended to read as follows:

''(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to 1/12 of the annual deductible of the high deductible health plan of the individual.''

(2) CONFORMING AMENDMENT.—Section 220(d)(1)(A) of such Code is amended by striking ''75 percent of''.

(e) LIMITATION ON ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—Section 220(f)(4) of the Internal Revenue Code of 1986 (relating to additional tax on distributions not used for qualified medical expenses) is amended by adding at the end the following:

''(D) EXCEPTION IN CASE OF SUFFICIENT ACCOUNT BALANCE.—Subparagraph (A) shall not apply to any payment or distribution in any taxable year, but only to the extent such payment or distribution does not reduce the fair market value of the assets of the medical savings account to an amount less than the annual deductible for the high deductible health plan of the account holder (determined as of January 1 of the calendar year in which the taxable year begins).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. ___403. CARRYOVER OF UNUSED BENEFITS FROM CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND HEALTH FLEXIBLE SPENDING ACCOUNTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j) and by inserting after subsection (g) the following new subsection:

''(h) ALLOWANCE OF CARRYOVERS OF UNUSED BENEFITS TO LATER TAXABLE YEARS.—

''(1) IN GENERAL.—For purposes of this title—

''(A) notwithstanding subsection (d)(2), a plan or other arrangement shall not fail to be treated as a cafeteria plan or flexible spending or similar arrangement, and

''(B) no amount shall be required to be included in gross income by reason of this section or any other provision of this chapter,

solely because under such plan or other arrangement any nontaxable benefit which is unused as of the close of a taxable year may be carried forward to 1 or more succeeding taxable years.

''(2) LIMITATION.—Paragraph (1) shall not apply to amounts carried from a plan to the extent such amounts exceed $500 (applied on an annual basis). For purposes of this paragraph, all plans and arrangements maintained by an employer or any related person shall be treated as 1 plan.

''(3) ALLOWANCE OF ROLLOVER.—

''(A) IN GENERAL.—In the case of any unused benefit described in paragraph (1) which consists of amounts in a health flexible spending account or dependent care flexible spending account, the plan or arrangement shall provide that a participant may elect, in lieu of such carryover, to have such amounts distributed to the participant.

''(B) AMOUNTS NOT INCLUDED IN INCOME.—Any distribution under subparagraph (A) shall not be included in gross income to the extent that such amount is transferred in a trustee-to-trustee transfer, or is contributed within 60 days of the date of the distribution, to—

''(i) a qualified cash or deferred arrangement described in section 401(k),

''(ii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(iii) an eligible deferred compensation plan described in section 457, or

''(iv) a medical savings account (within the meaning of section 220).

Any amount rolled over under this subparagraph shall be treated as a rollover contribution for the taxable year from which the unused amount would otherwise be carried.

''(C) TREATMENT OF ROLLOVER.—Any amount rolled over under subparagraph (B) shall be treated as an eligible rollover under section 220, 401(k), 403(b), or 457, whichever is applicable, and shall be taken into account in applying any limitation (or participation requirement) on employer or employee contributions under such section or any other provision of this chapter for the taxable year of the rollover.

''(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1999, the $500 amount under paragraph (2) shall be adjusted at the same time and in the same manner as under section 415(d)(2), except that the base period taken into account shall be the calendar quarter beginning October 1, 1998, and any increase which is not a multiple of $50 shall be rounded to the next lowest multiple of $50.''

''(5) APPLICABILITY.—This subsection shall apply to taxable years beginning after December 31, 1999.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. ___404. PERMITTING CONTRIBUTION TOWARDS MEDICAL SAVINGS ACCOUNT THROUGH FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP).

(a) GOVERNMENT CONTRIBUTION TO MEDICAL SAVINGS ACCOUNT.—

(1) IN GENERAL.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

''(j)(1) In the case of an employee or annuitant who is enrolled in a catastrophic plan described by section 8903(5), there shall be a Government contribution under this subsection to a medical savings account established or maintained for the benefit of the individual. The contribution under this subsection shall be in addition to the Government contribution under subsection (b).

''(2) The amount of the Government contribution under this subsection with respect to an individual is equal to the amount by which—

''(A) the maximum contribution allowed under subsection (b)(1) with respect to any employee or annuitant, exceeds

''(B) the amount of the Government contribution actually made with respect to the individual under subsection (b) for coverage under the catastrophic plan.

''(3) The Government contributions under this subsection shall be paid into a medical savings account (designated by the individual involved) in a manner that is specified by the Office and consistent with the timing of contributions under subsection (b).

''(4) Subsections (f) and (g) shall apply to contributions under this section in the same manner as they apply to contributions under subsection (b).

''(5) For the purpose of this subsection, the term 'medical savings account' has the meaning given such term by section 220(d) of the Internal Revenue Code of 1986.''.

(2) ALLOWING PAYMENT OF FULL AMOUNT OF CHARGE FOR CATASTROPHIC PLAN.—Section 8906(b)(2) of such title is amended by inserting ''(or 100 percent of the subscription charge in the case of a catastrophic plan)'' after ''75 percent of the subscription charge''.

(b) OFFERING OF CATASTROPHIC PLANS.—

(1) IN GENERAL.—Section 8903 of title 5, United States Code, is amended by adding at the end the following:

''(5) CATASTROPHIC PLANS.—One or more plans described in paragraph (1), (2), or (3), but which provide benefits of the types referred to by paragraph (5) of section 8904(a), instead of the types referred to in paragraphs (1), (2), and (3) of such section.''.

(2) TYPES OF BENEFITS.—Section 8904(a) of such title is amended by inserting after paragraph (4) the following new paragraph:

''(5) CATASTROPHIC PLANS.—Benefits of the types named under paragraph (1) or (2) of this subsection or both, to the extent expenses covered by the plan exceed $500.''.

(3) DETERMINING LEVEL OF GOVERNMENT CONTRIBUTIONS.—Section 8906(b) of such title is amended by adding at the end the following: ''Subscription charges for medical savings accounts shall be deemed to be the amount of Government contributions made under subsection (j)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contract terms beginning on or after January 1, 2000.

BURNS AMENDMENT NO. 704

(Ordered to lie on the table.)

Mr. BURNS submitted an amendment intended to be proposed by him to the bill, S. 1233, supra; as follows:

On page 76, between lines 6 and 7, insert the following:

SEC. 7____. SENSE OF SENATE ON LAMB MEAT IMPORTS.—It is the sense of the Senate that—

(1) there is an overabundance of foreign lamb meat being imported into the United States;

(2) the glut of imported lamb meat is severely harming domestic producers and the domestic agricultural industry;

(3) the sheep industry filed a petition to take action under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) to prevent further loss of market share due to the enormous quantities of lamb being imported into the United States from New Zealand and Australia;

(4) on February 9, 1999, the International Trade Commission voted unanimously that lamb imports are a threat to the sheep industry in the United States;

(5) on March 26, 1999, the International Trade Commission voted to support 4 years of market stability in the marketing of lamb meat;

(6) several remedies have been offered to achieve this market stability, including tariff rate quotas and ad-valorem tariffs;

(7) the efforts of the sheep industry in the United States should be supported;

(8) although international military issues have recently consumed much time and consideration, with the Kosovo agreement now in place, Congress should turn its attention to domestic matters;

(9) the problem of the overabundance of foreign lamb meat in the United States has important consequences for imports and international trade; and

(10) the remedy that will provide the greatest practicable assistance to the domestic lamb industry should be implemented as soon as practicable.

NOTICES OF HEARINGS

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Health, Education, Labor, and Pensions will be held on Tuesday, June 22, 1999, 9:30 a.m., in SD–628 of the Senate Dirksen Building. The subject of the hearing is ''ESEA: Professional Development''. For further information, please call the committee, 202/224–5375.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Health, Education, Labor and Pensions, Subcommittee on Aging will be held on June 22, 1999, 2:30 p.m., in SD–628 of the Senate Dirksen Building. The subject of the hearing is ''Older Americans Act''. For further information, Please call the committee, 202/224–5375.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Health, Education, Labor, and Pensions will be held on Wednesday, June 23, 1999, 9:30 a.m., in SD–628 of the Senate Dirksen Building. The subject of the hearing is ''ESEA: Title VI''. For further information, please call the committee, 202/224–5375.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. JEFFORDS. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on June 24, 1999 in SR–328A at 9:30 a.m. The purpose of this meeting will be to discuss Agriculture issues related to a variety of trade topics.

ADDITIONAL STATEMENTS

TRIBUTE TO BOBBIE FOUST

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to Roberta Foust, or ''Bobbie'' as she is known to her many friends and readers. With her recent retirement from The Paducah Sun, Bobbie completes a distinguished career as a journalist.

Her byline has long been a familiar one to news readers in the western part of Kentucky. She worked for The Calvert News in Calvert City in the 1960's. In 1972, she began working as a reporter and photographer for The Tribune Courier in Marshall County, in the heart of Kentucky's Western Lakes region. After 5 years, she moved to the rival Marshall County Messenger, where she was responsible for all news content, layout, and design. She returned to The Tribune Courier in a similar capacity in 1979. In 1988, she became the editor of the weekly Herald Ledger in Eddyville, a position she held until the local ownership sold the paper in 1991.

Bobbie then joined the largest newspaper in far Western Kentucky, The Paducah Sun, a daily with a circulation of 31,000. With the Sun, Bobbie served as a general assignment reporter. In this position, she worked in Marshall, Lyon, and other lakes-area counties. Besides the usual broad assortment of news she covered in her day-to-day duties, Bobbie covered certain continuing stories, and developed an in-depth knowledge in these areas that was widely recognized. Among these were the Land Between the Lakes and the role of the Tennessee Valley Authority in LBL and Western Kentucky. During this time, Bobbie earned broad respect in the region she covered, as well as at TVA headquarters in Knoxville and Washington.

I have not only been a regular reader of Bobbie's, but have often been covered in her stories. Over the years, I have had the opportunity to get to know her first-hand, and feel that I am in a uniquely qualified position to comment upon her journalistic legacy. Bobbie has earned a reputation of persistence, thoroughness, and objectivity—the three lodestars of her profession. Always firm in getting the story for her readers, she was unflappably cordial in personal demeanor in the performance of her duties.

