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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Gracious God, You are never reluctant to bless us with exactly what we need for each day's challenges and opportunities. Sometimes we are stingy receivers who find it difficult to open our tight-fisted grip on circumstances and receive the blessing that You have prepared. You know our needs before we ask You, but You wait to bless us until we ask for help. We come to You now honestly to confess our needs. Lord, we need Your inspiration for our thinking, Your love for our emotions. Your guidance for our wills, and Your strength for our bodies. We have learned that true peace and lasting serenity results from knowing that You have an abundant supply of resources to help us meet any trying situation, difficult person, or disturbing complexity, and so we say with the psalmist, ''Blessed be the Lord, who daily loads us with benefits.''—Psalm 68:19. Amen.

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PLEDGE OF ALLEGIANCE

The Honorable SLADE GORTON, a Senator from the State of Washington, led the Pledge of Allegiance, as follows:

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

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RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

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SCHEDULE

Mr. SPECTER. Mr. President, on behalf of the leader, I have been asked to announce that we will resume consideration of H.R. 4762. Under the previous order, there will be closing remarks on the bill with a vote on final passage to occur at approximately 9:40 a.m. and following that vote, a vote on or in relation to the Frist amendment, which is the Frist amendment to the Labor, HHS, and Education appropriations bill, will occur.

I have been asked to announce that it is the leader's intention to finish this bill by midafternoon and then to proceed to the Interior appropriations bill. I note a smile by our distinguished Presiding Officer. He has the Interior bill. But that is what the script says. We will be pushing as hard as we can to accomplish that and get that done. Our distinguished leader was in a persevering, strong mood last night, and I assume he will be this morning as well. We want people who have amendments to come to the floor. We will work out a schedule and work out time agreements so we can meet that demanding schedule.

I thank the Chair and yield the floor.

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INTERNAL REVENUE CODE OF 1986 AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4762, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4762) to amend the Internal Revenue Code for 1986 to require 527 organizations to disclose their political activities.

The PRESIDING OFFICER. Under the previous order, there will now be 7 minutes for closing remarks, with 5 minutes of that time to be under the control of the Senator from Arizona, Mr. MCCAIN.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield 2 minutes of my 5 minutes to the Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, despite the claims in the press by some opponents of this measure, this bill is fair and evenhanded. It affects groups on both sides of the political spectrum. It is not aimed at any particular group or players in the elections. It is aimed at getting rid of secrecy. It is not an attempt to silence anyone. It is an attempt to give the American people information. They are entitled to have this information about the groups who flood the airwaves with negative ads during an election campaign.

I thank all my colleagues who supported the McCain-Feingold-Lieberman amendment on the Department of Defense bill. They can be proud of what they did. With that vote, they have started in motion a process that has brought us to this day, when we will quickly pass and send to the President for his signature a good, fair, bipartisan bill that does the right thing for the American people.

Mr. ROTH. Mr. President, I believe in full disclosure of who is funding political campaigns. The public has a right to know who is paying for the political advertisements and direct mail that they see. While I think this bill may not go far enough in requiring disclosure of these groups, it is a first step and that is why I support H.R. 4762.

H.R. 4762 requires disclosure for political organizations which are tax exempt under section 527 of the Internal Revenue Code. 527 organizations which directly advocate the election or defeat

of a particular candidate for federal office are subject to federal election campaign law disclosure obligations. However, 527 organizations that do not directly advocate for the election or defeat of a particular candidate are not subject to these federal election campaign laws and are not obligated to disclose the names of their contributors nor how they send the contributions they receive. This bill correctly adds disclosure requirements to these 527 organizations so that the activities performed and identity of contributors to these previously undisclosed will be available for public scrutiny, much like those 527 organizations that have to disclose under the federal election laws.

I am also glad that this bill follows the constitutional requirement that revenue measures originate in the House of Representatives. If the revenue measure did not originate in the House, then any member could subject the bill to a ''blue slip,'' thereby voiding the entire bill, not just the part of the bill that is a revenue measure. I opposed an amendment similar to this bill a few weeks ago when it was offered as an amendment to the Defense Authorization bill because adoption of that amendment would have subjected the Defense Authorization bill to such a ''blue slip'' challenge. Since we are taking up a House-originated revenue measure, I do not have the concerns which forced me to vote against the previous amendment.

However, I do have some concerns with this bill. First, this bill is a tax measure and tax measures should first be addressed by this committee of jurisdiction, the Finance Committee. This we have not done. In fact, the Fiance Committee was scheduled to have a hearing on July 12, 2000 to review this and other similar legislation dealing with disclosure of political activity by tax-exempt and other organizations. This hearing will not happen now and we will not be able to have the Finance Committee review how effective this legislation will be.

My second concern is that this bill may not do enough. By only focusing on disclosure in one type of tax-exempt organization and not on others, we leave open the use of the other type of tax-exempt organizations by those who want to hide their contributions and activity behind the cloak of anonymity that these tax-exempt organizations provide. This view is shared by the staff of the Joint Committee on Taxation.

Finally, I am concerned that this legislation requires the Internal Revenue Service to do things that it is not prepared to do with regard to disclosure. For example, under the bill reported out of the Ways and Means Committee, the IRS could partner with another agency—most likely the Federal Election Commission—to provide that the results of the 527 disclosure to the public. Unfortunately, this and other technical matters that were addressed in the Ways and Means Committee bill were not incorporated in this bill. I fear that we will have to address these technical issues in the future in order to make the disclosure provisions work to effectively provide this information to the public.

Because this bill is a first step and that some disclosure is better than no disclosure, I will vote for H.R. 4762.

Mr. President, I ask unanimous consent that a letter from the Brennan Center for Justice expressing the view that this bill requiring disclosure by 527 organizations is constitutionally sound be printed in the RECORD.

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

BRENNAN CENTER FOR JUSTICE,
New York, NY, June 28, 2000.

DEAR SENATOR: I am writing to express the views of the Brennan Center for Justice at New York University School of Law on the constitutional validity of attempts to seek disclosure from organizations covered by Section 527 of the Internal Revenue Code, as contained in the Lieberman-Levin-Daschle-McCain Bills (S.B. 2582 and 2583).

Senate Bill 2582 seeks to completely close the current Section 527 loophole, under which some organizations are claiming that they exist for the purpose of influencing electoral outcomes for income tax purposes, but that they are not ''political committees'' for purposes of federal election law. Senate Bill 2582 clarifies that tax exemption under Section 527 is available only to organizations that are ''political committees'' under FECA. Senate Bill 2583 is a more limited bill, which requires Section 527 organizations to disclose their existence to the IRS, to file publicly available tax returns, and to file with the IRS and make public reports disclosing large contributors and expenditures.

Both of these bills are constitutionally sound. *Buckley v. Valeo,* 424 U.S. 1 (1976), clearly established that groups whose *major purpose* is influencing elections—the operative test under both the Federal Election Campaign Act (FECA) and under Section 527 of the Internal Revenue Code—are appropriately subject to federal disclosure laws. A close textual analysis of *Buckley* reveals that the Supreme Court explicitly recognized the legitimacy of mandatory disclosure laws for organizations whose major purpose is influencing elections.

UNDERSTANDING BUCKLEY'S DISCLOSURE LIMITATIONS

In *Buckley v. Valeo,* the Supreme Court considered the constitutional validity of, among other things, various disclosure provisions that Congress had enacted on federal political activity. In general, the Court found mandatory disclosure requirements to be the least restrictive means for achieving the government's compelling interests in the campaign finance arena. However, the Court believed that, while it was constitutionally permissible to require advocacy groups that ''expressly advocate'' for or against particular federal candidates to comply with federal disclosure laws, advocacy groups that engage in a mere discussion of political issues (so-called ''issue advocacy'') cannot be subjected to public disclosure.

The Supreme Court was concerned that FECA could become a trap for unwary political speakers. Advocacy groups or individuals that participate in the national debate about important policy issues might discover that they had run afoul of federal campaign finance law restrictions simply by virtue of their having mentioned a federal candidate in connection with a pressing public issue. The Court found that FECA's disclosure provisions, as written, raised potential problems both of vagueness and overbreadth.

Under First Amendment ''void for vagueness'' jurisprudence, the government cannot punish someone without providing a sufficiently precise description of what conduct is legal and what is illegal. A vague or imprecise definition of regulated political advocacy might serve to ''chill'' some political speakers who, although they desire to engage in pure ''issue advocacy,'' may be afraid that their speech will be construed as regulable ''express advocacy.'' Similarly, the overbreadth doctrine in First Amendment jurisprudence is concerned with a regulation that, however precise, sweeps too broadly and reaches constitutionally protected speech. Thus, a regulation that is clearly drafted, but covers both ''issue advocacy'' and ''express advocacy'' may be overbroad as applied to certain speakers.

The Court's vagueness and overbreadth analysis centered on two provisions in FECA—section 608(e), which adopted limits on independent expenditures, and section 434(e), which adopted reporting requirements for individuals and groups. For these two provisions, the Supreme Court overcame the vagueness and overbreadth issues by adopting a narrow construction of the statute that limited its applicability to ''express advocacy.'' However, the Court made it absolutely clear that the ''express advocacy'' limiting construction that it was adopting for these sections *did not apply* to expenditures by either candidates or political committees. According to the Court, the activities of candidates and political committees are ''by definition, campaign related.'' *Buckley,* 424 U.S. at 79.

The ''express advocacy'' limitation was intended by the Court to give protection to speakers that are not primarily engaged in influencing federal elections. However, because candidates and political committees have as their major purpose the influencing of elections, they are not entitled to the benefit of the ''express advocacy'' limiting construction. The Supreme Court never suggested, as no rational court would, that political candidates, political parties, or political committees can avoid all of FECA's requirements by simply eschewing the use of ''express advocacy'' in their communications. As discussed above, the Supreme Court wanted to avoid trapping the unwary political speaker in the web of FECA regulation. However, for political parties, political candidates, and political committees, which have influencing electoral outcomes as their central mission, there is no fear that they will be unwittingly or improperly subject to regulation.

* * * * *

The *Buckley* Court's first invocation of the ''express advocacy'' standard appears in its discussion of the mandatory limitations imposed by FECA section 608(e) on independent expenditures. Section 608(e)(1) limited individual and group expenditures ''relative to a clearly identified candidate'' to $1,000 per year. The Court, in analyzing the constitutional validity of the $1,000 limit to independent expenditures by groups and individuals, focused first on the issue of unconstitutional vagueness. The Court noted that although the terms ''expenditure,'' ''clearly identified,'' and ''candidate'' were all defined in the statute, the term ''relative to'' a candidate was not defined. *Buckley,* 424 U.S. at 41. The Court found this undefined term to be impermissibly vague. Id. at 41. Due to the vagueness problem, the Court construed the phrase ''relative to'' a candidate to mean ''advocating the election or defeat of'' a candidate. *Id.* at 42.

Significantly, the Court did not adopt a limiting construction of the term ''expenditure,'' which appears in a definitional section of the statute at section 591(f). Rather, the Court narrowly construed only section 608(e). *Id.* at 44 (''in order to reserve the provision against invalidation on vagueness grounds, §608(e)(1) must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office.''). The limitations under section 608(e) apply only to individuals and groups. *Id.* at 39–40. Political parties and federal candidates have separate expenditure limits that did not use the ''relative to a clearly identified candidate'' language, *see* §§608(c) & (f), which was found to be problematic in section 608(e)(1).

The Court, having solved the statute's vagueness problem, next turned to the question of whether section 608(e)(1), as narrowly construed by the Court, nevertheless continued to impermissibly burden the speaker's constitutional right of free expression. The Court found the government's interest in preventing corruption and the appearance of corruption, although adequate to justify contribution limits, was nevertheless inadequate to justify the independent expenditure limits. Therefore, the Court held section 608(e)(1)'s limitation on independent expenditures unconstitutional, even as narrowly construed.

In sum, in this portion of its opinion, the *Buckley* Court did not adopt a new definition of the term ''expenditure'' for all of FECA. Rather, the Court held that the limits on independent expenditures imposed on individuals and groups should be narrowly construed to apply only to ''express advocacy,'' and that these limits were nevertheless unconstitutional even as so limited. Because the limits on independent expenditures in section 608(e) were ultimately struck down by the Court, the narrowing construction of that section became, in a practical sense, irrelevant.