Bobbie's retirement plans include the possibility of taking some college course work, and hopefully, the role of occasional contributor to The Paducah Sun. Along with Bobbie's husband, Ray, and children, Donna, Terrie, Jackie, and Dennis, I wish Bobbie an enjoyable and productive retirement. I ask that my colleagues join me in recognizing the career of this outstanding Kentuckian.●

TWENTY-FIFTH ANNIVERSARY OF BREAD FOR THE WORLD

● Mr. HARKIN. Mr. President, for 25 years, Bread for the World has been putting principles of faith to work in pursuit of justice for the world's hungry people. Bread for the World members are now in Washington for their

National Gathering, Silver Anniversary Celebration, and Annual Lobby Day. I want to take this opportunity to welcome them and to congratulate Bread for the World and its tens of thousands of members for 25 years of accomplishment in the service of humankind. It is a great honor for me to be a member of Bread for the World's board.

Bread for the World remains true to its origins as a grassroots organization working from local churches on through to the national and international levels to address the fundamental causes of hunger and poverty. The organization was founded in 1974 by a small group of Catholics and Protestants who sought to mobilize persons of faith to influence United States policies relating to hunger and poverty. Bread for the World grew rapidly under the outstanding leadership of the Reverend Arthur Simon, and now includes more than 44,000 members and churches. The Reverend David Beckmann serves very capably as the group's current President.

As a nonpartisan citizen's movement based in the Christian community, Bread for the World members work hard to promote policies that will improve the lives of hungry and poor people in the United States and around the world. Through their dedicated advocacy, Bread for the World members have been instrumental in winning key victories in the fight to alleviate hunger and poverty. They have, for example, worked successfully to improve and devote more resources to WIC and other child nutrition programs, to enhance food security in Africa by increasing investment at the farm and village level where it really counts, and to restore food stamp benefits to vulnerable legal immigrants. This year Bread for the World members are participating in the laudable worldwide effort, known as Jubilee 2000, to reduce poverty in developing nations through critically needed international debt relief.

I am proud to be able to give thanks for the moral commitment and grassroots mobilizing of Bread for the World members as they celebrate their 25th anniversary year. I sincerely wish them continued blessings as they carry on their efforts toward seeking justice and ending hunger.●

CONGRATULATIONS TO THE 1999 MISS NEW MEXICO

● Mr. DOMENICI. Mr. President, I rise today to congratulate Miss Katie Kelly, an exceptional young woman from my home state of New Mexico who was recently crowned 1999 Miss New Mexico. Miss Kelly, a Santa Fean, will go on to represent New Mexico in the Miss America contest in Atlantic City, New Jersey, this fall.

Miss Kelly is representative of the selfless, poised, and self-assured young women that I am proud to have represent our state on a national level. This year's Miss New Mexico laureate is a Christian Life Academy graduate who is now attending Santa Fe Community College. She plans to attend Pepperdine University next year and study broadcast journalism and voice. Her previous achievements include, being named 1998 Miss Albuquerque Teen USA, 1999 Miss Santa Fe America, and second runner-up of the Miss New Mexico Teen USA pageant.

I have no reservations that she will dutifully fulfill the responsibilities that accompany this accolade. I wish her the best of luck in the Miss America Contest and in all her future endeavors.●

TRIBUTE TO THE LADIES OF ALPHA KAPPA ALPHA SORORITY, INCORPORATED, BETA ALPHA OMEGA CHAPTER

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the ladies of Alpha Kappa Alpha Sorority Incorporated Beta Alpha Omega Chapter, commemorating 65 years of service to the people of Newark.

Alpha Kappa Alpha Sorority Incorporated was founded in 1908 at Howard University by 16 dynamic women. It is the oldest and largest Greek-letter sorority established by and for African-American women. Today, Alpha Kappa Alpha Sorority is an international network of professional women, with over 150,000 members and 900 chapters located in the United States, West Africa, Bahamas, the Virgin Islands, and Europe.

The ladies of Alpha Kappa Alpha Sorority have dedicated themselves to the spirit behind their motto ''service to all mankind.'' After 91 years of service to the community, they continue to send college-trained women into the world to improve the social and economic conditions throughout the Unites States and abroad.

Beta Alpha Omega became an affiliate chapter in January of 1934 and now holds the honor of being New Jersey's oldest affiliate chapter of Alpha Kappa Alpha Sorority. The women of the Beta Alpha Omega Chapter have contributed immeasurably to the city of Newark and its surrounding areas. In 1998 alone, the chapter awarded $15,000 in scholarships to graduating seniors from high schools in Newark and Irvington; co-sponsored the Kwanza Celebration at the New Jersey Performing Arts Center; sponsored continuous voter registration events and provided ''Share Baskets'' for the needy at Thanksgiving.

The theme for the chapter over the next four years will be ''Blazing New Trails'' in the 21st century. This initiative will focus the chapter's community efforts on improving programs in the arts, education, health and economic empowerment, as well as in strengthening the African-American family.

The women of Beta Alpha Omega have faithfully served the people of Newark and its surrounding areas for over six decades. Their ability to respond to the challenges of our society is demonstrated through their active service in outreach programs. Moreover, these women represent an integral part of American history. As stated by the sorority's historian, Marjorie Parker: ''History is of small worth unless its gifts nourish the seeds from which tomorrow's great achievements blossom.'' The women of Beta Alpha Omega are the seed of hope for the next generation of African-American women.●

TRIBUTE TO JONATHAN EDWARD STEPHENS

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Jonathan Edward Stephens on his graduation summa cum laude from Rensselaer Polytechnic Institute. I commend his outstanding academic achievements.

Jonathan was the 1995 Dover High School Valedictorian and went on to a superb academic career at Rensselaer. Ranking first in his class with a 4.0 average, Jonathan was also awarded the Erwin R. Gaerttner award, given to a nuclear engineer or engineering physics major. The award recognizes excellence in scholarship, personal character, and promise of outstanding performance in research related to nuclear engineering and physics.

Jonathan was also awarded the Senior Design Project Award for his project, titled the ''International Neutron Spherical Torus Explosives Detector.'' His research will be used to detect land mines. Mr. President, as a veteran, I recognize our need to find land mines.

Jonathan also has exciting opportunities ahead of him. He has been offered a full fellowship at the Massachusetts Institute of Technology to pursue a doctorate in the field of nuclear physics. He has also received the national full fellowship from the Oak Ridge Labs in Tennessee to pursue a doctorate at any University in the United States. Jonathan has chosen to accept a position as a nuclear engineer with the Knoll Atomic Power Lab, a division of Lockheed Martin, where he will design nuclear reactors for the U.S. Navy's aircraft carriers. He plans to complete his Master's at Rensselaer.

As a former teacher and school board chairman, I recognize the challenges students face to succeed. I applaud Jonathan for his exemplary academic career. I wish him luck as he continues his education and work in the engineering field. I am pleased to recognize such an outstanding young mind, and it is with great pleasure that I represent him in the United States Senate.●

WEST VIRGINIA DAY

● Mr. ROCKEFELLER. Mr. President, I ask that we take a moment today to recognize the State of West Virginia.

One hundred thirty-six years ago, on June 20, 1863, West Virginia assumed its proud position as the 35th State of the Union. Since that time West Virginia's natural resources and its citizens have and will continue to play a positive role in our Nation.

The phrases: ''the mountain state,'' ''wild, wonderful,'' and ''a welcome change'' are always reminders of West Virginia. Indeed, there are countless rolling hills dotted with horses, cows, sheep and their young. The State is home to memorable valleys, known for their rushing streams and rivers filled with bass and trout. Then there are the beautiful colors throughout the fall and spring that bedeck our glorious mountains, attracting tourists from across the globe.

West Virginia is a combination of rural farming communities, coal towns, resorts, and growing cities. It is unquestionably a State in which there is a place for everyone. I believe it is this diversity that attracts many to the State and causes numerous children raised in West Virginia to remain and invest in the State as adults.

West Virginians are proud of their State. As we stand at the dawn of the 21st century symbols of West Virginia pride and achievement can be heard, read, seen, and touched throughout the world via locally produced music, literature, works of art, and crafts. West Virginians are also proud of their people. Almost two centuries, ago, the State was known as the fighting place of the Hatfields and McCoys. Since that time, West Virginia has been the home of such remarkable people as, educator Booker T. Washington, pilot Charles ''Chuck'' Yeager, gymnast Mary Lou Retton, authors Pearl S. Buck, John Knowles, and Denise Giardina, singer and song writer Kathy Mattea, artists Barrie Kaufman, and Susan Poffenbarger, former astronaut Jon A. McBride, scholar Henry Louis Gates, countless athletes, and numerous others.

Today we have the opportunity to honor 136 years of statehood. I ask that we celebrate the people of West Virginia, that we honor the courage of their endeavors and achievements. I ask that we take strength from the majesty of the mountains as do the constituents of West Virginia, and finally that we, as members of this distinguished body, remember the broader message of freedom recognized by West Virginia's logo: Montani Semper Liberi, Mountaineers are Always Free. I am proud of this State and its people and am honored to represent them.●

TRIBUTE TO SHEILA ZELLERS, BRIAN HARDEN, ERNIE JONES, AND DON GREEN

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to four brave individuals who lost their lives last week in a tragic helicopter crash in Breathitt County, Kentucky. Sheila Zellers, Brian Harden, Ernie Jones, and Don Green, were crew members on a helicopter providing emergency medical service to rural Eastern Kentucky. On Monday June 14, 1999, these dedicated care-givers were returning to the University of Kentucky's Chandler Medical Center in Lexington, Kentucky, from Breathitt County Airport. Tragically, they did not make it.

Mrs. Sheila Zellers, of Elizabethtown, Kentucky, served as the flight nurse on the helicopter and had worked with the University of Kentucky's hospital for more than twenty years. She served in the hospital's neonatal intensive care unit and emergency room before becoming a flight nurse in 1991. More importantly, she was a loving wife and mother. Our hearts and prayers go out to her husband Jeffrey and their four sons.

Mr. Brian Harden, from Richmond, Kentucky, was the paramedic on Monday's flight crew. While only 33, he had already had a distinguished career providing emergency medical services in Kentucky as a paramedic. Flight paramedics, such as Mr. Harden, are critical in providing emergency care from the time they leave the scene until they reach the hospital. I would like to extend the Senate's deepest sympathies to his wife Patricia, and their two young daughters.