The only other portion of the *Buckley* decision that raises the ''express advocacy'' narrowing construction is the Court's discussion of reporting and disclosure requirements under FECA section 434(e). It is here that the Court makes it absolutely clear, in unambiguous language, that *political committees and candidates are not entitled to the benefit of the narrowing ''express advocacy'' construction* earlier discussed in section 608(e).

The Court begins its discussion of reporting and disclosure requirements, by noting that such requirements, ''as a general matter, directly serve substantial governmental interests.'' *Buckley*, 424 U.S. at 68. After concluding that minor parties and independents are not entitled to a blanket exemption from FECA's reporting and disclosure requirements, the Court moved on to a general discussion of section 434(e).

As introduced by the Court, ''Section 434(e) requires '[e]very person (*other than a political committee or candidate*) who makes contributions or expenditures' aggregating over $100 in a calendar year 'other than by contribution to a political committee or candidate' to file a statement with the Commission.'' *Id.* 74–75 (emphasis added). The Court noted that this provision does not require the disclosure of membership or contribution lists; rather, it requires disclosure only of what a person or group actually spends or contributes. *Id.* at 75.

The *Buckley* Court noted that the Court of Appeals had upheld section 434(e) as necessary to enforce the independent expenditure ceiling discussed above—section 608(e). *Id.* at 75. The Supreme Court, having just struck down these independent expenditure limits, concluded that the appellate court's rationale would no longer suffice. *Id.* at 76. However, the *Buckley* Court concluded that section 434(e) was ''not so intimately tied'' to section 608(e) that it could not stand on its own. *Id.* at 76. Section 434(e), which predated the enactment of section 608(e) by several years, was an independent effort by Congress to obtain ''total disclosure'' of ''every kind of political activity.'' *Id.* at 76.

The Court concluded that Congress, in its effort to be all-inclusive, had drafted the disclosure statute in a manner that raised vagueness problems. *Id.* at 76. Section 434(e) required the reporting of ''contributions'' and ''expenditures.'' These terms were defined in parallel FECA provisions in sections 431 (e) and (f) as using money or other valuable assets ''for the purpose of . . . influencing'' the nomination or election of candidates for federal office. *Id.* at 77. The Court found that the phrase ''for the purpose of . . . influencing'' created ambiguity that posed constitutional problems. *Id.* at 77.

In order to eliminate this vagueness problem, the Court then went back to its earlier discussions of ''contributions'' and ''expenditures.'' The Court construed the term ''contribution'' in section 434(e) in the same manner as it had done when it upheld FECA's contribution limits. *Id.* at 78. It next considered whether to adopt the same limiting construction of ''expenditure'' that it had adopted when construing section 608(e)'s limits on independent expenditures by individuals and groups.

''When we attempt to define 'expenditure' in a similarly narrow way we encounter line-drawing problems of the sort we faced in 18 U.S.C. §608(e)(1) (1970 ed., Supp. IV). Although the phrase, 'for the purpose of . . . influencing' an election or nomination, differs from the language used in §608(e)(1), it shares the same potential for encompassing both issue discussion and advocacy of a political result. The general requirement that 'political committees' and candidates disclose their expenditures could raise similar vagueness problems, for ''political committee'' is defined only in terms of amount of annual ''contributions'' and ''expenditures,'' and could be interpreted to reach groups engaged purely in issue discussion. The lower courts have construed the words ''political committee'' more narrowly. *To fulfill the purposes of the Act they need only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate. Expenditures of candidates and of ''political committees'' so construed can be assumed to fall within the core area sought to be addressed by Congress. They are, be definition, campaign related.*

''But when the maker of the expenditures is not within these categories—when it is an individual other than a candidate or a group other than a political committee—the relation of the information sought to the purposes of the Act may be too remote. To insure that the reach of §434(e) is not impermissibly broad, we construe ''expenditure'' for purposes of that section in the same way we construed the terms of §608(e)—to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate''. *Id.* at 79–80 (footnotes omitted) (emphasis added).

The Court in *Buckley* could not have been more clear. When applied to a speaker that is neither a political candidate nor a political committee, the term ''expenditure'' in section 434(e) must be narrowly construed under the ''express advocacy'' standard. However, when applied to organizations that have as a major purpose the nomination or election of a candidate, the ''express advocacy'' limiting construction simply does not apply. The activities of these groups are, by definition, campaign related, and legitimately subject to regulation under FECA.

This, of course, is the only sensible reading of FECA. To suggest that political candidates, political parties, or political committees can escape FECA's regulatory reach by merely eschewing the use of express words of advocacy, reduces the law to meaninglessness. It may be necessary, as the Court held, to give advocacy groups that are not primarily engaged in campaign-related activity a bright-line test that will enable them to avoid regulatory scrutiny. But organizations whose very purpose is to influence federal elections need no such safety net, and have not been given one.

IMPLICATIONS FOR REGULATION OF SECTION 527 ORGANIZATIONS

FECA's definition of a ''political committee'' mirrors the Internal Revenue Service's definition of a Section 527 ''political organization.'' Under FECA, a ''political committee'' is, among other things, ''any committee, club, association, or other group of persons which . . . makes expenditures aggregating in excess of $1,000 during a calendar year.'' 2 U.S.C. §431(4)(A). The term ''expenditures'' includes, among other things, ''any purchase, payment, distribution, loan, advance, deposit, gift of money or anything of value, made by any person *for the purpose of influencing any election for Federal office*.'' 2 U.S.C. §431(9)(A)(i) (emphasis added).

Under the Internal Revenue Code, a Section 527 political organization is defined as ''a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated *primarily for the purpose* of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.'' 26 U.S.C. §527(e)(1) (emphasis added). An ''exempt function'' within the meaning of section 527 ''means the function of *influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office* of office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.'' 26 U.S.C. §527(e)(2) (emphasis added).

Thus, any organization that is a Section 527 organization is, by definition, organized and operated primarily for the purpose of ''influencing or attempting to influence the selection, nomination, election, or appointment of any individual'' to public office. *See* 26 U.S.C. §527(e)(2). Such an organization satisfies the ''major purpose'' standard established by the Supreme Court in *Buckley*, and may therefore be subject to reasonable public disclosure of its sources of funding for its political activities. *Buckley* offered protection to issue-oriented speakers and groups that are not organized for the explicit purpose of influencing election outcomes. Section 527 organizations, however, are subject to reasonable mandatory public disclosure requirements by virtue of their central mission.

CONCLUSION

There is no question that the Supreme Court in *Buckley* was concerned with protecting the rights of advocacy groups and individuals to engage in constitutionally protected ''issue advocacy.'' The Court was particularly concerned that the Federal Election Campaign Act, as written, would become a trap for unwary or unsophisticated political speakers. However, the Court also recognized that there are some groups of speakers—political candidates, political parties, and political committees—whose major purpose is engaging in electoral politics. For

these speakers, there is no danger of trapping the unwary, and thus, the Court provided them with no special constitutional protection. The actions of political candidates, political parties, and political committees are assumed to be campaign-related, and they are therefore appropriately subject to federal disclosure laws.

In order to qualify for tax exempt status under Section 527 of the Internal Revenue Code, an organization's primary purpose must be to influence election outcomes. Because a Section 527 organization is, by definition, primarily engaged in political activity, it satisfies the ''major purpose'' test promulgated in *Buckley*. Thus, there is no constitutional impediment to subjecting Section 527 Committees to reasonable disclosure laws. The ''express advocacy'' protections that the Supreme Court promulgated in order to protect unwary political speaker, as the Court itself explicitly recognized, have no applicability in the context of an organization whose primary purpose is engaging in electoral politics. Senate Bill 2582, which clarifies that tax exemption under Section 527 is available only to organizations regulated as ''political committees'' under FECA, as well as the more limited Senate Bill 2583, which simply requires public disclosure from Section 527 organizations, will both withstand constitutional scrutiny.

Very truly yours,

E. JOSHUA ROSENKRANZ,
President.

Mr. MOYNIHAN. Mr. President, while I support the objectives of this legislation, I regret that the Senate has chosen to rush ahead with a vote on this matter without following the customary Senate procedure. This bill should have been referred to its committee of jurisdiction, the Committee on Finance, and that committee ought to have had the opportunity to consider all its implications.

In fact, Chairman ROTH and I agreed to schedule a hearing on this matter for July 12. We contacted election and tax law experts to ask their opinions regarding fundamental questions surrounding Section 527 organizations.

As we thought, there are constitutional questions, and the possibility of unintended consequences that might result from this or similar legislation. The careful examination that Senator ROTH and I had planned is going to be cut short by our actions today. Without that careful examination, we can only hope that our conduct will withstand judicial scrutiny and not create additional problems.

Mr. LEVIN. Mr. President, I am pleased to join my colleagues Senators MCCAIN, FEINGOLD and LIEBERMAN in voting to send to the President H.R. 4762, a bill that hopefully will lead to closing one of the gaping loopholes in our Federal campaign finance laws. I use the words ''lead to'' because we aren't closing the so-called 527 loophole here today—we are forcing the disclosure of the contributors who use the loophole. Just as the disclosure of soft money hasn't yet ended the soft money loophole, this disclosure won't automatically close the 527 loophole. Most of our reform work lies ahead. But, our action today will hopefully give us momentum toward ending both the Section 527 loophole and the soft money loophole.

Having been in the Senate over 20 years, now, I've witnessed how slow and frustrating the legislative process can be, and I've also witnessed how we as an institution can come together quickly and directly when we see a compelling need to do so. Senators LIEBERMAN, DASCHLE, MCCAIN, FEINGOLD and I introduced legislation in the Senate, similar to H.R. 4762, in April of this year. With the upcoming November elections we were ever aware of the explosion in sham issue ad campaigns by anonymous contributors across the country that the public was going to experience this year without Section 527 reform. We wanted to beat the clock and get this legislation in place in time to have an effect on this year's campaigns.

With the leadership of a committed group in the House, and a significant bipartisan majority supporting such reform in the Senate, we have been able to do that. I commend the many dedicated House members and Senators who worked to bring this vote about over the past few weeks. The reforms we are passing today will have a meaningful effect on the campaigns being run this year.

The Section 527 loophole allows undisclosed, unlimited contributions. These are stealth contributions—tens of millions of dollars of stealth contributions that are off the campaign finance radar screen. How does that happen—that an organization that claims—on its own—to exist for the purpose of influencing an election can receive unlimited contributions and kept them secret? Well, it happens because these organizations seeking a tax exemption under Section 527 of the Internal Revenue Service Code say one thing to the IRS to get the tax exemption and say the opposite to the Federal Election Commission to avoid having to register as a political committee.

The Internal Revenue Service Code defines an organization subject to a tax exemption under Section 527 as an organization, ''influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State or local public office . . .'' The Federal Election Campaign Act defines a political committee which is subject to regulation by the FEC and that means disclosure as an organization that spends or receives money ''for the purpose of influencing any election for Federal office.'' So people creating these organizations are claiming, with a straight face, that they are trying to influence an election in order to get the benefits of one agency while representing they are not trying to influence an election in order to avoid the requirements of another. We often say, ''You can't have it both ways,'' but persons forming these organizations, Mr. President, turn that saying on its head. They are, so far, having it both ways, and our campaign finance system and the respect and trust of the American people in our elections and government are paying the price.

Section 527 was created by Congress in the 1970's to provide a category of tax exempt organizations for political parties and political committees. While contributions to a political party or political committee are not tax deductible, Congress did provide for a tax exemption for money contributed and spent on political activities by an organization created for the purpose of influencing elections. At the time Congress established the tax exemption, it assumed that such organizations would be filing with the FEC under the campaign finance laws for the obvious reason that the language for both coverage by the IRS and coverage by the FEC were the same—''influencing an election.'' Consequently it was assumed that Section 527 didn't need to require disclosure with the IRS, since the FEC disclosure was considerably more complete.

The legislation before us would require Section 527 organizations to file a tax return, something they are not required to do now, and disclose the basic information about their organization as well as their contributors over $200.

As good and important as this bill is, however, it does not stop the unlimited aspect of these secret contributions, nor the unlimited contributions permitted through the soft money loophole. This victory today is but one battle in the overall campaign to enact the McCain-Feingold bill, and I look forward to continuing to work with my colleagues to make that happen.

Mr. MCCAIN. Mr. President, I would like to address an issue of importance with respect to the 527 disclosure debate, and that is the constitutionality of H.R. 4762. I assert that the 527 disclosure legislation is Constitutional.

Among other things, the legislation requires 527 organizations claiming tax exempt status to disclose their members who make significant contributions to support the 527's political advocacy. Some opponents maintain that the legislation runs afoul of the Supreme Court ruling in NAACP v. Alabama, where as most of you know, the NAACP was protected from having to disclose its membership list to the Alabama government

The 527 disclosure legislation complies with the Constitution's protection of freedom of association upheld in NAACP v. Alabama. It does not require the disclosure of membership rosters, per se, just the members who are making politically related donations. More important, it does not constitute a significant restraint on members' rights to associate freely.

It is important to note that the circumstances are different here than those that surrounded the Alabama government's treatment of the NAACP during the 1950's and 1960's. The Supreme Court recognized that the members of the NAACP had every right to be concerned for their own and their families' safety if their identities were

publicly disclosed. The prospect of public identification would have significantly discouraged people of color from joining the NAACP. While political contributors to 527 organizations may prefer to avoid public scrutiny, they have no need to fear for their lives as a result of that scrutiny.

That said, public safety is by no means the principal standard by which the 527 disclosure legislation will be judged. In the NAACP v. Alabama decision, the Supreme Court acknowledges that a valid governmental purpose must be weighed against the tendency for the disclosure requirement to abridge an individual's freedom of association. The decision emphasized that the governmental purpose for disclosure—in this case to prevent corruption of the American political system—must be achieved in the most narrow manner possible.

Like our Congressional leaders, I believe the more disclosure the better—as long as the associated requirements are constitutional. Focusing narrowly on 527 organizations is one thing that sets H.R. 4762 apart from the Smith-McConnell legislation, to ensure that the legislation survives a constitutional test. I would like to submit a copy of the Smith-McConnell legislation, the Tax-Exempt Political Disclosure Act, into the record.

The Smith-McConnell legislation sweeps in business and labor organizations. As I said, disclosing their political activities is a laudable goal. I have advocated a similar approach, but one that would include bright line tests to determine precisely when contributions and expenditures would have to be disclosed. Those bright line tests, such as limiting the disclosure requirement to a time period close to an election, are lacking in the Smith-McConnell bill.

Unlike business and labor organizations, which engage in activities completely unrelated to elections, 527's are clearly political organizations. 527 organizations by law must have the function of influencing or attempting to influence elections. The Supreme Court in the Buckley decision upheld federal disclosure laws for these types of organizations. When it comes to disclosure laws for business and labor organizations, concerns about vagueness and overbreadth come into play.

527 organizations proliferated during the primary campaign season. Many had obscure names that made it hard to guess even the types of members funding political advocacy on behalf of each 527, much less their identities. Contrary to the 527's, most labor and business organizations have established identities, and clear-cut positions and purposes that go beyond funding issue ads. Since we have no window into the world of 527's, a disclosure requirement is more valid when compared with a disclosure requirement affecting labor and business organizations.

Unlike most, if not all, labor and business organizations, there is no way to determine how many members there are in a 527. In the example I often cite, there were only two contributors, each funneling what appears to be at least one million dollars into the accounts to be used for campaign advocacy. While we may have no idea how many contributors there are in a 527, or how much each contributed, you can bet their favored candidates know.

In a press conference announcing introduction of his bill, Senator MCCONNELL admits the ''dubious constitutionally'' of his proposal. In order to regain the American public's trust, it is important that we support a proposal we feel confident will withstand the Court's scrutiny. Thank you, Mr. President.

Ms. SNOWE. Mr. President, I rise today in support of the legislation sent to us by the House concerning disclosure for so-called ''Section 527 organizations''.

I want to thank the efforts of those involved in making this day a reality, and that includes a bipartisan group from both sides of the aisle and both sides of the Hill who have taken a leadership role in working toward restoring Americans' faith in its election system. Senator MCCAIN's herculean efforts and leadership on this issue have made today's vote possible. In addition, Senator FEINGOLD's leadership has been invaluable, and Senators LIEBERMAN and JEFFORDS and Congressmen SHAYS, MEEHAN, and CASTLE, have worked very hard to ensure that this legislation was both considered and passed.

I believe that disclosure of campaign activities is the most fundamental component of campaign finance reform. On the one hand, proponents of measures like the McCain-Feingold bill point to greater disclosure as part and parcel of additional reforms. On the other hand, opponents have argued that, rather than more comprehensive reforms, what we really need is simply more disclosure on what we already have. So disclosure should be common ground where we can all come together, a point proved by the overwhelming support for disclosure of 527 organizations in the House on a vote of 385–39.

As we know, these organizations have incorporated under the 527 section of the tax code to get tax exempt status to influence federal elections, but then they argue to the Federal Elections Commission that for their purposes these organizations aren't influencing federal elections, simply because they don't expressly advocate for the election or defeat of a particular candidate.

Right now, they don't have to disclose any of their activity—who they are, where they get their funding, and where they spend their money. Under this legislation, they will have to disclose on all their activities, and because political activities are all they do, that is as it should be.

It has also been expressed that if we are to target 527's, we should also have increased disclosure for other organizations that engage in political activities. And I couldn't agree more. Because the American people ought to know who these groups are, their major sources of funding, and where they are spending their money if they are working to influence a federal election. It's that simple.

Prior to this vote on 527's, we were working on legislation that would do just that—a bipartisan, bicameral measure that would satisfy the concerns that have also been raised about the scope of disclosure—that it not be so broad as to cover all manner of activities that have nothing to do with elections.

So we crafted a bill that was neither overly broad or vague. We narrowly and clearly defined political activities as those that mention a candidate for office, targeted specifically to the candidate's electorate, within a time frame near an election. And we only targeted large-scale communications so grassroots organizations will not be affected.

Our framework for this expanded disclosure drew from an amendment that Senator JEFFORDS and I, along with Senators MCCAIN, FEINGOLD, LIEBERMAN, and others, developed and introduced in early 1998. Based on a proposal developed and advanced by constitutional scholars, our measure was designed to withstand constitutional scrutiny, address some of the most egregious campaign abuses, and focus on areas where we know the Supreme Court has already allowed us to go—like disclosure.

We've already been to the Senate floor twice with this language, and I'm proud to say that the constitutional arguments made against our provision quite simply didn't hold water. And a majority of the Senate went on record in support of our provision.

In short, the three major provisions of the bill we were working on could be summed up as follows—disclosure, disclosure, and, finally, disclosure. That's what we're talking about here—sunlight, not censorship. Not speech rationing, but information.

I cannot emphasize enough that our effort would not have prevented anyone from making any kind of communication at any time saying anything they want. All we said is, if you're attempting to influence a federal election, we ought to know who you are, your major sources of funding, and where you're spending your money.

As the Brennan Center for Justice stated to me in a letter I had included in the RECORD in our first debate on Snowe-Jeffords, and I quote, ''As the Supreme Court has observed, disclosure rules do not restrict speech significantly. For that reason, the Supreme Court has made clear that rules requiring disclosure are subject to less exacting constitutional strictures than direct prohibitions on spending.'' So if the Congress is truly serious about increased disclosure, there is no reason

why they should be able to support our approach.

The fact is, we all have to disclose as candidates, and we should. Is it unreasonable when we know groups running ads or sending out mass mailings to the public are influencing federal elections to ask them to disclose as well?

We know, for instance, that in the 1995–1996 election cycle, the Annenberg Public Policy Center estimates that between $135 to $150 million was spent by outside groups not associated with candidates on television ads. In the last cycle, that number jumped to between $275 to $350 million—more than double. But what we don't know is how much is being spent on efforts like mass mailings or phone banks, or who is funding them, and this legislation is designed to tell us.

As for those so-called issue ads, if any doubt remains about the real intent of many of the broadcast ads we see, the Brennan Center recently released a report on television advertising in the 1998 congressional elections. What did they find? When all the ads were evaluated in terms of how many within two months of the general election were actually political ads and how many were simply discussing issues or legislation, 82 percent were seen as campaign ads. Eighty-two percent. There's no question what these ads are attempting to do—yet, under current law, they fly right under the radar screen.

So, in short, our bipartisan approach got at the largest abuses while answering the critics who say that what's good for the 527 organizations are good for other groups and unions and corporations as well. Unfortunately, we did not reach agreement with the House on such an approach this year—but our work generated momentum for consideration and passage of this 527 bill. And we must look at this as a significant first step. Hopefully, we will have the opportunity to build on this legislation with the broader approach of Snowe-Jeffords.

The passage of this bill should also make it that much more difficult for those who supported it to now go back and say we shouldn't have greater disclosure for other groups engaging in political activities when Snowe-Jeffords is introduced next year. In other words, what we have done with this legislation is to throw a boulder in what has until this point been the still and brackish pond of the campaign finance status quo, and the ripple effect will continue expanding ever outward.

Again, I want to thank everyone involved in this great victory and I hope we will move forward to expand our efforts on campaign finance reform in the next Congress.

INTERNAL REVENUE SERVICE

Mr. MOYNIHAN. I understand that this legislation would allow the Secretary of the Treasury to partner with other Federal agencies, principally the Federal Election Commission, in a manner similar to that contemplated under the bill reported by the Ways and Means Committee. Is that understanding correct?

Mr. FEINGOLD. That is correct. We want to allow the Internal Revenue Service to enforce these disclosure rules with the assistance and cooperation of the Federal Election Commission.

Mr. MCCAIN. Mr. President, as sponsor, I would like to make the final comments.

Mr. MCCONNELL. Mr. President, this debate has come a long way from the days of trying to regulate the speech of politicians and other major players on the American political scene. Just a few years ago, folks on the other side of the aisle were trying to get taxpayer funding for elections, spending limits for campaigns, and regulation of any group that mentioned a candidate in an ad two months before an election day. As recently as last year, there were measures being debated in the Senate that would have devastated the Republican Party in trying to compete with the Democrats and with well-funded outside groups who are almost wholly and completely affiliated with the Democrats—groups such as the labor unions, the plaintiffs' lawyers, the Sierra Club, and the League of Conservation Voters.

This particular bill before us will not put Republicans at a disadvantage in this fall election. And, of course, it will not put Democrats at any disadvantage because it doesn't affect their political affiliates, the unions and the trial lawyers. In fact, it's hard to tell exactly who will be put at a disadvantage by this bill because there are so few groups that will actually be impacted. So, in many respects, it is a relatively benign and harmless bill.

But, let me be clear, there is an important constitutional principle at stake here—even though it may only affect a handful of groups in this country. This bill takes us down the constitutionally dubious path of disclosure related to issue advocacy, which the Supreme Court has said, falls outside of the boundaries of government regulation. In fact, the federal courts following Buckley v. Valeo have routinely struck down attempts to regulate speech that does not expressly advocate the election or defeat of a federal candidate. Just two weeks ago, the Second Circuit Court of Appeals struck down the latest attempt to regulate issue advocacy as a clear violation of the First Amendment. Nevertheless, I say to my Republican colleagues, particularly those who are up for election this year, that is a pretty hard argument to explain in a political campaign. The constitutional distinction between issue advocacy and express advocacy is complex and does not get reduced to a campaign commercial very easily.

So in light of the limited impact of this relatively benign bill, I recommend to my Republican colleagues that they vote for this bill. I will not be voting for it because I do think the constitutional law in this area is rather clear. But, ultimately, this is not a spear worth falling on 4 months in advance of an election. This vote will insulate them against absurd charges that they are in favor of secret campaign contributions or Chinese money or mafia money.

With regard to the few groups who may be in the 527 area, they will have a choice to make, either to no longer be organized under section 527 or to go to court. And, these groups will have to weigh the costs and make that choice.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, today, indeed, marks a seminal day in the battle to reform our electoral system and restore the faith of the American citizenry that ours is a government of and for the people. This is a vote for campaign finance reform. If the Senate approves this legislation, it will be the first campaign finance reform bill to become law in 21 long years. It will be action that is long overdue.

Whether we want to admit the fact or not, perception has an unfortunate tendency to become reality. And the American people perceive the Congress as controlled by the monied special interests. If we are to ensure the public's faith in its Government, we must obliterate that perception. This bill, although admittedly a very small step, is a step towards ending that perception. This is a step we should be proud to take.

This bill will not solve what is wrong with our campaign finance system. It will not do away with the millions of soft money dollars that are polluting our elections. We must yet undertake the task of doing away with soft money and make our Government more accountable to the people we represent.

It will give the public information regarding one especially pernicious weapon that is being used in modern campaigns. It is an egregious and outrageous insult to the very principles of how democracies function.

The bill is fair. It affects both parties. It affects interests on both sides of the aisle. It stifles no speech. It curbs no individual's rights, and it is clearly constitutional. If the Senate approves it today, it will become law, and the American people will be well served.