The helicopter's two pilots, Ernie Jones and Don Green, were both well-known among their colleagues as experienced, highly-skilled pilots. Frequently, the pilots who fly these emergency helicopters are called upon to land their helicopters in small parking lots, highways, pastures, and gorges, in order to safely evacuate their patients. Their families and friends will be in our prayers.

It is important that we recognize the impact these individuals and their colleagues have on the citizens of Eastern Kentucky. Like so much of rural America, the residents of Eastern Kentucky lack easy access to the advanced medical resources and trauma centers available in more metropolitan areas. In order to provide this much needed care to Eastern Kentucky, the University of Kentucky Medical Center began helicopter flights to the region in 1987. For 12 years, these emergency medical crews have ferried accident victims, critically ill children, cardiac patients, and infants too ill to travel by ambulance to the UK Medical Center. It is not unusual for these dedicated caregivers to work twelve hour shifts and fly up to seven missions a day, each time making a difference in the lives of their patients. It is with this in mind that we recognize the sacrifices of these dedicated care-givers and note that they will be forever missed by their families, friends, colleagues, and the Commonwealth of Kentucky.●

FUELS REGULATORY RELIEF ACT

● Mr. JOHNSON. Mr. President, I rise today to express my strong support of S. 880, the Fuels Regulatory Relief Act. This bill will provide relief to hundreds of propane suppliers, farmers, and ranchers in my State of South Dakota.

The Fuels Regulatory Relief Act would exempt propane from being included under the Environmental Protection Agency's Risk Management Program, or RMP, rule. The RMP rule was crafted as a way to increase awareness among state and local governments and the public of hazardous chemicals in communities. The thinking behind this rule was that if chemical companies had to develop and make public information about a worst case scenario in the event of an accidental release, the companies would take steps to lower the possibility of such an accident. Also, the authors of this rule thought local emergency teams would be able to respond more quickly and efficiently to an accident at a hazardous chemical site if the teams knew in advance how much damage to expect.

I do not have any problems with the RMP rule in that respect. I think communities can benefit from knowing the potential for chemical accidents that could happen within their borders. I do, however, have deep concerns about the inclusion of substances that are not toxic but are flammable. The RMP rule was not created to regulate flammable substances, as demonstrated by the EPA's decision not to include gasoline under the rule. Yet propane is included under the rule, and people who have more than 16,000 pounds of propane on their property will have to submit an RMP.

Complying with this rule is a great burden on propane suppliers, farmers, and ranchers, as the cost per site may be as much as several thousand dollars. I have been contacted by a number of propane suppliers in my State who have expressed their frustration with having to submit an RMP, and the American Farm Bureau has voiced its concerns about the effects of this rule on farmers who use propane for fuel purposes. Small business owners, farmers, and ranchers who possess and use large amounts of propane should not be forced to comply with a rule directed at curbing accidents involving hazardous chemicals, especially when flammable substances are subject to a number of other federal regulations.

For these reasons, I am proud to be a cosponsor of S. 880, the Fuels Regulatory Relief Act. I believe that exempting propane from inclusion under the RMP rule is consistent with the purpose of the rule, as it does not change the way hazardous and toxic chemicals are regulated. The Fuels Regulatory Relief Act will save propane users and suppliers in my State thousands of dollars in compliance costs, and I urge my colleagues to support its expeditious passage.●

TRIBUTE TO JOYCE TUGEL

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute

to Joyce Tugel for her outstanding work as a teacher at Marshwood High School. Joyce is one of 208 teachers nationwide to receive the ''Presidential Award for Excellence in Mathematics and Science Teaching.''

This award, which is administered by the National Science Foundation, is the highest honor a secondary teacher of mathematics and science can receive. Joyce, who teaches chemistry and freshman science, applied for the award in February 1998. The process was very intense with minimum requirements of: a 20-page report showing evidence of talent, an assessment of student learning, a listing of background and experience and even photographs of learning activities.

Joyce received both her bachelor's and master's degrees from the University of New Hampshire. She was a biogeochemistry research scientist at UNH's Institute for Study of Earth, Ocean and Space in Morse Hall. She has now been with Marshwood High School for 9 years, and is one of their most valued faculty members.

As a former high school teacher, I am extremely pleased to see educators from New Hampshire being nationally recognized for their tireless efforts and dedication to education. I commend Joyce for her excellent track record. I am proud to represent her in the U.S. Senate.●

STEEL CRISIS

● Mr. DURBIN. Mr. President, there is a crisis facing the steel industry in the United States, a crisis that has left over 10,000 steelworkers out of jobs and could jeopardize the jobs of thousands of additional workers. This disruption is a result of subsidized and dumped goods coming into the United States from a variety of countries—from Russia, from Japan, from Brazil, from Indonesia—at far under the cost of production and far under the price the steel is being sold in those countries.

While our existing laws and administrative procedures are in place and we've received favorable preliminary indications from administration officials, the time it takes to process these cases is too long and does not respond to a situation as dire as ours quickly enough. For example, hot-rolled carbon steel dumping petitions filed in September 1998, a full 10 months after the import surge began, were only recently decided. Under current law, industries and workers must wait until the injury has occurred or is so imminent as to be unavoidable to file a section 201 case.

Meanwhile, steelworkers continue to lose their jobs and the steel industry is suffering tremendous losses from which it may not easily recover. I shouldn't have to remind anyone that five American steel companies have declared bankruptcy and two of them are in the State of Illinois (LaClede Steel in Alton, IL, and Acme Steel in Riverside, IL) and at least 10,000 of the Nation's 170,000 steelworkers have been laid off. Illinois is one of the top steel producing States and we're proud of our steelworkers, the industry, and the products that they make for the American people and the world.

It is my belief that we should approach this situation with both short-term and long-term strategies that will complement each other and produce the maximum benefit for the U.S. economy, the steelworkers, and the industry. First, steel mills need access to capital to stay open and to keep their workers on the job, producing the finest and best steel in the world. That's a short-term approach that will help the industry and the workers when they need it most: now. And that's an approach that we take with this bill: H.R. 1664, Byrd-Domenici Steel Oil and Gas Loan Guarantee Program.

H.R. 1664 would provide a short-term, GATT legal, guaranteed loan program to address the cash flow emergency created by the historic steel import surge. The maximum aggregate amount of a loan guarantee that could be available to a single company would be $250 million. The guarantees provided to U.S. steel mills would be 6 years in duration, would require the commitment of collateral, and would require a fee to be paid by the borrower to cover the cost of administering the program. The level of guarantees to be provided to a steel mill would be 85 percent.

Finally, a board would be created in order to implement a steel loan guarantee program that provides maximum benefits to the U.S. steel industry and protection to the taxpayers.

Second, we need to put more teeth into current trade laws. Specifically, we should strengthen section 201 language by removing a very high causation standard and replacing that standard with a lower threshold by which U.S. industries and workers can prove their cases more easily. Let me state for the Record that if we reform our trade laws and we ensure our trading partners know we are serious about enforcing those laws, the incentive to dump steel or other imported products will be reduced. I liken this to the Senate filibuster. The threat of a filibuster may be far more effective than the actual filibuster itself. Similarly, the threat of more readily-proven dumping cases may, in fact, make a country think twice about dumping a product illegally into this country. Legislation was recently marked up in the Finance Committee that addressed the issue of section 201 and we should have a healthy debate about that as well.

In the meantime, Mr. President, we have a responsibility as Senators to address this issue as well as the serious situation the oil and gas industries is currently experiencing; and, I hope we can find a consensus solution that will help both these backbones of the U.S. industrial sector.●

TRIBUTE TO JOEL YEATON

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Joel Yeaton of Exeter, NH for his outstanding volunteer service. Joel received the ''Prudential Spirit of Community Inspiration'' Award, given to those who are significant contributors to their community in the face of enormous personal challenges.

As a volunteer, Joel created the ''Help Them Heal'' fund to support spinal chord research and facility improvement at the Children's Hospital in Boston. He has raised over $10,000, a figure which was more than double his original goal.

The reasons Joel's accomplishments are so extraordinary is he too suffers from Curvature of the spine. Instead of focusing on his own problems, Joel is consumed with making spinal surgery and extended stays at the Boston Children's Hospital easier for others, especially the younger patients. His concern for people suffering from spinal problems similar to his has led him to establish the ''Help Them Heal'' fund.

The money Joel's fund has raised will be used for research on improved spinal surgical techniques. The funds will also be used to purchase a computer, games, and educational materials for the patients at the hospital.

I commend Joel for his commitment and dedication. He is an inspirational young man. I am proud to represent him in the U.S. Senate.●

TAXING THE WEB

● Mr. MOYNIHAN. Mr. President, I would like to bring to the attention of the Senate, an OP-ED entitled ''Taxing Web Wallets'' that appears in today's New York Times. This article on the tax treatment of Internet Commerce is by my nephew, a former Treasury official, Michael Moynihan. Last October Congress passed the Internet Tax Freedom Act, which placed a three year moratorium on any new taxes on the Internet. But as Michael Moynihan points out, ''. . . we have yet to address the long-term tax consequences of the movement of trade on line.''

I ask the article be printed in the RECORD.

The article follows:

[From the New York Times, June 21, 1999]

TAXING WEB WALLETS

(By Michael Moynihan)

WASHINGTON—Last month, 14 million Americans bought something on the Internet. Taking advantage of what might be the last tax loophole, 99 percent of them did not pay sales tax. Without knowing it, most broke the law. States cannot force out-of-state sellers to collect sales taxes, but 45 require buyers to pay the tax anyway. Compliance is virtually nil. Today, a Congressional commission on electronic commerce takes up two key questions: How do we tax the Internet? Should we?

The Internet Tax Freedom Act, passed last fall, impose a three-year moratorium on cyber-specific taxes. By banning the infamous ''bit tax,'' which would tax every E-mail and downloaded image, the law helped

the Internet marketplace flourish. Freedom from a thicket of 30,000 state and local taxing jurisdictions has provided predictability to the Web economy.