Before I close, I again thank the many who were involved with this issue. Many in the House courageously fought to pass this legislation. I thank and note again Congressmen CHRIS SHAYS, MARTY MEEHAN, MIKE CASTLE, LINDSEY GRAHAM, and AMO HOUGHTON who all worked tirelessly on this legislation. If it were not for their courage and tenacity, we would not have this legislation before the Senate today.

In the Senate, a bipartisan coalition of those who believe in reform refused to relent on this matter: Senators SNOWE and LEVIN played key roles in

ensuring we move forward. Of course, I must pay special note of all the work done by Senators LIEBERMAN and FEINGOLD. I am proud not only to call them friends but partners in this crusade to return the Government to the people. I could be in no better company.

As I noted last night to all those who believe in reform, today is only the first step, but it is a great first step and it is, indeed, a great day for democracy and a Government that is accountable to the governed. I urge my colleagues to support this legislation.

Mr. President, I yield my remaining time to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut has 25 seconds remaining.

Mr. MCCAIN. I ask unanimous consent that the Senator from Connecticut be allowed to speak for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my distinguished colleague from Arizona whom I have come to call our commanding officer in the war for campaign finance reform. I am proud to serve under him.

In this long struggle to cleanse our campaign finance system, we are about to achieve a victory. In a campaign finance system that is wildly and dangerously out of control today, we are about to draw a line. We are about to establish some controls based on the best of America's national principles.

The campaign finance reform adopted after the Watergate scandal had two fundamental principles: that contributions to political campaigns be limited, and that they be fully disclosed.

These so-called 527 organizations totally violate and undermine both of those principles. Individuals, corporations, and associations can give unlimited amounts to 527 organizations, and those contributions are absolutely secret, unknown to the public. The contributors then audaciously enjoy a tax benefit for those contributions. Today, we say no more of that. Unfortunately, contributions will continue to be unlimited to 527 organizations, but at least now the public will know.

As Senator MCCAIN indicated, this is not the end of the effort to reform our campaign finance system. It is only the beginning, but it is a significant beginning. I urge my colleagues across the aisle to support it. I thank the Chair.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Shall the bill, H.R. 4762, pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG) is necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—92

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

NAYS—6

Coverdell	Inhofe	McConnell
Helms	Mack	Nickles

NOT VOTING—2

Gregg	Inouye

The bill (H.R. 4762) was passed.

Mr. REED. Mr. President, first, I commend my colleagues on both sides of the aisle for their persistence in negotiating a Section 527 disclosure bill that has passed both chambers of Congress. The overwhelming vote in both the House and Senate in support of H.R. 4762, a bill mirroring a successful amendment we made to the Defense Authorization bill several weeks ago, is an important step in fixing our broken campaign finance reform system.

Both parties have now acknowledged that some change in our campaign finance laws is warranted, the first such legislative consensus on this issue since technical changes were made in 1979 to the Federal Election Campaign Act of 1974.

A majority has agreed that Section 527 organizations need to both follow federal campaign law and to file tax returns. H.R. 4762, like our amendment to the Defense Authorization bill, requires Section 527s to disclose any contributors who give more than $200, and report any expenditures of more than $500. Unlike our original amendment, it requires a Section 527 organization that fails to disclose contributions and expenditures to the IRS to pay a penalty tax on the amounts it failed to disclose. The amendment we made to the Defense Authorization bill would have removed a Section 527's tax exempt status for the same violation. Although not as severe a penalty, I believe that this change in the House version of this legislation does reflect the spirit of the original Senate amendment.

Although disclosure is only part of the solution, the passage of H.R. 4762 ensures that the public understands what these committees are, who gives them their money, and how they spend that money to impact election outcomes. This law, once signed by the President, will close a major loophole and stop these stealth PACs from skirting campaign finance requirements, and I was pleased to vote in support of it. However, we still have much to do.

We cannot, and must not, rest with this vote today. Our campaign finance system still needs major overhaul if we are going to reduce the influence of almost unlimited amounts of campaign cash on our electoral system. Until a majority of our citizens believe again that our government is ''by and for'' the people, we cannot stop our battle to reform this process. We need to pass a ban on soft money, reduce skyrocketing campaign expectations, and return our electoral process to the people, where it belongs. The power in our country should rest with the vote, not with the purse.

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THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4577, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4577) making appropriations for the Departments of Labor, Health, and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

Pending:

Frist modified amendment No. 3654, to increase the amount appropriated for the Interagency Education Research Initiative.

The PRESIDING OFFICER. Under the previous order, there are now 7 minutes of debate prior to a vote on the Frist amendment, with 5 minutes under the control of Senator FRIST.

The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, my amendment fully funds the Department of Education's share of the Interagency Education Research Initiative, IERI, which is a collaborative joint research and development education effort between the Department of Education and the National Science Foundation and the National Institute of Child Health and Human Development.

Quality education depends on quality research. We need to know the answers, if our goal is accountability and student achievement, on what works and what does not work. As we all know, advances in education, as in other fields, depend on knowing what works and what doesn't. If you look at our past investments in research in the field of education, pre-K through 12,

our efforts have been woefully inadequate in terms of dollars and in the quality of the research that has been produced in the past.

This is a joint collaborative effort, where we link three agencies together and demand accountability, credibility, good science, and the exactness of science in determining what works and what does not work. The primary objective of this joint program is to support the research and development and the wide dissemination of research-proven educational strategies that improve student achievement from pre-K all the way through 12 in the key areas of reading, mathematics, and science.

I urge my colleagues to support this very worthwhile investment in our children's education.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I commend the Senator from Tennessee for this amendment. It is a worthwhile amendment. It is a relatively small sum of money. We are prepared to accept it, as we have accepted a number of amendments where the funds are not too high, and where we can offset it against administrative costs. I believe this one can be held in conference. I can't make an absolute commitment because we are going to have to balance this along with many others on the administrative cost line. But I think it is meritorious. We are trying to meet the leader's deadline of final passage by midafternoon, and in the interest of time and the value of the amendment, we are prepared to accept it.

Mr. FRIST. Mr. President, I yield back my remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG) is necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—98

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

NOT VOTING—2

Gregg	Inouye

The amendment (No. 3654) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I ask unanimous consent that a Helms amendment regarding school facilities be included in the amendment sequence following the Dorgan amendment.

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

The Senator from Iowa.

AMENDMENT NO. 3688

(Purpose: To prohibit health insurance companies from using genetic information to discriminate against enrollees, and to prohibit employers from using such information to discriminate in the workplace)

Mr. HARKIN. Mr. President, I call up amendment No. 3688 and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. DASCHLE, for himself, Mr. KENNEDY, Mr. HARKIN, and Mr. DODD, proposes an amendment numbered 3688.

Mr. HARKIN. 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 text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. COVERDELL. Mr. President, we just received the amendment. I am going to suggest the absence of a quorum for the moment so we can look at it. 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. SPECTER. 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. SPECTER. Mr. President, we have just had a discussion, and it may be that someone on our side of the aisle will want to offer a second-degree amendment. We are prepared, and have taken the quorum call off, on the assurance that that opportunity will be present.

I ask unanimous consent at this time there be 30 minutes of debate equally divided, and that at the end of 30 minutes someone on our side will have an opportunity, if he or she chooses, to offer a second-degree amendment.

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

The minority leader.

Mr. DASCHLE. Mr. President, I yield myself such time as I may require.

Mr. President, this week, we got our first glimpse of the first rough draft of the human genetic code.

The public-private partnership known as the Human Genome Project is the genetic equivalent of putting man on the moon.

By decoding our genetic makeup, researchers may soon discover how to cure and even prevent heart disease, cancer, birth defects, and other serious medical conditions.

We have every reason to be hopeful about this breakthrough. But we also have some reason to be concerned, because genetic information—used improperly—can also cause great harm.

Improvements in genetic testing can determine whether a person has an increased chance of developing breast cancer, or colon cancer, or some other serious illness—years before symptoms even appear.

In the right hands, that information could save your life. In the wrong hands, that same information could be used to deny you insurance, a mortgage, or even a job.

We need to make sure this new research—which has been funded largely by American taxpayers—is used to help America's families, not hurt them. That is the goal of this amendment.

Francis Collins probably knows more about the potential of genetic testing than anyone in the world. He is the head of the international research team that makes up the Human Genome Project.

Listen to what Dr. Collins said on Monday, the day the results of the first phase of the Human Genome Project were unveiled:

Genetic discrimination in insurance and the workplace is wrong and it ought to be prevented by effective federal legislation.

He added:

If we needed a wake-up call to say that it's time to do this, isn't today the wake-up call?

Dr. Collins is right. It would be an absolute travesty if a test that could save your life ends up costing you your job or your financial security.

Genetic discrimination isn't just a theoretical possibility. It isn't just something that might happen in the future. It is already happening—even without the information the human genome promises to uncover.

It is already happening to people like Terri Seargent.

Terri was a model employee who was moving up the corporate ladder—until

the day a test revealed that she carried a gene that might—here I emphasize ''might''—make her more susceptible to a potentially fatal pulmonary condition.

Before her employers saw those test results, they used to give Terri glowing job performance reviews. But after they saw the results, they asked her to resign. She did, because she had no choice, because genetic discrimination is not clearly prohibited—in the workplace, or anywhere else.

The solution is obvious. Dr. Collins is right. Our laws must keep pace with advances in science and technology. No one should suffer discrimination solely because of his or her genetic makeup.

Last year, the President signed an executive order outlawing genetic discrimination in the workplace for Federal employees. It is now time to expand these important protections to all Americans.

That is why I am offering, along with my colleagues—Senators KENNEDY, DODD, and HARKIN—the Genetic Nondiscrimination in Health Insurance and Employment Act as an amendment to this bill.

Our bill has three major components:

First, it forbids employers from discriminating in hiring, or in the terms and conditions of employment, on the basis of genetic information;

Second, it forbids health insurers from discriminating against individuals on the basis of genetic information; and

Third, it prevents the disclosure of genetic information to health insurers, health insurance data banks, employers, and anyone else who has no legitimate need for information of this kind.

Discrimination based on genetic factors is just as unacceptable as that based on race, national origin, religion, sex or disability. In each case, people are treated unfairly, not because of their inherent abilities but solely because of irrelevant characteristics.

Genetic discrimination, like other forms of discrimination, hurts us all. It hurts our economy by keeping talented people out of the workforce and diminishes us as a people. We cannot take one step forward in science but two steps back in civil rights.

And we will all pay the price in increased health care costs if we allow employers or insurers to use genetic information to discriminate. If fear of discrimination stops people from getting genetic tests, early diagnosis and preventative treatments, they may suffer much more serious and more expensive health problems in the long run. And we all have to pay for that, as well.

Finally, genetic discrimination undercuts the Human Genome Project's fundamental purpose of promoting public health. Investing resources in the Human Genome Project is justified by the benefits of identifying, preventing and developing effective treatments for disease. But if fear of discrimination deters people from genetic diagnosis, our understanding of the humane genome will be in vain.

A CNN/Time Poll released earlier this week, found that a full 80 percent of the respondents said genetic information should not be available to insurance companies.

And almost half of all Americans believe there will be negative consequences from the Human Genome Project. I think we ought to prove today that they are wrong.

Let us make sure that Americans are not afraid to take advantage of breakthroughs in genetic testing. Dramatic scientific advances should not have negative consequences for our health care.

We have an historic opportunity to preempt this problem. Today, Congress should expand the scope of its antidiscrimination laws to include a ban on genetic discrimination. I hope that my colleagues will join me in supporting this important amendment.

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

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, earlier this week, as the leader has pointed out, scientists announced the completion of a task that once seemed unimaginable; and that is, the deciphering of the entire DNA sequence of the human genetic code. This amazing accomplishment is likely to affect the 21st century as profoundly as the invention of the computer or the splitting of the atom affected the 20th century. I believe that the 21st century will be the century of life sciences, and nothing makes that point more clearly than this momentous discovery. It will revolutionize medicine as we know it today.

Already, genetic tests can be used to identify and help those who are at risk for disease, and those who are already diagnosed. Scientists are using new knowledge gained from the genetic code to design better treatments for cancer, AIDS, depression, and many other conditions and diseases.

Tragically, the vast potential of genetic knowledge to improve health care will go unfulfilled it patients fear that information about their genetic characteristics will be used as the basis for job discrimination or other prejudices. To realize the unprecedented opportunities presented by these new discoveries, we must guarantee that private medical information remains private and that genetic information cannot be used for improper purposes.