But we have yet to address the long-term tax consequences of the movement of trade on line. Last year, Americans bought $43 billion in goods and services over the Internet; next year the figure is expected to reach $250 billion. That's a lot of lost sales tax. Governments will have two choices: cut services or find this money elsewhere. When the moratorium expires in 2001, the Internet will become fair game. Retailers who can't or won't sell on line, from barbers to boutiques, will clamor for equal sales tax treatment.

The erosion of sales tax revenue could mean the end of the sales tax altogether. In Europe, where governments rely on value-added taxes, fearful authorities are already diverting inspectors from ports to the post office, where they open up individual packages looking for wily Internet scofflaws. And no one has come up with a way to monitor the purchase of digital goods like software.

Why can't we just extend the obligation to collect sales tax to Internet merchants? Thirty thousand taxing jurisdictions means millions of rules, not easily adapted to E-commerce. The big states are quiet because they themselves are high-tech leaders. Though the commission will make its recommendations next May in an election year, it shouldn't pull punches. If the panel doesn't develop fair tax rules for the new economy, 30,000 local authorities and their overseas counterparts will be waiting.●

BOSTON CELTICS' ''HEROES AMONG US'' AWARD

● Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to salute a group of special individuals who have been honored by the Boston Celtics as ''Heroes Among Us.'' These are people representing all walks of life who have helped others. They have demonstrated courage, they have made sacrifices, and they have achieved worthwhile goals. They have improved lives, and sometimes saved lives. Some have worked with the elderly and others the very young. Some have overcome personal handicaps, and all have inspired others. In doing so, they have tackled difficult issues and helped the entire community. These heroes are role models. We look up to them as examples of people who have made a difference. They are eminently deserving of the award bestowed upon them by the Boston Celtics.

The ''Heroes Among Us'' Award was instituted by the Boston Celtics Charitable Foundation in 1997. Since then, 67 heroes, including educators, business executives, medical professionals, clergy and public servants, have been honored. During a special ceremony each home game on the Celtics legendary parquet floor at Boston Garden, the heroes were honored by players and fans at home games during the past two basketball seasons.

The Boston Celtics have a long-standing tradition of giving back to their community. Throughout the years, the team has initiated or participated in many community outreach programs, through the non-profit work of the Boston Celtics Charitable Foundation and the Red Auerbach Youth Foundation.

In 1996, the Celtics organization was awarded the Professional Team Community Award from the World Sport Humanitarian Hall of Fame, and was honored for having the most effective and innovative community relations program among all professional sports teams. The Boston Celtics' players, coaches, family and staff are committed to improving the lives of youth and families. Their philosophy—''The Celtics Standing Tall in Partnership with the Community''—is reflected year after year in the outstanding work they do to accomplish their mission, and I commend them for their brilliant achievements.●

TRIBUTE TO PHIL GRAVINK

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Phil Gravink the senior statesman of New Hampshire's ski industry. Phil Gravink is one of the industry's most respected and experienced leaders. He is currently director of Attitash/Bear Peak Resort in Bartlett. This resort is New Hampshire's largest and is a vital part of the state's economy, attracting skiers from all over New England and bringing in millions of dollars in revenues. Phil is a resident of Jackson, and has devoted 36 years to operating ski resorts, 22 of which have been in New Hampshire.

Phil Gravink has had a truly successful and distinguished career. He has served as chairman of the National Ski Association and the American Ski Federation. In 1963 he founded Peak 'n Peek ski area in Western New York. He then served as superintendent of Gore Mountain Ski Area in New York until he came to New Hampshire in 1977 as General Manager of Loon Mountain. In 1980 he became president of Loon and lead it through its most successful growth years. In 1991 he moved on to a Littleton based ''sno.engineering'' company as a senior associate, and then helped operate the two state-owned resorts: Cannon and Mount Sunapee ski areas. In 1992, he took the job as head of Attitash/Bear Peak and oversaw an extensive expansion that nearly doubled the size of the resort.

Phil Gravink has been an integral part of New Hampshire's Ski industry. On June 4, Phil announced his retirement, but plans to stay with Attitash/Bear Peak as an advisor. Phil and his wife are scheduled to spend the year 2000 on a bicycling trip around the world, raising money for the New England Ski Museum and the Northeast Passage, a disabled sports program that his daughter Jill has worked to develop. The Northeast Passage began as a way for post-trauma patients to become re-involved in skiing and has since expanded to involve other sports.

I commend Phil for his critical role and unwavering dedication to the success and progression of the New Hampshire ski industry. I wish him and his wife the best of luck in the Odyssey 2000 cycling trip. Phil Gravink is a great business man and a model citizen. His retirement leaves behind a great legacy. It is an honor to represent him in the United States Senate.●

IN SUPPORT OF THE VICTIMS OF PAN AM FLIGHT

● Mr. TORRICELLI. Mr. President, I rise today to discuss an issue that is important to me, and many of my constituents, in the context of the Foreign Relations Authorization Act. The tragedy of Pan Am Flight 103 occurred over ten years ago. 270 people were killed as a result of the bombing over Lockerbie, Scotland, including 189 Americans. The bombing of Pan Am 103 was the worst act of international terrorism ever directed against the United States. Since then, we have fought a long battle to see the perpetrators of that crime brought to justice. I have personally spoken to the families of the victims and shared their outrage that the suspects were harbored by the Libyan government.

It now appears as if the indicted suspects, Abdel Basset Al-Megrahi and Lamen Khalifa Fhimah, may finally be tried for their crime. Colonel Qaddafi has turned over the two men to stand trial before a Scottish court, under Scottish law, and by a panel of Scottish judges in the Netherlands. Barring any unforseen problems, a trial of the two men suspected in the bombing of Pan Am 103 is all but certain to take place at the Hague.

This Congress and the Administration have been extremely supportive of the victims' families, but it would be fair to say that they have seen little justice over the past 10 years. We have all been touched by this tragedy. In the State of New Jersey alone there are 38 family members who lost a loved one aboard Pan Am 103. As we move toward a trial, an appropriate gesture from this Congress to the families is the opportunity to witness the trial. The United States has made clear our determination in seeing these two men tried for their crime. Now we must be equally determined to let the victims' families, who want to, witness the trial.

I offered language during Committee consideration of this bill to authorize the release of as much money as is necessary from Libyan assets frozen in the United States since 1986. These funds would be used to cover the travel expenses for all immediate family members who wish to go to the Hague. I can think of no one more appropriate to cover the cost of the families' travel expenses than Muammar Qaddafi.

However, since the Foreign Relations Committee approved this bill, Congress has passed the Emergency Supplemental Appropriations bill. I am pleased that we were able to include language to allow money form the Crime Victim's Fund Act to be used to

cover the costs of the trial. It is important that we make this important gesture to the families at such a critical time, and I look forward to seeing this provision implemented.●

TRIBUTE TO THE CONCORD HIGH SCHOOL GIRLS' LACROSSE TEAM

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the Concord High School girls' lacrosse team, the Crimson Tide, on their fantastic 1999 season.

Remarkably, Concord High School's lacrosse team, which was just established last year, had one of the best records in the state this year. Under the direction of Coach Terry Anderson, this young team compiled an impressive record of 17 wins and only three losses—making it to the state finals.

The Crimson Tide, consisting predominantly of freshmen and sophomores, made great strides this season. Led by team captains Molly Aldrich, Kate Provencal, and Katie Anderson, they had one of the most impressive records in the state. With many of the players returning to play next season, they are sure to remain a strong force in New Hampshire lacrosse.

Although they were not successful in winning the state championship, the team showed true sportsmanship and team spirit in the wake of such an amazing season. Perhaps most importantly, after the hard-fought championship game, the two teams showed outstanding sportsmanship in the sincere way they congratulated and publicly complimented each other on their game. The overall performance of Concord High School's lacrosse team confirmed that this program is one of New Hampshire's finest.

Mr. President, I congratulate every member of the Concord High School Crimson Tide girls' lacrosse team, as well as their coach, Terry Anderson. I wish them luck in the future and in all their following lacrosse seasons. It is an honor to represent these hard-working and talented young people in the United States Senate.●

RECOGNITION OF DR. LIONEL SWAN

● Mr. LEVIN. Mr. President, I rise to honor a legendary figure in the civil rights movement in Michigan, Dr. Lionel Swan. Dr. Swan died last Wednesday at the age of 93, leaving behind a reputation as an extraordinarily effective leader in the struggle for civil rights.

Dr. Swan was a living example of the great things that can be accomplished when you combine determination, courage and dignity. Dr. Swan put himself through college and medical school by doing menial labor during the day. He often related a story of an incident which strengthened his resolve to continue on this hard path to his goal of becoming a doctor. One day, a white man called Dr. Swan ''boy'' and threw a cigarette butt on a floor he had just finished mopping. Dr. Swan is said to have responded, ''Mister, I want to thank you. I've been debating whether I should leave this job for college and you just convinced me I've got to do it so the next time I see somebody like you, he can't call me boy.''

Dr. Swan was able to ignore ugly slights and concentrate on what is most important in life. Dr. Swan went on to graduate from Howard University Medical School and practice medicine in Detroit. He was elected President of the National Medical Association and the Detroit Medical Society, where he led the effort to allow African-American physicians to practice medicine at the former Harper and Grace hospitals. Dr. Swan was also a longtime, active member of the NAACP, helping found the Detroit NAACP's Freedom Fund Dinner which raises money annually for its many worthwhile goals and is one of the largest gatherings in the country.

Mr. President, Dr. Swan was always firm in principle and gentle in demeanor. He let his actions serve as an example to others in the fight for equality and civil rights. I was a great personal fan of his. I know my Senate colleagues join me in honoring Dr. Swan on his life's many outstanding achievements.●

TRIBUTE TO HONOR CAMPTON CONGREGATIONAL CHURCH

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Campton Congregational Church which will be celebrating its 225th Anniversary on June 27. The church first organized on June 1, 1774 and has been serving the people of Campton ever since.

The first meeting house was formed in 1770 and the present building has been in use since 1824. The building has been renovated several times but the members have strived to maintain its original integrity. The church's chandelier is also original to the church and its interesting to note that it used whale's oil. The current pastor, Vi Eastman, is the church's 35th pastor and its first female pastor.

As a person of strong religious convictions, I applaud the services and strong sense of family and community that the church has provided to its community. Furthermore, I admire the perseverence of the church's members and their attention to preserving the historical features of the church.