I commend our leader, Senator DASCHLE, for offering this important amendment that would do just that. It would give the American people the protections against genetic discrimination they need and deserve.

The amendment would prohibit health insurers and employers from using predictive genetic information to discriminate in the health care system and the workplace. It would bar insurance companies from raising premiums or denying patients health care coverage based on the results of genetic tests, and prohibit insurers from requiring such tests as a condition of coverage. In the workplace, the amendment would outlaw the use of predictive genetic information for hiring, advancement, salary, or other workplace rights and privileges. And, because a right without a remedy is no right at all, this important measure would provide persons who have suffered genetic discrimination in either arena with the right to seek redress through legal action.

In too many cases, the hopeful promise of genetic discoveries is squandered, because patients rightly fear that information about their genes will be used against them in the workplace or the health system. That fear is clearly well-founded. Today, employers and insurers can and do use this information to deny health coverage, refuse a promotion, or reject a job applicant—all in the absence of any symptoms of disease.

Although many genetic discoveries and technologies are new, the problems they raise with respect to discrimination in insurance and in employment have been with us for decades.

It was clear in 1973 that new developments in genetics had the potential for enormous good, as well as significant harm. That's why I worked with the scientific community to bring together legal scholars, medical professionals, and scientists at the Asilomar Conference Center to assess the risks and benefits of genetics. That conference formed the basis for laws and established procedures for the use of genetic technology that helped create today's thriving biotechnology industry.

It was clear in 1993 and 1996 that genetic tests and information had the potential not only to help patients, but also to harm them. That's why we included protections against genetic discrimination in the Health Security Act of 1993 and the Kassebaum-Kennedy Act of 1996. While the Health Security Act did not become law, Kassebaum-Kennedy did. Its protections were an important step forward, but were far from complete. Insurers can still use genetic information to outright deny coverage or charge outrageous rates to individuals who are currently healthy, but may have a genetic pre-disposition to a particular disease or condition.

And, with this week's announcement, it is more clear than ever before that in the year 2000 the American people need strong federal laws to protect them against the malicious misuse of genetic data. The century may have changed, but the problem of discrimination hasn't—and neither has my commitment to protect the American people from discrimination in all its ugly forms. Discrimination is discrimination whether it's done at the ballot box, on a job application, or in the office of an insurance underwriter who denies an otherwise healthy patient

the health care they need based solely on the result of a genetic test or medical history of a family member.

This is the same form of discrimination that would be evident on the question of race. Individuals have virtually no kind of control over their genetic makeup. What we are saying now is, without these kinds of protections, it will be permissible for insurance companies or for employers to say: I am not going to hire that person because of the genetic makeup they have, because it may mean they are going to get sicker over time and cost me in the workplace. Therefore, I am going to deny that person. On the other hand, it will require workers to take the test as a condition for employment. And then if they find that their genetic makeup demonstrates some kind of proclivity to acquire this kind of disease, they won't hire them. That is what is happening. They are going to find out that the workers are not going to take the test, which is increasingly the case, because they don't want to risk not being hired in a particular employment situation.

What happens is, they put themselves at greater risk of getting the disease because they deny themselves all the preventive health care that could keep them healthy and avoid getting sick and being more useful and valuable citizens in the community.

Fear of genetic discrimination causes patients to go without needed medical tests. The Journal of the American Medical Association reported that 57 percent of women at risk for breast or ovarian cancer had refused to take a genetic test that could have identified their risk for cancer and assisted them in receiving medical treatment to prevent the onset of these diseases because they feared reprisals for doing so.

As the potential for discrimination increases, more and more Americans are becoming concerned about the danger that employers and insurers will misuse and abuse genetic information. Just this week, in the aftermath of the historic completion of the genome sequencing project, a new CNN-Time magazine survey found that 46 percent of Americans believe that sequencing the genome would have harmful results.

Surely, using genetic information as a basis for discrimination would be one of the most harmful consequences of this remarkable scientific accomplishment. Experts in genetics are virtually unanimous in calling for strong protections to prevent such a misuse of science. Secretary Shalala's advisory panel on genetic testing—consisting of experts in the fields of law, science, medicine, and business—has recommended unambiguously that ''Federal legislation should be enacted to prohibit discrimination in employment and health insurance based on genetic information.''

Dr. Craig Venter, the president of the company that led the privately-financed genome sequencing effort, has testified before the Joint Economic Committee that genetic discrimination is ''the biggest barrier against having a real medical revolution based on this tremendous new scientific information.''

Without strong protections, the health and welfare of large numbers of our fellow citizens will be unfairly at risk. Last week, I was proud to stand with Terri Seargeant, a woman who carries a genetic trait that can—if untreated—lead to a lung disease often called ''Alpha-1 deficiency.'' Let me emphasize that this trait only carries the potential to develop the lung disease. If persons at risk for the disorder take a simple genetic test and are appropriately treated, they can prevent development of the disease.

Terri Seargent is such a person. She received a genetic test that revealed her risk for this disease, and took the preventive measures needed to avoid the onset of symptoms. She worked hard at her job and received consistently positive performance reviews and salary increases. Nonetheless, her employer—who had access to her medical files and the records of her genetic tests—decided to terminate this hard-working, healthy employee. What are we to conclude except that she had been fired on the basis of her genetic potential for disease?

And for every Terri Seargent, who has suffered actual discrimination, there are millions of men and women across the nation who are either at risk of genetic discrimination or fear getting tested because of possible reprisals in the workplace or health system.

National Human Genome Research Institute, ''Already, with but a handful of genetic tests in common use, people have lost their jobs, lost their health insurance, and lost their economic well being because of the misuse of genetic information.''

Make no mistake: The potential for genetic discrimination is growing. Already DNA ''chips'' are available that can determine a person's genetic traits in only a few minutes. In the near future, genetic tests will become even cheaper and more widely available than they re today. If we do not pass legislation to ban genetic discrimination, it may become commonplace for an employer to require such tests, and to use the results of these tests to decide which employees to hire or promote and which to deny such advancement, based in whole or in part on their perceived risk for disease.

Even now, some employers require information about a person's genetic inheritance as a condition of employment or part of the job application process. A recent American Management Association survey of more than 2,000 companies showed that more than 18 percent of companies require genetic tests or family medical history data from employees or job applicants. According to the same survey, more than 26 percent of the companies that require this information use it in hiring decisions.

President Clinton recognized the need for employees to be protected from the dangers of genetic discrimination. In an action of great vision and wisdom, President Clinton signed an Executive order on February 8 of this year to ban any use of predictive genetic information as a basis for hiring, firing, promotion or any other condition of employment in the federal workplace. With the stroke of a pen, the President instituted for federal workers the types of protections that this amendment would provide for all workers and all patients.

Our amendment is strongly supported by leading patient groups, medical professional societies, and scientists. The need for these kinds of protections has been clearly and repeatedly endorsed by the two leaders of the genome sequencing project and by experts in law, medicine, and science. A host of editorial boards have written in favor of congressional action to protect people in this area.

In many respects, people's genetic composition is essentially a blueprint of their medical past and a crystal ball of the possibilities for their medical future. It is difficult to imagine more personal and more private information. This powerful information should be shared between patients and their doctors—not their employer and their coworkers.

The threat of genetic discrimination faces every American, because every American carries unique genetic characteristics that indicate risk of disease. This is not about Terri Seargent. This is about each and every one of us, and everyone we know.

The vote cast today in this Chamber will help determine whether the secrets of our DNA will be used for beneficial or for harmful purposes. Congress should give the American people the strong and comprehensive protection from genetic discrimination that they need and deserve. I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, as I understand, it is the purpose of the Senator from Pennsylvania now to send a second-degree amendment to the desk.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, has time expired for the other side?

The PRESIDING OFFICER. It has.

Mr. SPECTER. Mr. President, we have asked people on our side who have worked on this in the HELP Committee to come over. We believe this amendment addresses important considerations and the objectives are very valid: to stop discrimination in employment and in health coverage.

What we would like to do is have an opportunity to propose a second-degree amendment and then to arrange an orderly debate and have the votes. That

is going to take a few minutes for us to accomplish. In the interim, it is our hope that we can move along and get a short time agreement on the Ashcroft amendment, to present that and conclude it. By that time, our people will be in a position to present the second-degree amendment. We can figure out a time agreement and move ahead.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Pennsylvania is absolutely right. We need to move on with this issue. However, there are a number of people who have come to the floor. We believe it is appropriate they be allowed to complete their statements. It may take a little bit of time. Senator DASCHLE has agreed at the appropriate time to move on this and to go to something else. But Senator KENNEDY would like to finish his statement. There are others who want to speak on this issue. We would like to stay on this issue for a while.

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

Mr. SPECTER. Mr. President, might I inquire of the Senator from Nevada how long he would like to stay on it—for 15 more minutes?

Mr. REID. I think it will take a little more time than that.

Mr. KENNEDY. I could just take 2 more minutes to conclude.

Mr. REID. The Senator from Connecticut.

Mr. SPECTER. What I would like to do would be to establish a parameter. This is the kind of subject which we could usefully debate for several days. I would like to see what our amendment is on this side. We can compare them. Then we are in a position to have a discussion as to how long we ought to spend. If we are to finish this bill this afternoon or even today, we are going to have to move through this amendment. We have other complicated amendments coming up.

Mr. REID. That is very appropriate. The Senator from Massachusetts desires another 5 minutes; the Senator from Connecticut, 15 minutes; the Senator from North Dakota, 10 minutes. Senator HARKIN also wishes to speak.

Mr. SPECTER. We just had an offer of 10 minutes.

Mr. REID. Senator KENNEDY, 5; the Senator from Connecticut.

Mr. SPECTER. Did my colleague say 5 for Senator DORGAN?

Mr. REID. Senator DORGAN wishes 7 minutes.

Mr. SPECTER. So we have a total of 22 minutes—10, 7, and 5.

Mr. REID. Yes, with the understanding that we will come back for further debate on this issue at a subsequent time.

Mr. SPECTER. Mr. President, I ask unanimous consent that there be an additional 22 minutes, at which point we will return to the Ashcroft amendment. After that, we will present a second-degree amendment and work through the time sequence.

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

Mr. KENNEDY. Mr. President, as I understand it, CBO says the cost impact of this proposal on business is negligible but a destructive impact on individuals and society of the failure to act will be immense.

On the part of this proposal that deals with employment, without this kind of amendment, those who have been responsible for the breakthrough in terms of the sequencing of the gene understand very well, and have stated repeatedly, we are going to have a new form of discrimination in employment. We want to avoid that. Two, from a health point of view, if people don't believe they are going to be secure either in employment or in getting health insurance, they are not going to take the tests and they are going to, therefore, deny themselves the kind of treatment that is going to be available to them in order to remain healthy. So we ought to take these steps that this amendment includes; it is essential.

We already know from what is happening today that a number of people aren't taking these genetic tests because they fear genetic discrimination. This is one of the most important health issues we are going to face in this century. It has been identified by those on the cutting edge of progress in terms of the sequencing of the gene. We should take their advice and counsel and accept the Daschle amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I want to address this amendment, but first I want to speak to another issue. I know people are meeting on the conference report on the emergency supplemental. One of the provisions being considered is whether to add the Nethercutt language in the House supplemental.

I care deeply about a lot of provisions in the supplemental, including the Colombian aid package, but I want to let my colleagues know I will use whatever parliamentary procedure is available to me if that language comes over on the emergency supplemental. I know we all want to get out of here in the next few days. I care about the bill, but I also care about that language. I think it is wrong for it to be included in the bill. I want people to know I am serious about this. I will use whatever procedures are available to me when it comes to the supplemental if the Nethercutt language is included. I am going to meet with members of the conference shortly and express that view there as well.

I strongly support what Senator DASCHLE is proposing in his amendment on genetic discrimination. The world received wonderful news this past week that the genetic code had been deciphered. This discovery is breathtaking in scope, and I suspect over the next 50 years we are going to see it change the nature of medicine in this country. So it is really a remarkable occurrence, one that has been heralded, and properly so, for giving us the ability to understand ourselves better. I applaud the remarkable work done by the NIH and Celera.

Why is it important to offer this amendment today in the context of this bill? As we have seen with all the advances in technology, generally—and it has been a remarkable decade in that sense, with the Internet and communications technology—there is a great unease in the country about how much information people have about us as individuals.

We pride ourselves, I suppose, on the notion that we protect privacy in this country. It goes back to the founding days of our Republic. The right of privacy is as deeply rooted in the American conscience as almost any other principle I can think of. Yet, there is this uneasy sense that with the explosion of technology, too many people have too much information about us that they ought not to have—at least without our permission. The idea that people can peer into our financial records and our medicine cabinets and that information can be disseminated to broad audiences, violating our sense of privacy, is of great concern. And the genome breakthrough raises similar issues.

Let me share with you one anecdote. Last year I visited Yale University to hear about some of the genetics research that is being conducted there. One of the studies is attempting to determine the likelihood of certain women developing breast cancer by studying twin girls. They are getting to the point where they can determine almost at the birth, the possibility of individuals contracting breast cancer as adults. It is incredible information to have. Imagine parents of a newborn baby knowing, because of the genetic makeup of that child, that the baby has a possibility of contracting breast cancer. All of a sudden, diets change and lifestyles change. Prevention measures can be taken. These are the kinds of things the deciphering of the genome is going to be able to do for us.

It is wonderful to be able to have that kind of information. But imagine just that the information Yale Medical School is uncovering becomes available, as that child gets older, to an employer or to an insurance company—not information that the person has contracted the disease—but just that they might possibly do so. Just that predisposition for a certain illnesses can have a devastating impact on whether than individual gets insurance or keeps their job.

This amendment says that when it comes to that information—the propensity for acquiring these problems—we ought to be able to protect people in their jobs and in their ability to receive or get health insurance.

This need not be a partisan issue. Senator DOMENICI and I, 3 years ago, introduced legislation similar to this bill. We thought it was critical to bring

up and address both insurance and employment discrimination. Two years ago, many colleagues joined our colleague from Maine, Senator SNOWE, who also offered strong legislation protecting patients from genetic discrimination in insurance. We have an opportunity today, with the breakthroughs announced on Monday of this week, to really say as a body—Republicans and Democrats across the board—this is an area where we are going to, early on, establish some ground rules when it comes to the use of genetic information.

I see that time has expired in terms of my few minutes.

I want our colleagues to know how important this amendment is, and I urge them to support it when the vote occurs.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, am I to be recognized for 7 minutes? Is that the order?

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 7 minutes.

Mr. DORGAN. Mr. President, I had intended to speak about this amendment. But I am compelled to speak about the point that the Senator from Connecticut discussed at the start of his comments because it is so important, and it is timely.

At this moment, I understand there are meetings going on right now somewhere in this building by a small group of people who are dealing with a piece of legislation that was cobbled together around 3 o'clock in the morning a couple of days ago dealing with the issue of imposing sanctions on food and medicine around the world, and whether that will be added to the supplemental bill that will be considered perhaps later today or tomorrow. If that is added, in my judgment, it is going to cause significant trouble.

Here is why: The House leaders have done what I am reminded of as the ''Moon walk''. You know the Moon walk Michael Jackson used to do. It looked like he was walking forward, but he was actually going backward. That is what they have done with respect to this issue of sanctions.

Senator DODD from Connecticut, myself, and others are saying we ought to end the use of sanctions on food and medicine anywhere in the world where it exists. This country has imposed sanctions on the shipment of food and medicine. It is wrong. When we take aim at dictators, we hit poor people and hungry people and sick people. It is not the best of what America stands for.

We ought to end all sanctions on food and medicine. Yet what was done in the House of Representatives 2 days ago, in my judgment, comes up far short. In fact, in some areas, it loses ground.

I want to point out an article in the Washington Post. I will come later with the legislation itself. But the Washington Post describes this legislator from Florida who opposes eliminating sanctions. She said the agreement will make it as difficult as possible for such sales to take place with respect to Cuba. Why? Because they prohibit private financing of the sale of food to Cuba. What is that about? It has nothing to do with good or common sense. They are not trying to get rid of sanctions. It has everything to do with the irrational notion about Cuba, and that if we can somehow restrict the food and medicine going to Cuba, we will enhance America's foreign policy. It is crazy. It doesn't make any sense at all.

Here is where we have sanctions: Cuba, Iran, Iraq, Libya, North Korea, and Sudan. These countries are countries that our Government has decided are not behaving properly. I support slapping them with economic sanctions. I do not support including food and medicine in those sanctions.

I do not support using food as a weapon. We are trying very hard to get rid of this practice of using food as a weapon. Seventy Senators voted last year to stop using food as a weapon.

We have a provision in the Senate agriculture appropriations committee bill that will come to the floor of the Senate within several weeks that includes an approach that will eliminate the use of food and medicine as part of our sanctions.

I think we ought not give up here. We ought to fight on behalf of our family farmers and others to say that we want to abolish the use of sanctions that include food and medicine.

The proposition that was cobbled together over in the House at 2 o'clock or 3 o'clock in the morning by some people who really do not want to do this, have made it seem as if they have made progress in this area. But, in fact, they have lost ground in a couple of cases, and especially with respect to Cuba in a couple of other circumstances. There will be no U.S. sales of food to Cuba. Canadian farmers can sell to Cuba. European farmers can sell to Cuba. Venezuelan farmers can sell to Cuba.

Seventy Members of the Senate said we ought to get rid of sanctions on the shipment of food and medicine—yes, to all countries, including Cuba. But now we have cobbled together a deal sometime early in the morning by a group of people who are going to apparently put it on a supplemental bill so we will have a circumstance where we don't solve this problem. The proposal that fails to solve this problem was not debated in the House. It was not debated in the Senate. But it was concocted at 3 a.m. in the morning and apparently was stuck on a supplemental appropriations bill. It is the wrong way to do it.

I just talked to a farm group that supports this. When I asked them a question about it, they admitted they had not read the language. They read the paper, I guess. The implication was that I was impeding the efforts to remove sanctions.

Another major farm group has just come out in opposition to it, saying this doesn't solve the problem; let's fight to solve the problem. The problem is that we include medicine and food as part of our sanctions.

The solution is that this country should not include food and medicine in sanctions that we impose on these countries. We should not use food as a weapon.

It is a very simple proposition. Seventy Senators have already weighed in in the Senate saying let's stop it. If they would allow a vote in the House, they would get 70 percent in the House of Representatives as well.

I hope we will not decide to cave in on this issue. Let's not make the perfect the enemy of the good. But let us at least continue to fight. We have some more months in this legislative session. We have a provision coming to the floor of the Senate in about 3 weeks that includes a real effort to stop using food and medicine as part of our sanctions. Let's fight for that. Let's not let a couple of people who run the other body decide for us at 3 a.m. in the morning what we were going to do in this circumstance.

Let's stand up and fight for family farmers, and let's fight for the moral principles that this country ought to hold dear. We should not use food and medicine as a weapon any longer. This is not about Republicans and Democrats.

Both administrations in recent years have used this approach, and they were wrong.

The Senate was right last year with 70 votes that said let us stop it.

And what was put together over in the House is now billed as some sort of a compromise. It is not a compromise at all. It falls far short of what we ought to expect. Those of us who are clearheaded enough believe we should not use food and medicine as part of economic sanctions in this country.

Mr. DODD. Mr. President, will my colleague yield?

Mr. DORGAN. Yes.

Mr. DODD. I urge people to read the bill. Unfortunately, a lot of people do not read the legislation. But if you read this legislation, section 808 imposes a prohibition on financing U.S. assistance. One part of this says no more sanctions. Then it says no more sanctions, except—''Notwithstanding any of the provisions of this law, the export of agricultural commodities, medicine, and medical devices to the government of a country''—as of June 1, 2000.

These are the countries that have been termed by the Secretary of State to be ''terrorist states.'' Those are the very countries. The only countries that we have sanctions against are those countries. The very countries we say we have sanctions against are these countries. If you are on the list on June 1, 2000, none of this law applies.

Second, it says on financial assistance that you can't have any Government support for Libya, Iran, North

Korea, and Sudan. And then, on private financing, it says no financing on the part of the U.S. Government, any State or local government, private person, or entity—including, I suspect, even foreign financing.

This says if sanctions are coming off, then we eliminate all means of financing it—both public and private—and we continue with the same list that was in effect June 1, 2000, which lists only countries on whom we have unilateral sanctions.

This is a bill that needs more work. The Senate Agriculture Appropriations Subcommittee bill is vastly superior to this. It is a bipartisan bill that colleagues cosponsored, and it deserves the consideration of this body.

For those reasons, I will strenuously object to the sanctions being included as part of a supplemental.

Mrs. MURRAY. Mr. President, I rise in strong support of the Daschle amendment to prohibit genetic discrimination in employment. I commend the Senator for his leadership in this area, and I thank him for bringing this amendment to the floor.

The issue of genetic discrimination is a timely debate in light of the recent announcement that science has conquered the genetic code. This is a major milestone that brings us closer to finding cure for cancer, heart disease, diabetes, Parkinsons, M.S., and a whole host of other tragic diseases.

The science is moving ahead rapidly, and our standards for the use of that science must not lag behind. We must ensure that genetic information is not used in discriminatory ways. If we do not take a stand prohibiting discrimination based on one's genetic make up, we could jeopardize the benefits offered by science. We must ensure that our genetic finger print is used only for good, and not as a tool to discriminate.

I've talked to many women in my state who are concerned about breast cancer. They know they should undergo genetic testing to find out if they are predisposed to breast cancer, but they don't. They avoid getting tested because they are afraid that the results could be used against them and could adversely affect their employment or insurance coverage.

They are concerned that if they use the science, it will be used against them. Enacting a tough federal ban on genetic discrimination will give these women, along with thousands of other people across the country, the peace of mind that they can take advantage of the latest tools of medicine without being taken advantage of in the process.

I urge my colleagues to support this amendment now. We have made a significant investment in genetic research. Let's make sure that we all benefit from this investment. If we act now, we will ensure this information is used to treat patients and not to penalize them.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri, Mr. ASHCROFT, is recognized to offer an amendment.

AMENDMENT NO. 3689

(Purpose: To protect Social Security and Medicare surpluses through strengthened budgetary enforcement mechanisms)

Mr. ASHCROFT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri (Mr. ASHCROFT), for himself and Mr. VOINOVICH, Mr. ALLARD, Mr. GRAMS, and Mr. ABRAHAM, proposes an amendment numbered 3689.

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

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

The amendment is as follows:

At the end, insert the following:

On page ___, after line ___, insert the following:

SEC. ___. SOCIAL SECURITY AND MEDICARE SAFE DEPOSIT BOX ACT OF 2000.

(a) SHORT TITLE.—This section may be cited as the ''Social Security and Medicare Safe Deposit Box Act of 2000''.

(b) PROTECTION OF SOCIAL SECURITY AND MEDICARE SURPLUSES.—

(1) MEDICARE SURPLUSES OFF-BUDGET.—Notwithstanding any other provision of law, the net surplus of any trust fund for part A of Medicare shall not be counted as a net surplus for purposes of—

(A) the budget of the United States Government as submitted by the President;

(B) the congressional budget; or

(C) the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—Section 312 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(g) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would set forth an on-budget deficit for any fiscal year.

''(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of that bill or resolution in the form recommended in that conference report,

would cause or increase an on-budget deficit for any fiscal year.

''(3) DEFINITION.—For purposes of this section, the term 'on-budget deficit', when applied to a fiscal year, means the deficit in the budget as set forth in the most recently agreed to concurrent resolution on the budget pursuant to section 301(a)(3) for that fiscal year.''.

(3) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(c) PROTECTION OF SOCIAL SECURITY AND MEDICARE SURPLUSES.—

(1) IN GENERAL.—Chapter 11 of subtitle II of title 31, United States Code, is amended by adding before section 1101 the following:

''§ 1100. Protection of social security and medicare surpluses

''The budget of the United States Government submitted by the President under this chapter shall not recommend an on-budget deficit for any fiscal year covered by that budget.''.

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 31, United States Code, is amended by inserting before the item for section 1101 the following:

''1100. Protection of social security and medicare surpluses.''.

(d) EFFECTIVE DATE.—This section shall take effect upon the date of its enactment and the amendments made by this section shall apply to fiscal year 2001 and subsequent fiscal years.

AMENDMENT NO. 3690

(Purpose: To establish an off-budget lockbox to strengthen Social Security and Medicare)

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID), for Mr. CONRAD and Mr. LAUTENBERG, proposes an amendment numbered 3690.

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

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

The amendment is as follows:

Strike all after the first word and insert the following:

TITLE ___—SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2000

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Social Security and Medicare Off-Budget Lockbox Act of 2000''.