I commend the Campton Congregational Church and wish them luck in the next 250 years. It is an honor to represent the members of Campton Congregational Church in the United States Senate.●

APPOINTMENT OF CONFEREES—H.R. 1664

Mr. HELMS. Mr. President, I ask unanimous consent that with respect to H.R. 1664, the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer appointed Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. CRAIG, Mrs. HUTCHISON, Mr. KYL, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. LEAHY, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, and Mr. DURBIN.

ORDERS FOR TUESDAY, JUNE 22, 1999

Mr. HELMS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, June 22. I further ask that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate immediately resume consideration of the State Department authorization bill.

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

Mr. HELMS. I thank the Chair. I further ask that at 10 a.m. Senator WELLSTONE be recognized to offer two amendments as provided for in the agreement of June 18. I further ask consent that at 11:35 a.m., prior to the cloture vote on the motion to proceed to the steel import limitation bill, there be 40 minutes of debate equally divided between the two leaders, or their designees.

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

Mr. HELMS. Further, Mr. President, I ask unanimous consent that following the 12:15 vote, the Senate stand in recess until 2:15 p.m. for the weekly policy conferences to meet.

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

PROGRAM

Mr. HELMS. For the information of all Senators, tomorrow the Senate will convene at 9:30 a.m. and immediately resume consideration of the State Department authorization bill. Under a previous order, a cloture vote on the motion to proceed to S. 975, the steel import limitation bill, will take place at 12:15 p.m. with 40 minutes of debate on the motion prior to the vote.

Following that vote, the Senate will stand in recess until 2:15 p.m. so that the weekly party conferences can meet. It is the intention of the majority leader to complete action on the State Department reauthorization bill during tomorrow's session of the Senate and to resume consideration of the agriculture appropriations bill. Therefore,

Senators can expect votes throughout the day on Tuesday.

ORDER FOR ADJOURNMENT

Mr. HELMS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator DURBIN.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, only to note that Senators REED and SCHUMER may also come to the floor for morning business time, after I have spoken. If the Senator would amend his request that the Senate stand adjourned after the three of us have had an opportunity for morning business, then I have no objection.

Mr. HELMS. Does the Senator mean this evening? When I last talked with the distinguished Senator from New York, I thought he wanted to come tomorrow. But if he wants to come this evening, fine.

Mr. DURBIN. Both Senator REED and Senator SCHUMER, as well as myself. I see Senator REED is on the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. DURBIN. Mr. President, thank you for the recognition, and I see the Senator from Rhode Island has joined me. I would like to address for a few moments an issue which, frankly, more than half of the people in America identify as something that worries them—a worry over your health insurance. How good is it?

The rules being written by insurance companies now have you worried as to whether you can go to a doctor and get the kinds of treatment you really need for yourself, or your wife, your husband, or another member of your family. Can you go to the hospital of your choice if you have an emergency and need to go to the emergency room? Can you go to the hospital that is closest to where the accident occurred or to your home, or wherever? Does your insurance company say you have to go to another place? If you need a specialist—absolutely need one for your own medical care—can you expect, under your plan, to get that specialist, or do you expect to enter into a negotiation with your insurance company as to whether they will let you go to a certain specialist?

When you doctor sits down with you in his office, when your heart is beating hard and you want to know what kind of treatment you need for that someone you love, are you sure that doctor is always telling you his best judgment based on years of medical training, or is he telling you what the insurance manual says he can tell you under the terms of his contract with the insurance company? If, God forbid, something goes wrong with a procedure, or something is done that ends up wrong, can you hold whoever is responsible accountable even if it was the insurance companies fault?

These are basic questions that families across America are asking every day. In fact, a Rand study said that 115 million Americans either had a personal experience, or a member of their family or someone they knew had such an experience, with an insurance company that troubled them about whether or not they were being treated fairly.

So the question before the Congress is: Can we try to bring some balance back to this situation so consumers and families across America, when they sign up for health insurance, have some assurance that they are going to get fair treatment, professional treatment, and quality care? It is pretty basic, isn't it?

Can you think of another time in your life when you are more vulnerable than when you are sick, or when you have a baby you love in your arms and you say: Doctor, what does my baby need? Have you ever felt more helpless? I have been there! A lot of Americans have been there. You want to know, when that doctor looks in your eyes and says the best treatment for your little girl is the following surgery at the following hospital, that that is his best medical decision, not an insurance company decision.

How can you hold people accountable in medical care when you have a situation under the law where you cannot take the insurance company into court to hold them responsible for their decisions? That, sadly, is the law today.

So the law that we are hoping to debate on the floor of the Senate and the House called the Patients' Bill of Rights would try to rewrite this basic relationship, so that when you are dealing with your health insurance company, it is with more confidence that you are getting the best care, that you are getting honest answers from your doctor, that the recommendation coming to you for a member of your family or yourself is the best medical recommendation, not an insurance company recommendation.

Now, this is an issue that is not new. We have had it around for a while. But for some reason, the leadership on the other side of the aisle does not want to debate this issue. They don't want us to talk about it. In fact, today there was an unrelated bill, the agriculture appropriations bill before the Senate. BYRON DORGAN of North Dakota looked at the agriculture appropriations bill and offered the Patients' Bill of Rights as an amendment to it. What does that have to do with agriculture? Well, not much. People listening will say: Why did you do that? Well because he was, in desperation, trying to get this matter to the floor because, try as we might, leadership on the other side of the aisle does not want to debate this issue. They don't want Members of the Senate—Republicans or Democrats—to enter into a debate and have to face tough questions.

How are you going to vote? If I am not mistaken, I accepted voting as part of my responsibilities as a Senator from Illinois. Isn't that why I am here—to debate issues and vote, to use my best judgment to try to improve the law so the people in my State and across the Nation are better off?

One of the key questions here is: What do you do when an insurance company decides that they are not going to provide certain care to you? You have heard these cases. You have seen them in local hometown newspapers, on television, and on the radio where somebody says they need a certain treatment and the insurance company says no.

What is next? Well, under the bill we have proposed on the Democratic side, we have a speedy independent appeals process. Well, it keeps you out of court and gets a decision made by somebody who may be objective. I think that is fair. That is what the Democratic bill proposes.

The Republican bill, however, suggests that the insurance company should decide whether a denial is actually appealable and the insurer which has turned you down gets to pick somebody who will then decide whether the insurance company is right or wrong. And if you are injured, by their denial, you cannot sue. Sound fishy? It does to me. Basically, as far as I am concerned, the insurance company is insulating itself from ever making the right judgment.

That is exactly the situation that we have today. It was recognized by one of the major newspapers in this country, USA Today. This article is from June 19 of last year. They called insurers the ''new untouchables''—people you can't sue—your HMO, managed care insurance policy.

Bill Weaver, age 52, says his HMO misdiagnosed a brain tumor for 2 years and told him his condition was inoperable and hopeless.

Jerry Cannon's wife Phyllis died from leukemia after her HMO denied a bone marrow transplant her physician recommended.

Melody Louise Johnson died at the age of age 16 of cystic fibrosis. Her mother says the HMO overruled the specialists.

These are families from across America. Under the law as it is currently written, what recourse do these people have for the terrible outcomes dealing with insurance companies? Listen to this. They can go to Federal court and hire a lawyer and sue the insurance company. Do you know what they can recover? The cost of the procedure—the cost of the medical procedure. So if somebody dies, God forbid, you cannot recover for their death. If someone lingers and suffers literally for years because of a bad decision by the insurance company, they are not liable for that. If someone can't go back to work for 12, 24, or 36 months, you cannot recover a penny for that. They are the

untouchables, the HMOs, the managed care insurance companies. They cannot be sued for anything other than the cost of the procedure.

Well, I am sure, if you are listening to this, you think there must be a whole lot of companies in America which have similar treatment. No. This is the only group of companies in America that cannot be held accountable for their wrongdoing. How did it happen? Well, it happened right here. It happened right here many years ago when we passed something called ERISA, the Employee Retirement Insurance Security Act. This was a bill passed in 1974 that was supposed to protect workers. Instead, in recent years it has provided insurance companies with a legal shield. And 123 million Americans with their health insurance plans through their employer have nowhere to go when a bad result comes out of a bad insurance company decision. I think that is wrong.

I don't think these insurance companies should be treated any differently from any other company, large or small, in America, or any other person, for that matter. If you are so reckless as to drink too much and get in your car and have an accident, can you be held accountable in America? You bet you can, and you should be. But if an insurer is reckless in making a decision about health insurance for somebody's daughter—if they make the wrong decision and they are maimed, crippled, or they die, can they be held accountable as an insurance company? Well, no, not really. That doesn't make sense, and it is not fair.

Let me tell you about another case that really illustrates this very clearly. Carly Christy. These are the words of her father:

> Carly was nine years old when she was diagnosed with malignant kidney cancer. When the HMO insisted that we trust our daughter's delicate surgery to remove the cancerous tumor from her kidney to a doctor with no experience in this area, we were forced to find an expert and pay out of our pockets. You only get one chance at removing a Wilm's tumor correctly and successfully, to ensure the highest probability of survival in children, and we weren't willing to take that chance with our daughter's life because the HMO wanted to save money.

Her father Harry Christy says:

> Congress must close this loophole and hold health plans accountable for cost-cutting decisions that result in patient injury.

Take a look at the two bills on the floor—the Patient's Bill of Rights, as they call them. How would they help Mr. Christy with his little daughter?

Frankly, the Republican bill offers no recourse, no place to turn, because the HMO didn't deny treatment. In the Republican bill only outright denials are appealable, all quality issues are not appealable. In Carly's case the HMO just said you have to go to Dr. X who has never done this before. They were going to get treatment but not from the best doctor.

If it is your daughter, don't you want the best and the brightest in America operating on her to try to save her life? If they said go to this other doctor who has never done this before on a surgery that is life and death, wouldn't that cause you some trouble?

Harry Christy decided he and his wife were going to pay for this out of their pockets. I don't have to tell you what kind of money we are talking about. Average families literally put everything on the line—their homes, savings, everything they can gather—for this care. That is how much they love this little girl and how much they think the insurance company made a big mistake.