SEC. ___2. STRENGTHENING SOCIAL SECURITY POINTS OF ORDER.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

''(g) STRENGTHENING SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 13301 of the Budget Enforcement Act of 1990.''.

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(c) ENFORCEMENT IN EACH FISCAL YEAR.—The Congressional Budget Act of 1974 is amended in—

(1) section 301(a)(7) (2 U.S.C. 632(a)(7)), by striking ''for the fiscal year'' through the period and inserting ''for each fiscal year covered by the resolution''; and

(2) section 311(a)(3) (2 U.S.C. 642(a)(3)), by striking beginning with ''for the first fiscal year'' through the period and insert the following: ''for any of the fiscal years covered by the concurrent resolution.''.

SEC. ___3. MEDICARE TRUST FUND OFF-BUDGET.

(a) IN GENERAL.—

(1) GENERAL EXCLUSION FROM ALL BUDGETS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS

''SEC. 316. (a) EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Hospital Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

''(1) the budget of the United States Government as submitted by the President;

''(2) the congressional budget; or

''(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

''(b) STRENGTHENING MEDICARE POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend this section.''.

(2) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''316,'' after ''313,''.

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''316,'' after ''313,''.

(b) EXCLUSION OF MEDICARE TRUST FUND FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by adding at the end the following: ''The concurrent resolution shall not include the outlays and revenue totals of the Federal Hospital Insurance Trust Fund in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.''

(c) BUDGET TOTALS.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by inserting after paragraph (7) the following:

''(8) For purposes of Senate enforcement under this title, revenues and outlays of the Federal Hospital Insurance Trust Fund for each fiscal year covered by the budget resolution.''.

(d) BUDGET RESOLUTIONS.—Section 301(i) of the Congressional Budget Act of 1974 (2 U.S.C. 632(i)) is amended by—

(1) striking ''SOCIAL SECURITY POINT OF ORDER.—It shall'' and inserting ''SOCIAL SECURITY AND MEDICARE POINTS OF ORDER.—

''(1) SOCIAL SECURITY.—It shall''; and

(2) inserting at the end the following:

''(2) MEDICARE.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on the resolution) that would decrease the excess of the Federal Hospital Insurance Trust Fund revenues over Federal Hospital Insurance Trust Fund outlays in any of the fiscal years covered by the concurrent resolution. This paragraph shall not apply to amounts to be expended from the Hospital Insurance Trust Fund for purposes relating to programs within part A of Medicare as provided in law on the date of enactment of this paragraph.''.

(e) MEDICARE FIREWALL.—Section 311(a) of the Congressional Budget Act of 1974 (2 U.S.C. 642(a)) is amended by adding after paragraph (3), the following:

''(4) ENFORCEMENT OF MEDICARE LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any year relative to the levels set forth in the applicable resolution. This paragraph shall not apply to amounts to be expended from the Hospital Insurance Trust Fund for purposes relating to programs within part A of Medicare as provided in law on the date of enactment of this paragraph.''.

(f) BASELINE TO EXCLUDE HOSPITAL INSURANCE TRUST FUND.—Section 257(b)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''shall be included in all'' and inserting ''shall not be included in any''.

(g) MEDICARE TRUST FUND EXEMPT FROM SEQUESTERS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''Medicare as funded through the Federal Hospital Insurance Trust Fund.''.

(h) BUDGETARY TREATMENT OF HOSPITAL INSURANCE TRUST FUND.—Section 710(a) of the Social Security Act (42 U.S.C. 911(a)) is amended—

(1) by striking ''and'' the second place it appears and inserting a comma; and

(2) by inserting after ''Federal Disability Insurance Trust Fund'' the following: '', Federal Hospital Insurance Trust Fund''.

SEC. ___4. PREVENTING ON-BUDGET DEFICITS.

(a) POINTS OF ORDER TO PREVENT ON-BUDGET DEFICITS.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by adding at the end the following:

''(h) POINTS OF ORDER TO PREVENT ON-BUDGET DEFICITS.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would cause or increase an on-budget deficit for any fiscal year.

''(2) SUBSEQUENT LEGISLATION.—Except as provided by paragraph (3), it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of that bill or resolution in the form recommended in that conference report,

would cause or increase an on-budget deficit for any fiscal year.''.

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(h),'' after ''312(g),''.

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(h),'' after ''312(g),''.

AMENDMENTS NOS. 3689 AND 3690

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I want to address the amendment which I sent to the desk because for decades, in a business-as-usual context, Washington has constantly invaded various trust funds to spend for a variety of purposes and programs. One of those trust funds was the Social Security trust fund. We spent a lot of time and energy finding a way to protect the Social Security trust fund.

Having developed at least a budget rule to protect the Social Security trust fund, I think it is important for us to look to the protection of other trust funds that are important to the well-being of the people of this country and to protect them as well.

One of the other trust funds which remarkably has been invaded over and over and over again as a source for spending money for a variety of Government programs has been the Medicare trust fund. For over 30 years, working people have been contributing to the country's welfare by paying the taxes they owe, paying their debts, saving for the future. Those values were rejected inside the beltway when we went into the trust funds in order to meet our spending desires.

Washington tried to impose its own rules and values on the rest of the country. These misdirected rules—spending beyond our means, making promises we did not keep, misleading the American people about how their money is being spent—for too long these rules were allowed to continue. We have taken some very strong steps in the right direction.

Last year, this Congress took the first step toward stopping this raid on the Social Security trust fund by enacting the Social Security lockbox rule on the budget resolution. That creates a point of order against any budget for spending money out of what would be called the Social Security surplus. The Social Security surplus is pretty easy to understand. It is defined in our accounting as the amount of money that comes into Social Security because of Social Security taxes that aren't required in that year to meet the obligations in that year of Social Security.

Obviously, because we have a lot of young people working now, we have far more money coming in than we have going out with the relatively small group of older Americans consuming. In the years ahead, though, when this bulge of young people now contributing to the fund become consumers of the fund, we will need a lot of the money they are sending in. That money they are sending in is called the Social Security surplus. For years we spent that. I worked very hard to stop that spending. I worked to get included in the budget resolution a measure that would make it out of order for the Congress to spend money on other things that was sent in by taxpayers for Social Security purposes. That is the protection of the Social Security surplus.

In addition, last year Senator DOMENICI, Senator ABRAHAM, and I tried several times to enact a law, not just a budget rule which we did get put in place, but a law which would protect Social Security proceeds as a statutory measure. Obviously, the President would have to sign it for it to become a law. The President said he wanted a Social Security lockbox, but, unfortunately, despite all the words of support for saving the Social Security surplus and locking away the surplus, the Senate was unable to end the filibuster by Members of the Senate who opposed us and their President on the issue.

Despite that opposition, Congress was able to change how business in Washington was done on the Social Security surplus. We are far better off as a result.

Last year, for the first time since 1957, not one penny of the Social Security surplus was spent. Again this year, we passed a budget resolution that will not touch the off-budget or Social Security surplus, the Social Security trust fund. It will also provide tax relief for married couples and dedicate over $40 billion over the next 5 years to provide prescription drug coverage for needy, older Americans who receive Medicare.

When I saw what we accomplished last year, I knew we could, as well, protect Part A of the Medicare surplus. Part A of Medicare is the only Medicare provision of which there is a trust fund. It is not funded out of the general revenue. It is something people pay specifically their taxes for, with an anticipation that those resources will be available.

On November 18 of last year, I introduced S. 1962, the Social Security and Medicare Safe Deposit Box Act. I did this because Social Security is not the only trust fund that has been raised over the recent years, over decades. Over the next 5 years, taxpayers will pay in an estimated $179 billion more into the Medicare Part A trust fund than will be required to sustain the purpose of that trust fund, which is patient hospital care in Medicare.

The amendment I offer today will add the Social Security and Medicare Safe Deposit Box Act to this pending bill. The Social Security and Medicare Safe Deposit Box Act takes the Medicare Part A trust fund off budget and creates a permanent 60-vote point of order in the Senate and a majority point of order in the House against any budget resolution or subsequent bill that uses Medicare Part A or Social Security surpluses to finance on-budget deficits. This amendment protects the Medicare Part A surplus in the same way we protect the Social Security surplus. It says that Congress and the President cannot consider the Medicare surplus as part of the on-budget surplus. They can't look to this fund for ordinary spending. Therefore, Congress and the President should be unable to spend the Medicare surplus for additional spending or for additional tax cuts.

This lockbox protects the Medicare trust fund from the raids of the past. This is a historic time. I hope this will be a historic day. In this, an election year, we have an unusual bipartisan opportunity to support this measure. It is not surprising that this is the right policy. It is the right thing to do. The House of Representatives has already taken this step to protect the Medicare trust fund from invasion of spending for other Government programs. Last week, the House passed their version, a little different version, of the Medicare lockbox legislation, by a vote of 420–2. The House bill was offered by Representative Wally Herger and opposed by only two House Members.

Now, there are a lot of Members of this body who will want to protect, I believe, the Medicare trust fund sustaining the capacity of our Government to provide the hospitalization we have promised to individuals who are eligible for Medicare. I am pleased there are Members of this body who join me in cosponsoring this amendment, one of whom is Senator ABRAHAM from Michigan. He has been active in the lockbox movement to protect Social Security, to make sure that Social Security is not invaded for other spending, and much of the success we have had in protecting every dime of Social Security in the trust fund this year should flow to Senator ABRAHAM of Michigan. I am pleased he has endorsed this and is a cosponsor of this measure with me in the Senate.

It is just not several Senators who endorse this. Both the Vice President and the President of the United States have endorsed enactment of a Medicare lockbox such as the one I introduced last November. Earlier this month Vice President GORE announced his support for this kind of proposal. On June 13, GORE announced he would ''place Medicare in a lockbox so its surpluses could only be used to pay down the national debt and to strengthen Medicare, not for pork barrel spending or tax cuts.''

I am pleased that the Vice President has endorsed this Medicare lockbox. I welcome that support. Obviously, when he says ''so its surpluses,'' he is referring to the kind of thing we are talking about—dedicated tax resources designed to support the program that are in excess of the needs of the program in any current year.

As we have already recounted this morning, there are 175 billion of anticipated such surplus that would be directed toward the Medicare trust fund for Medicare Part A, which is the only Medicare trust fund we have. I am pleased he would endorse this concept. I think it is a concept that is bipartisan that deserves our support.

Two days ago, the President of the United States called for protecting Medicare Part A surpluses through a lockbox. Allow me to quote from the President's announcement. This is from a text provided by the administration:

> President Clinton is proposing to take Medicare off budget. This would mean that, like the Social Security surplus, the projected $403 billion Medicare surplus would not count toward on-budget surplus and therefore could no longer be diverted for other purposes. Taking the Medicare surplus off-budget would ensure that Medicare is protected for paying down the debt to help strengthen the life of the Medicare Program.

So the President has recognized there are funds specifically paid in, and that they are in surplus of what is needed immediately to be paid out. He has indicated that for those surpluses, we should be safeguarding them with a Medicare lockbox.

Let me quote further from the White House release, because I believe the President has described the Medicare lockbox proposal in my amendment, which I proposed last November, in a very simple, understandable manner:

What taking Medicare off budget means, the administration, speaking of itself says, is:

> The Administration projects that if current policies are continued, Medicare Part A, which covers hospital expenses, will run a surplus of $403 billion from [the year] 2001 through [the year] 2010. This surplus is the excess of Medicare income, principally from the 2.9 percent payroll tax, combined employer and employee, over benefit payments and administrative costs. The Medicare surplus has grown from $4 billion in 1993 to $24 billion in the year 2000.

I am still quoting the President and the statement of the White House here:

> Under previous budget accounting conventions, this Medicare surplus was treated as part of the total on-budget surplus and was thus available for new spending on other programs or tax cuts.
>
> By taking Medicare Part A off budget, the President proposes to make it unavailable for other spending or tax cuts.

That is exactly what I proposed last November. I quote again from the White House:

> Instead, the projected baseline Medicare surplus would be used to pay down the debt.

Mr. SPECTER. Mr. President, if I might interrupt the distinguished Senator from Missouri for a moment?

Mr. ASHCROFT. I will be happy to yield with the understanding that at the conclusion of this interruption I continue to have the floor for my remarks.

The PRESIDING OFFICER. The Senator from Pennsylvania, without objection.

Mr. SPECTER. Mr. President, I thank the Senator from Missouri. We were conferring about the last amendment so I was unable to be on the floor when this debate started. We are interested in a time agreement. I have just discussed the matter with the Senator from North Dakota, who has the second-degree amendment. It would be in the managers' interest to see if we could limit debate to 1 hour equally divided on the first-degree and second-degree amendment, and then have votes on both amendments.