Under the Republican approach, that insurance company cannot be held accountable, because they said go ahead, go to a doctor who is inexperienced and if Carly had been injured by that insurance company's direction, the insurer would still have been immune from suit.

The Democratic Patients' Bill of Rights says first you have a speedy external appeal, by someone not chosen by the insurance company, to decide whether the insurance company is right. If it turns out they are wrong, you can literally recover what it costs and the pain and suffering your family has gone through. If your daughter, for example, because of this mistake, has long-term problems, she can recover for that, too. I think that is sensible. I think it is reasonable.

We have a chance with the Patients' Bill of Rights to do something for families across America—to finally bring this issue to the floor of the Senate. It is regretful that today when Senator DORGAN tried to bring this issue before the Senate, he was stopped. The Republican leadership was so determined not to debate this issue, they pulled this bill from the floor. They said we will not debate it.

Of course, we are in evening business and Senator REED of Rhode Island will follow me and discuss this as an issue whose time has come. This is an issue that affects literally all Americans. If we are going to make certain that we cover the millions of Americans who are concerned about their health care coverage, concerned about the quality of care, and concerned about their rights under the law, then we have to deal with reform that is meaningful.

The Democratic Patients' Bill of Rights has the endorsement of 200 professional organizations, including medical organizations, labor organizations, and consumer organizations. They have come forward and said this is the real deal here, the Democratic version is the real deal. The Republican bill has no support. Well actually they probably have the support of insurance companies, but it doesn't have the support of any health groups. I think this is about health and access to health care.

We wrapped up last week a 5-day debate on protecting computer companies from being sued if they don't change their computers for this Y2K problem. The debate went on a long time. I think it was an important debate.

If we can spend 5 days debating protecting computer companies, can't we spend 5 hours talking about protecting families across America, worried about health care coverage? Can't we bring for a vote on the Senate floor the very fundamental question as to whether or not the courthouse doors are closed when it comes to health insurance companies? Can't we suggest that in America—rich or poor, individual or business—we are all held accountable in court, all of us as American citizens, and that we shouldn't have the untouchables, the health insurance companies, who can't be brought into court?

I hope this week we will take this issue up. I hope my colleagues on both sides of the aisle will understand the gravity of this issue and move forward.

I yield the floor.

Mr. REED. Mr. President, I rise today also to join my colleague from Illinois and to speak about an issue which is of great concern to the American people. That is the Patients' Bill of Rights.

As is my colleague from Illinois, I am terribly frustrated. We are in the third week of June. Yet we have not been able to get this legislation to the floor for debate. Senator DORGAN today tried to do that, but he was frustrated.

As Members go around this great country—and I will speak from my experience in Rhode Island—we talk to our constituents and there is a sense we have made progress on economic issues. The economy is doing better. People feel better about their jobs and about the future.

If you speak with them for any length of time and ask them what really bothers them, they will quickly state they are afraid of getting sick. They are afraid, as a breadwinner, of becoming sick and not being able to get the care they need, even though they are in an insurance program. And they are particularly concerned about the health of their children.

They have heard the stories and read the newspaper articles, as the Senator from Illinois pointed out, about the numerous people who have been paying for insurance or have been the beneficiaries of employer-paid-for insurance. They have become ill, gone to their HMO thinking that at least they had insurance coverage, and they discovered they did not have it. They did not have it when it counted. They did not have it when they needed it, when they were ill or their children were ill.

That is why we are advocating so strenuously bringing the Patients' Bill of Rights to the floor for debate.

In March, I participated in the deliberations in the Senate Health Education Labor and Pensions Committee. We voted out a bill on partisan lines. It is not the bill I prefer. It is a bill that is deficient in many respects. However, it is the basis of debate, and it is the basis of the debate we should be having today on the floor of this Senate.

There are two versions of this legislation. There is a Republican proposal and there is a Democratic proposal which my colleague from Illinois was talking about so eloquently. There are many differences. One of the most startling differences is that the Republican proposal covers a very small fraction of Americans. Not all Americans that have private health insurance are covered by HMOs. Under the Republican bill, a lucky 48 million Americans would have some protections.

Ask yourself, if these protections are appropriate for 48 million Americans, why aren't they appropriate for every American who is part of the managed care health plan? I think the answer is quite clear: The Republican version is more sham than substance; more window dressing than a valiant, serious attempt to address the concerns of every American.

That is unfortunate. Why should there be one person who is lucky enough to fall within a narrow category that is covered by the Republican plan—that person having access to quality care, that person having certain appeal rights—yet his neighbor, who is also covered by an HMO plan but one that is funded slightly differently is without these protections? There is absolutely no logic to this. The Democratic proposal would cover all Americans who are in these private HMO plans. It would do so in a way that ensures people are getting what they paid for.

That is the other irony in this whole debate. We are not talking about a program which, through the generosity of the government or the generosity of someone else, people are getting some health care from insurance companies and they are deciding they shouldn't get X or they shouldn't get Y. These health insurance companies are being paid significant premiums by individuals and their employers for coverage. Yet the coverage is not being provided in so many cases.

I am particularly concerned that this narrow scope is extremely detrimental to the children of this country.

Only about a third of the children in these managed health care plans would be protected by the Republican program. I ask, very sincerely, why can't we at least cover every child in America? Is that too much to ask? I think not. I believe every American would recognize the need to do that.

Now, managed care has provided benefits for children in this country. Their emphasis on preventive care, their emphasis on immunizations are all very good. But, frankly, I have a distinct impression a lot of what they are calling coverage for kids amounts to taking the premiums but not providing the service.

I had the occasion to meet with a physician from California, from the University of California at Los Angeles, who has a very innovative program. In this program, he goes from school to school with a van to cover children who have asthma. It is very effective because not only does he diagnose the children and then treat them and then follow them up, which is critical, but he also looks at the statistics.

He was able to essentially categorize all his patients into three groups: Those with private HMO insurance, those with California Medicaid insurance for low-income children, and those children without any coverage at all. What was startling to me was that when he looked at these different populations, he found essentially these kids got the same coverage, regardless of their category of insurance. All they really got was an emergency room visit, and when they saw the doctor because they had a terrible asthma episode, they were given, in the emergency room, a little paper bag with an inhaler and a few bits of medicine and then they were sent home—those without insurance, those with Medicaid insurance, and those in managed care plans for which an employer was paying a great deal of money.

That just goes to show we really have to do a great deal more to ensure that children get the benefit of the health insurance plan they are supposed to be part of. Then we have to ensure that all of our citizens who participate in these plans get fair and adequate coverage. That is at the heart of the Democratic Patients' Bill of Rights, ensuring that all of our citizens who are in these managed care plans get access to quality coverage at affordable prices.

I would like, for a moment, to concentrate on children in these plans, because, as I said before, this is a special concern of mine. I think, at a minimum, we can emerge from this Congress with legislation that guarantees every child in America access to quality health care, provisions in their managed care plans that make sure children are treated and treated well.

Senator DURBIN was talking about a parent whose child had a rare cancer. The HMO said: Yes, your daughter is quite ill, perhaps terminally ill. We will send her for treatments, not to a pediatric oncologist or a pediatric surgeon, someone who specializes not only in cancer but pediatric cancers, we are just going to send her to a surgeon. Those parents had to pay out of their own pocket, presumably, to get the right kind of care for their child.

In the Democratic bill, there would be a guarantee that a child would have access to a pediatric specialist and pediatric services, because children are not just small adults. They have specialized health care needs that are very different from those of adults. But too often in managed care plans throughout this country they are simply treated as small adults, if they are treated in particular at all.

There are some other things we have to have for children in these plans, particularly for children. We have to have expedited review, not only if their life is in jeopardy but also their development because this is another difference between an adult and a child. Adults are usually fully developed. Children are not. There are conditions which might not be life threatening but certainly threaten their development, both physical and intellectual. In those situations there have to be expedited appeals. Then we have to have the continuity of care for chronically ill or terminally ill children.

We also have to recognize the information parents get when they make a choice about their health care plans should include specific information about how that plan treats children. Too often such information does not exist. Too often it is all done in terms of adult outcomes, adult studies. Unless parents have this information, sometimes the only time they realize how well their child is covered is when they discover their child is not covered well at all because he or she is deathly ill and is not getting the kind of care he or she needs or deserves.

I am encouraged because Senator BOND has introduced a bill entitled ''Healthy Kids 2000,'' which includes access to pediatric specialists similar to that in my legislation. Also, Senator CHAFEE has introduced a managed care bill, which also talks about access to pediatric specialists. So I hope there is an emerging consensus across the aisle that we have to do more for children in managed care.

But let me say again, the Democratic bill strongly and emphatically defines the special rights of children in managed care. We have actually taken surveys and asked the American people, regarding access to care for children, what do they want; what do they demand. They want high-quality care. They want access to specialists. They want to be able to protect the development of children. They want to have expedited reviews when children's development or lives are threatened. And they are willing to pay for these provisions. What we found in too many managed care plans is that these types of protections just do not exist.

In 1992, there was a study done of pediatricians. They found there were significant barriers to pediatric referrals in the managed care system, that pediatricians in the managed care system often encounter barriers to referring their patients to pediatric specialists. Of these pediatricians who were surveyed, 35 percent believed their patient's health was compromised because of the denial of access to pediatric specialists. This is a real problem, and it is a problem the Democratic proposal resolves.

The PRESIDING OFFICER. The 10 minutes allotted for morning business for each Senator has expired.

Mr. REED. Mr. President, I ask unanimous consent for an additional 2 minutes.

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

Mr. REED. As I mentioned, these provisions that would help protect children are provisions which the American people want and the American people will pay for. They are provisions that are at the heart of the Democratic Patients' Bill of Rights. I think it is time to move. It is time to move forward on a debate about this critical issue, an issue that affects every family in this country. It is an issue that is critical to their well-being. It is an issue, frankly, that they sent us here to work on, to debate and to vote on. Difficult votes they may be, but they sent us here to take these votes.

So I urge my colleagues to join together to begin the debate, to reach a conclusion, and to do something the American people want us to do—give them the opportunity to protect their health and the health of their families.

I yield the remainder of my time.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

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

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

Mr. SCHUMER. Mr. President, first, I compliment my colleague, the Senator from Rhode Island, for what he had to say today. He is exactly right about one of the problems we face these days with HMOs; that is, that many types of children's health are neglected.

Just today I was in both Rochester and Syracuse, back in my State, New York, meeting with doctors and patients and health care providers about the problems they face in the health care area. What I found over and over was this problem that we are talking about that would be rectified by the Patients' Bill of Rights, as the Senator from Rhode Island correctly pointed out.

I had a doctor in Syracuse, just this afternoon, maybe 3 hours ago, mention to me that one of her patients needed a pediatric oncologist, but the family's HMO would only allow an oncologist, not a pediatric oncologist.

They had the procedure done—it was not done correctly—four times, and only on the fifth time did the HMO relent and allow the pediatric oncologist do the job. Then it was done and, thank God, successfully.

The amazing thing about this is this would have saved money had they relied on the judgment of this doctor and used a pediatric oncologist right at the beginning. Then very simply the HMO would have saved money, the child would be healthier, and everyone would be happier.

When many people ask, what is the problem with HMOs—and there are many and they have been documented by my friend from Illinois and my friend from Rhode Island—one of the things I am beginning to learn is that when HMOs come in, they try a cookie-cutter approach. They say one size fits all.

In Rochester this morning, a young man told me this story: His wife needed a very special type of medicine because she was receiving treatment, I think it was for cancer. In any case, her immune system was down. She needed these drugs to help build up her immune system. These drugs are lifesaving. They are very precise. In other words, one has to measure the level in the blood before determining how much of another dose is needed. They are expensive—hundreds and hundreds of dollars a week—and they have to be taken at exactly the right time. If a dosage is missed, say, at 8 o'clock in the morning, you could acquire an illness that could kill you because your immune system is deficient.

Everything was going fine. This young man said that he and his wife had no problems with their HMO through their travail of her illness, until the HMO decided that all prescriptions should come through a mail-order house in Texas. He has gone through an enormous amount of trouble.

First of all, his wife has to have her blood taken and measured in Rochester and then communicate all the time with the facility in Texas. Second, sometimes the medicines do not arrive, and when they arrive late, if her blood level is different, they cannot be used.

Every week this young man and his wife are shelling out hundreds of dollars because the HMO is insisting for this particular drug, a rare drug, a special drug and one that requires a great deal of care before it is administered, that they have to get it through this mail-order pharmacy.

He said to me: If we had diabetes, and if the mail-order house was sending us the insulin, it would be just fine, because in those instances, it is a set dose of insulin and they could send a whole bunch.

When they ran out, they could send a whole new bunch. They could send copayments. He said making them go through this mail-order house for the immune drug made no sense.

Today, as I went through the day and listened to people, I found that happens all the time. Yes, in most cases, a pediatrician or a pediatric surgeon might do the job, but in certain cases an oncologist is needed. Who knows that? Certainly not the actuary sitting in the insurance company's home office who is now making the decision. The person who knows that, of course, is the physician or the nurse who has spent long, long years studying it and has had many years of experience in figuring this out.

The problem we face and the problem we are trying to rectify with the Patients' Bill of Rights is to deal with many of these situations, to deal with the fact that medicine is not a cookie-cutter enterprise, that one size does not fit all, as much as a corporate mentality might like to see that happen in the name of saving dollars. In reality, in most cases, you lose dollars. Certainly the amount of dollars paid into the health care system is increased, not decreased by these mistakes, which are often very costly.

The more I listen to my constituency throughout my State, from one end of the State to the other, the more I have come to the conclusion that we really do need this Patients' Bill of Rights. Today, we were debating State Department authorization which is obviously important. We have to deal with diplomacy. We have many other bills before us. But I cannot think of one that seems to have the urgency and importance to my constituents that this Patients' Bill of Rights does. I hope we can move quickly and bring the bill to the floor.

There are two sides to this argument, as there are to most serious issues. I am hopeful the Patients' Bill of Rights that I have cosponsored and that Senator KENNEDY has introduced will be the one that is passed. I join my colleagues, Senator DURBIN from Illinois and Senator REED from Rhode Island, in hoping that will happen. At the very least, we are entitled to debate the issue.

This is such an important issue that we should debate it, and it is in the tradition of the Senate that when an important issue is facing us, we do not just say: Let's lickety dispose of it; you vote your bill, we will vote our bill, and that is that.

We are trying to come to the best possible product and coming to the best possible product entails a significant amount of debate. Is it worth the time? Ask the pediatrician in Syracuse if it would have been worth the time. The amount of time and energy that she and the family she looked after far exceeded 4 or 5 days of debate. Ask the young man in Rochester who is having such trouble with his HMO using this pharmaceutical house. The amount of time and energy that that one family is going through will exceed the amount of time we spend on this debate. Of course, that is happening every day to tens of thousands, perhaps hundreds of thousands, maybe even millions, of American families. The argument that we do not have time to debate this issue, that we ought to just dispose of it and get rid of it, does not make much sense.

In conclusion, I am joining my colleagues this evening and, I believe, many of my constituents in asking that once and for all we stop delay. It is already the end of June. We only have 6 or 7 weeks left on the legislative calendar, and we should debate the Patients' Bill of Rights. We must let people decide what should be the HMOs' responsibility in terms of specialists, in terms of appeal, in terms of emergency rooms, in terms of the ability to be sued, and then I believe we will come up with a pretty good product. This issue is of grave importance to many families. It will become of even greater importance to many others.

I make a further plea to the majority leader in this body, someone for whom

I have a great deal of respect—and I know he has the best interests of the people at heart—and that is that we, as soon as we can, hopefully before the July 4 break, have a full-fledged, open debate on the Patients' Bill of Rights. It is my judgment, and I think the judgment of many, that there will be enough support in this body to pass a bill and end the pain and agony and suffering of so many American families.

MEASURE READ THE FIRST TIME—S. 1256

Mr. SCHUMER. Mr. President, I understand that S. 1256, introduced earlier today by Senator DASCHLE, is at the desk. I ask for its first reading.

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

The assistant legislative clerk read as follows:

A bill (S. 1256) entitled the ''Patients' Bill of Rights.''

Mr. SCHUMER. Mr. President, I ask for its second reading, and on behalf of the Republican leadership I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

Mr. SCHUMER. I thank the Chair.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:29 p.m., adjourned until Tuesday, June 22, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 21, 1999:

DEPARTMENT OF STATE

MARTIN GEORGE BRENNAN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UGANDA.

ROBERT S. GELBARD, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF INDONESIA.

DEPARTMENT OF EDUCATION

A. LEE FRITSCHLER, OF PENNSYLVANIA, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE DAVID A. LONGANECKER.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JERRY D. FLORENCE, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2002, VICE JOHN L. BRYANT, JR., TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. ZANNIE O. SMITH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY, MEDICAL CORPS (MC) AND DENTAL CORPS (DC) AS INDICATED, UNDER TITLE 10, U.S.C., SECTIONS 531, 624, 628 AND 3064:

To be colonel

RICHARD F. BALLARD, 0000

To be major

ROSEMARY P. PETERSON, 0000 MC
SU T. KANG, 0000 DC

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

DONALD M. CINNAMOND, 0000
LARRY E. EVERSON, 0000
GARY L. GROSS, 0000
GLENN M. LEACH, 0000
GEORGE R. SILVER, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211;

To be colonel

KIMBERLY J. BALLANTYNE, 0000
RUSSELL A. CATALANO, 0000
MICHAEL J. COLEMAN, 0000
DONALD L. GRINNELL, 0000
STEPHEN L. HUXTABLE, 0000
RALPH L. LEDGERWOOD, JR., 0000
DAVID G. LOY, 0000
CHERYL M. MACHINA, 0000
DAVID C. MACKEY, 0000
MARION Y. PETERSON, 0000
FRANCIS G. REYNOLDS, 0000
JOSEPH D. SARNICKI, 0000
JAMES R. SMITH, 0000
STEPHEN C. ULRICH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT IN THE NURSE CORPS, MEDICAL SERVICE CORPS, MEDICAL SPECIALIST CORPS AND VETERINARY CORPS (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531 AND 3064:

To be major

*DENISE D. ADAMS, 0000
*RANDALL M. ADOLPH, 0000
*SAVANNAH H. AGEE, 0000
PATRICK J. AHEARNE, 0000
*ANNE M. ALBERT, 0000
NELSON N. ALGARRA, 0000
*JOSE V. ALICEA, 0000
*JAVIER F. ALTAMIRANO, 0000
*GEORGE D. ALTMANN, 0000
*CHRISTOPHER AMAKER, 0000
*PAUL D. ANDERSON, 0000
*VICTOR D. ANDERSON, 0000
*RAY C. ANTOINE, 0000
*LAURA R. AXFORD, 0000
*MARK R. BAGGETT, 0000
DAMON G. BAINE, 0000
*FRED P. BAKER, JR., 0000
*BRIAN J. BALOUGH, 0000
LYNNETTE B. BARDOLF, 0000
*MILES L. BARNES, 0000
*KENTON M. BASS, 0000
*KIRSTEN S. BAUTISTA, 0000
*HUEY P. BECKHAM, JR., 0000
KEVIN J. BELANGER, 0000
*PAULA J. BLAIR, 0000
MICHAEL T. BLOUNT, 0000
*JAMES R. BOLTON, 0000
SHAWN T. BOOS, 0000
*MARIA E. BOVILL, 0000
LEONARD W. BOWLEY, 0000
*BRYAN L. BOYEA, 0000
*CHARLES D. BRADLEY, 0000
*JONATHAN K. BRANCH, 0000
*BESS P. BROSEY, 0000
*MYRA R. BROWN, 0000
*MANESTER Y. BRUNO, 0000
*WILLIAM E. BURGESS, 0000
*COLLEEN S. BURNS, 0000
*THOMAS C. BURZYNSKI, 0000
NATHAN T. BUTLER, 0000
NIKKI L. BUTLER, 0000
*ROLAND B. CABIAD, 0000
KYLE C. CAMPBELL, 0000
*AVA L. CARR, 0000
*ROBERT P. CASILLAS, 0000
*ISRAEL CHAND, 0000
*JACQUELINE CHANDO, 0000
*RITAANNE CHESNEY, 0000
CHRISTOPHER H. CHUN, 0000
*THOMAS S. CLARK, 0000
*JEFFERY M. CLELAND, 0000
*TINA L. CLEMENTS, 0000
*JAMES A. CLEVELAND, 0000
*CHARLES D. COE, 0000
REGINALD D. COFFEY, 0000
*DAVID L. COLVIN, 0000
*ALISON B. COMSTOCK, 0000
*TINA A. CONNALLY, 0000
FABIAN F. COOK, 0000
TIMOTHY E. COOPER, 0000
*RUBEN D. CORREA, 0000
*JOYCE V. COWAN, 0000
*ANTHONY L. COX, 0000
*JOECELYN P. CRITTENDEN, 0000
*JOHN P. CUELLAR, 0000
ROBERT P. CUREE, JR., 0000
*STEPHEN J. DALAL, 0000
*WILLIAM M. DARBY, 0000
JAMES W. DAVIDSON, 0000
*JACK M. DAVIS, 0000
*LISA F. DAVIS, 0000
THOMAS C. DELK, 0000
*CORINNE K. DEVLIN, 0000
GARY W. DUFRESNE, 0000
*SHERYL L. DUNN, 0000
*JAY E. EARLES, 0000
*THOMAS A. EGGLESTON, 0000
*SAMUEL S. ELLIS, 0000
*JAMES S. ESTEP, 0000
*RACHEL K. EVANS, 0000
ANTHONY W. EVERTS, 0000
*LAUREL S. FIELDS, 0000
ALBERT E. FLACHSBARTH, 0000
*DAVID J. FLETCHER, 0000
*TERRENCE E. FLYNN, 0000
*STEPHEN M. FORD, 0000
*KEVIN M. FORREST, 0000
*PATRICIA A. FORTNER, 0000
*STEPHEN R. FRIETCH, 0000
KARRIE A. FRISTOE, 0000
*KENNETH T. GALFO, 0000
PATRICIA A. GAZZA, 0000
*GREG S. GENTRY, 0000
*CHINETTE GEORGE, 0000
*TAMI L. GLASCOCK, 0000
*HOWARD D. GOBBLE, 0000
*DAVID D. GOHDES, 0000
BRADLEY A. GOLDEN, 0000
*JOSEPH P. GOLLASCH, 0000
*JANICE GONZALES, 0000
RICHARD J. GORDON, 0000
*NATHAN W. GORHAM, 0000
GILROY G. GOTIANGCO, 0000
*PAUL J. GOYMERAC, 0000
*JULIE D. GRAFF, 0000
JOSEPH D. GRAHAM, 0000
*SHERRY L. GRAHAM, 0000
*GENEVIEVE G. GROSSNICKLE, 0000
*JOHN J. GUARDIA, 0000
LORY M. GURR, 0000
*MELISSA K. HALE, 0000
REGINA S. HALL, 0000
DANIEL S. HAMILTON, 0000
OWEN N. HARDY, JR., 0000
*BERNARD HARPER, 0000
FINEST HARPER, 0000
*MATTIE D. HARPER, 0000
*JOSEPH G. HARRE, 0000
LINDA D. HARRIS, 0000
*PATRICIA A. HEMBREE, 0000
*DAVID S. HENCSHEL, 0000
*TERESA H. HENDRIX, 0000
*KATHLEEN M. HERBERGER, 0000
*THOMAS S. HINES, 0000
*JENNIFER D. HINES, 0000
VIRGINIA R. HOLEMAN, 0000
*WENDELL M. HOLLADAY, 0000
*PENNIE L. HOOFMAN, 0000
*RHODA L. HOWARD, 0000
WESLEY N. HUDSON, 0000
*MATTHEW S. HUFFMAN, 0000
*JEANNE F. HULSE, 0000
*LISA A. INGULLI, 0000
*SUSANNA S. ITARA, 0000
ARTHUR A. JACKSON, JR., 0000
*CHRIS L. JACKSON, 0000
SHARON Y. JACKSON, 0000
*DANIEL M. JAYNE, 0000
*KEITH M. JOHNSON, 0000
*TIMOTHY W. JOHNSON, 0000
*CLUNIE M. JOHNSON, 0000
*THAYNE G. JOLLEY, 0000
*CLAIRE A. JOSEPH, 0000
HENRY K. JUNG, 0000
*JAMES D. KAY, 0000
*SYLVIE T. KELLER, 0000
DAVID W. KENDRICK, 0000
*MARTIN D. KERKENBUSH, 0000
*ROBIN K. KING, 0000
*KAREN L. KIRKPATRICK, 0000
*MICHEL P. KISH, 0000
*KELLY K. KISS, 0000
KEITH D. KIZZIE, 0000
*CHRISTOPHER M. KNAPP, 0000
*THOMAS K. KOGER, 0000
*JAMES F. KOTERSKI, 0000
MICHAEL P. KOZAR, 0000
*DANIEL R. KRAL, 0000
HENRY J. KYLE, 0000
JOHN P. LAMOUREUX, 0000
JEANNE M. LARSON, 0000
*PAUL F. LARUE, 0000
JAMES A. LATERZA, 0000
*SUSAN J. LAVALLEE, 0000
*JOSEPH. LEGIEC, 0000
*GERALD L. LEMASTERS, 0000
ROBERT E. LEONARD, 0000
*TAYLOR T. LINEGAR, 0000
*PAMELA F. LING, 0000
GLENDA J. LOCK, 0000
*BRYAN W. LONGMUIR, 0000
*JANIE K. LOTT, 0000
*DAVID P. LUCAS, 0000
*VIVIAN G. LUDI, 0000
*KAREN L. MARRS, 0000
*KAREN R. MASON, 0000
*PAULETTE B. MATTHIE, 0000
*ROBERT C. MAXHAM, 0000
*SHARON A. MC BRIDE, 0000
*WILLIAM. MC CARTHY, 0000
*DAVID F. MC CORMICK, 0000
*VAN E. MC COY, 0000
*WILLIAM M. MC GRATH, 0000
*DANIEL W. MC KAY, 0000
*COLETTE L. MC KINNEY, 0000
*DAVID E. MEYER, 0000
*MICHAEL D. MILLER, 0000
KATHERINE R. MOORE, 0000
*MARY S. MOORE, 0000
*MARTIN L. MORFORD, 0000
*JOSEPH S. NASH, 0000
MARGARET M. NAVA, 0000
*TERRYN B. NELSON, 0000
*JAMES W. NESS, 0000
*JODY S. NICHOLSON, 0000
*LAWRENCE P. NOLAN, 0000
*PETER B. OLSON, 0000
*MICHAEL T. O NEIL, 0000
*DOUGLAS. ONKST, 0000
*JOSEPH C. OSULLIVAN, 0000
*VERONICA G. OSWALD, 0000
*KOLET R. PABLO, 0000
DAVID J. PARRAMORE, 0000
MARSHA B. PATRICK, 0000
*DEANN L. PAYNE, 0000
*DOUGLAS H. PAYNE, 0000
*BRADLEY D. PECOR, 0000
*CATHERINE E. PEUTERBAUGH, 0000
KAREN N. PLANTE, 0000
DAVID R. POWELL, 0000
*JOHN L. PRESS, 0000
CARLA S. PRICE, 0000
*CATHY L. PRICE, 0000
*SHARON M. PRYOR, 0000
*CHARLES E. PULAWSKI, 0000
*SHARON L. PURVIANCE, 0000
*JAMES R. QUIGLEY, 0000
*REBECCA S. RABB, 0000
ANNE C. RESTY, 0000
*MARK K. REYNOLDS, 0000
*SUZANNE K. RICHARDSON, 0000
*RANDALL L. RIETCHECK, 0000
*RUTHA N. ROACH, 0000
JEFFREY A. ROBERTS, 0000
*PAUL L. ROBERTS, 0000
*JENNIFER. ROBINSON, 0000
*DENNIS J. RODRIGUEZ, 0000
*LORRAINE A. ROEHL, 0000
*JANET L. ROGERS, 0000
*JANIS H. ROSADOREIBER, 0000
CEPHUS L. ROUPE, 0000
*NANCY D. RUFFIN, 0000
*JAMES N. RUFFIN, 0000
*PAUL D. RUSSO, 0000
BRADLEY S. RUSTAN, 0000
DAVID G. RYNDERS, 0000
*MARYBETH SALGUEIRO, 0000
*NANCY T. SANTIAGO, 0000
*TERESA A. SAPP, 0000
*DONNA L. SCHANCK, 0000
SONYA S. SCHLEICH, 0000
JAMES F. SCHWARTZ, 0000
*FREDERICK M. SCUDIERY, 0000
JOHN W. SECREST, 0000
STEPHEN J. SEKAC, 0000
MARIA L. SERIOMELVIN, 0000
*JACQUELINE A. SHEEHAN, 0000
*AARON J. SILVER, 0000
BARBARA A. SION, 0000
*WILLIAM H. SMITH, 0000
*STACIA L. SPRIDGEN, 0000
*ALLISON M. STAMIDES, 0000
WALTER M. STANISH, 0000
*RICHARD P. STARRS, 0000
*MERVIN H. STEALS, 0000
*JULIE M. STEPHENS, 0000
KEVIN R. STEVENSON, 0000
*EDWARD L. STEVENS, 0000
*NETTA F. STEWART, 0000
*BURTON L. STOVER, 0000
*CHARLES H. STRITE, JR., 0000
*WILLIAM M. STUBBS, 0000
ALEX H. STUBNER, 0000
*LORI E. SYDES, 0000
TRENT N. TALBERT, 0000
EUGENE THURMAN, 0000
*STEVEN A. TOFT, 0000
*CARLETTE T. TOFT, 0000
*ABEL. TREVINO, 0000
JESSIE L. TUCKER III, 0000
*SHIRLEY D. TUORINSKY, 0000
*ROBIN A. VILLIARD, 0000
*MARY K. WALKER, 0000
KEVIN W. WERTHMANN, 0000
*JACLYN K. WHELEN, 0000
*DEBRA J. WHITE, 0000
*ANNE M. WHITE, 0000
*ABBIE B. WHITEHEAD, 0000
*ROBERT M. WILDZUNAS, 0000
*RONALD T. WILLIAMS, 0000
*TAMI M. ZALEWSKI, 0000