The PRESIDING OFFICER. Is there objection?

Mr. ASHCROFT. Reserving the right to object, I do not want to object, but I want to clarify. How much time have I consumed already with my explanation? Maybe I should ask, is the hour in addition to what I have already used?

Mr. SPECTER. If it is acceptable to the Senator from North Dakota. I hadn't discussed that with him earlier.

Mr. ASHCROFT. What I want to do is protect the right of my colleague, Senator ABRAHAM from Michigan, to make remarks. I don't want to have consumed all the time. That is what I am interested in doing. So if we can work something out with that in mind, I am willing.

Mr. SPECTER. I ask the Senator from Missouri, would 15 additional minutes satisfy you on your side?

Mr. ASHCROFT. Let's say we would take 20 additional minutes?

Mr. SPECTER. I suppose we then have 30 minutes. I discussed 1 hour equally divided with the Senator from North Dakota, so you would have 30 minutes and 20 minutes on the other side?

Mr. CONRAD. That will be acceptable if the understanding is this is ''on or in relation to,'' any votes ordered for that period?

Mr. SPECTER. We would have two votes then on the two competing amendments: One on the Ashcroft amendment, and one on the Conrad amendment.

Mr. CONRAD. That would be on or in relation?

Mr. SPECTER. On or in relation.

Mr. ASHCROFT. Mr. President, I object and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, I ask unanimous consent that the Conrad amendment and the Ashcroft amendment each be considered amendments in the first degree; that there be 30 minutes for Senator CONRAD, 20 minutes for Senator ASHCROFT, and that there be votes on both of their amendments with no point of order being permitted, and that the time of the votes be determined later in the day by agreement of the leaders.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

Mr. SPECTER. The Conrad amendment will be voted on first.

Mr. REID. I was talking to Senator CONRAD. I apologize.

Mr. SPECTER. The unanimous consent agreement provides that each amendment, the Conrad amendment and the Ashcroft amendment, be considered as amendments in the first degree; that the Conrad amendment be voted on first, that there be no points of order raised, that Senator CONRAD will have 30 minutes, and Senator ASHCROFT 20 minutes, and the time of the votes will be determined later in the day by agreement of the leaders.

Mr. REID. Mr. President, if the Senator will allow us to go into a quorum call for a minute, Senator CONRAD and I have a couple of things about which we want to talk. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. LOTT. 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. LOTT. Mr. President, just so nobody will get nervous, I want to talk about the schedule. I am working with Senator REID on a couple unanimous consent requests that we may offer later. But I wanted to talk about the progress being made and what our hopes are.

I realize this is a very big, very important bill—the Department of Labor, Health and Human Services, and Education Appropriations bill. It is important we get it done, and it is important we have a few minutes to think through critical amendments that are offered. We are in that process. I thank the managers for what they have been doing. I urge them to keep pushing forward. The number of amendments has been substantially reduced. The ones still pending are not easy amendments. But I think if we can keep focused, we can complete this very important appropriations bill at a reasonable hour today.

I urge my colleagues, when they have an amendment, when there is an amendment on both sides, that we find a way to accept them both or get a vote on both of them and let the Senate speak its will and then move on. I think that would be the best way to do it.

What I really want to comment on today about this bill, and others, is that there are Senators thinking we are going to finish tonight and there won't be votes tomorrow. Senator DASCHLE and I have been indicating for quite some time now that that is not going to happen. We have to complete this bill. I still would like to go to the Interior appropriations bill. But we also have a very important military construction appropriations bill with a title II that involves emergencies. That has to be completed and considered by the House Rules Committee, the House has to vote, and then it comes over here. That could be late this afternoon or tonight or tomorrow or later. If there are complications, it could take more time than that.

I assure everybody that we are going to be in session and voting tomorrow. I think that hoping we can wave a magic wand and miraculously complete this bill and the other measures by a reasonable time tonight is just not likely.

I wanted to say that now. Those who have planes booked for 10 o'clock tonight or 10 o'clock in the morning, you better start making other arrangements, unless you are willing to miss votes. Quite often, some Senators think that if enough of us leave, there won't be votes. That is not going to be the case this time. This work is too important. I urge my colleagues to help us get this very important work done in this critical week.

Mr. REID. If the Senator will yield, I say to my colleagues that I was here last night about 7 o'clock when the majority leader came to the floor. To say that he was upset is an understatement. I heard him clearly that there will be no more windows for the end of this session.

I also say to the leader that it would be a big help to those of us on the floor if we could shorten the time of the votes. We wasted tremendous time yesterday. We wasted at least 2½ hours on votes when people weren't here. We waited 20, 30 minutes for Senators on both sides. I believe that if a vote is completed within 15 or 18 minutes, we should go on to something else. If people miss a vote or two, everybody's record will be down a little bit, and it will be the same for everybody.

Mr. LOTT. Obviously, the Senator from Nevada is correct. We do allow these votes to drag on too long, and we should be prepared to cut them off after the 15 minutes and the 5-minute overtime. On both sides we try to be understanding, but the more we are understanding, the more it is abused by our colleagues. So, for today, I will work with Democrats and Republicans and be prepared to cut these votes off. It could save us a lot of time.

Let me say to the Senator from Nevada, we would not be making the progress we have made on this and other bills without his diligence, his presence on the floor, and the hard work he does. I appreciate that. Last night, even though I was disturbed about the timing because of commitments that have been made, we worked that out and we got a lot of good work done last night. I thank those who were involved.

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UNANIMOUS CONSENT REQUEST—S. 2340

Mr. LOTT. I have a unanimous consent request I would like to propound now. I believe the Senators involved in this are on the floor. I ask unanimous consent that the Senate turn to the consideration of the NCAA gambling bill, S. 2340, and following the reporting of the bill by the clerk, the committee amendments be immediately agreed to.

I further ask consent that there be 4 hours of debate on the bill, to be equally divided in the usual form, and only relevant amendments be in order during the pendency of the bill.

Finally, I ask consent that following the conclusion of the time and the disposition of any amendments, the bill be advanced to third reading and passage occur, all without any intervening action or debate.

I know Senator REID will want to make some comments. This is an issue that has been pending for some time. We have tried to find a way to have it as an amendment on other bills. I know Senator BROWNBACK has been diligent and also very much interested in this matter, as are other Senators, including Senator MCCAIN.

Senator REID has indicated he would like to work with us on it. But I will let him speak for himself.

Part of what I am doing here is this: I made a commitment to the sponsors to try to find a way to consider this on some bill, or freestanding at some

point. In order to complete work on the Department of Defense authorization bill, now that we have worked through the disclosure issue, this issue is one we also need to find a way to address. That is why I am asking for this consent.

Mr. President, I submit that unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, I know the deepness of feeling of the Senator from Kansas, Mr. BROWNBACK. I have spoken to him personally. I understand how he feels about this issue. I also feel very strongly about this issue.

I am willing to work with the Republican leadership and my leader to try to work out some kind of freestanding bill so this matter can be fully debated. This is not an appropriate time to do it. I say respectfully to the Senator from Kansas and the majority leader that we simply can't do this now.

I have been here since Thursday on the Labor-HHS bill that is before us. I arrived home late last night, as everyone else did. We are trying to carve out amendments. This is just not an appropriate time to do it.

I say to my friend from Kansas that I respect how he feels about this. There are strong feelings on this issue. This is an issue which should be debated. At an appropriate time, we will do that. Therefore, I object.

Mr. KENNEDY. Mr. President, will the Senator from Nevada yield?

Mr. REID. I would be happy to yield.

The PRESIDING OFFICER. Objection is heard.

The majority leader has the floor.

Mr. LOTT. Mr. President, will the Senator withhold his objection?

Mr. REID. I would be happy to withhold. I withdraw my objection.

I also say this: Seeing the Senator from Massachusetts here floods my mind with the work that needs to be done in this Chamber. We need to introduce the minimum wage bill. We have the Patients' Bill of Rights and prescription drugs. We have things to do on education. In addition to my personal situation, I know the Senator from Massachusetts is concerned about those bills.

Mr. KENNEDY. Mr. President, if the Senator will yield for just a brief observation, as I understand the request of the majority leader, this does not include any request to bring back the reauthorization of the Elementary and Secondary Education Act. Did the Senator from Nevada hear that clearly? I did not hear that clearly.

Mr. REID. That is true.

Mr. KENNEDY. That is not to be included.

Mr. LOTT. Mr. President, I did not include that. But I would be happy to work up an agreement where we could bring that back and have germane amendments on the Elementary and Secondary Education Act, have an agreed-to list of amendments that are germane, so we can deal with that important issue. I will be glad to work with Senator KENNEDY or anybody else to try to get that agreement.

Mr. BROWNBACK. Mr. President, if the majority leader will be willing to yield for a moment, I appreciate his offering this unanimous consent request. I note that we have considered a number of items on various bills—whether it has been items on prescription drugs or different items that have come forward.

This is one that has cleared through the committee by a strong vote of 13–2 with wide bipartisan support. The bill itself has broad bipartisan support across the country. It is an important issue. We are having a lot of difficulty with regard to our student athletes being involved in gambling themselves and referees in sporting events being involved in gambling. The NCAA and many of the sporting groups are saying this is a problem.

Bigger than all of that, the lead gateway for college students getting into addictive gambling is through sports wagering. What we are trying to deal with is the one place in the country where this remains a problem and where it remains legal.

I think we need to have a bill up and a vote.

I ask my colleague from Nevada—he has been so persistent on a number of different issues to bring up to the floor—when can we get this one up so we can have a set timeframe for debate? If the Senator from Nevada would like to have a long period of time, that is fine. I am willing to go as short as an hour equally divided. But can we get some idea of when we could do this?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, under the reservation, I will not reply to the substance of the statement made by my friend from Kansas, but there are merits on both sides of this legislation. I would be happy to work with leadership to find a time to bring this bill to the floor.

In the meantime, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania.

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THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, 2001—Continued

Mr. SPECTER. Mr. President, I think we are now prepared to go ahead with the Ashcroft amendment and the Conrad amendment.

We propounded a unanimous consent before, but I will repeat it.

There will be two votes on amendments, each treated as a first-degree amendment. The first vote will be on the Conrad amendment in regular order. The second vote will be on the Ashcroft amendment. There will be no points of order raised. Senator ASHCROFT will have 20 minutes because he already had time to speak. Senator CONRAD will have 30 minutes to speak.

I ask unanimous consent.

Mr. REID. Mr. President, reserving the right to object, the only addition I would like is that the two votes occur at 2 o'clock. We would be happy to have other amendments. Can we finish the debate on this? I know Senator LAUTENBERG, our ranking member of the Budget Committee, wishes to speak. Senator CONRAD wishes to speak on this matter. There are other Members who want to speak. I think it would be appropriate to lock in the time on this.

Mr. SPECTER. Mr. President, if I might respond, we want to come back to the Daschle amendment with the second-degree amendment. We want to come back to the Dorgan amendment. We have a Helms amendment. I urge that we defer these votes until later when we can have 10-minute votes. Perhaps we can get the majority leader to crack the whip, and, as the Senator from Nevada suggested, stay on the floor and limit them to 10 minutes, if we are going to finish this bill by mid-afternoon.

Mr. REID. There is no problem with that. I hope we do not vote before 2 o'clock on these matters.

Mr. SPECTER. We will not vote before 2 o'clock.

May we proceed, Mr. President?

The PRESIDING OFFICER. Is there objection?

Mr. ABRAHAM. Mr. President, reserving the right to object, I want to clarify: How much time will be available on the Ashcroft amendment?

Mr. SPECTER. Twenty minutes is requested.

Mr. ABRAHAM. I would only indicate that I know Senator DOMENICI wishes to speak on this issue as well.

Mr. SPECTER. Would the Senator like 30 minutes?

Mr. ABRAHAM. I think at least that much time.

Mr. SPECTER. We will take 30 minutes. It will save time in the long run.

Mr. REID. Now we have others who wish to speak. How long does Senator CONRAD wish to speak?

Mr. CONRAD. As long as it takes to persuade my colleagues to vote for it.

Mr. REID. As articulate as the Senator is, that should only take 10 minutes.

Mr. CONRAD. I need about 20 minutes.

Mr. REID. We should reserve 10 minutes for Senator LAUTENBERG.

Mr. BAUCUS. Mr. President, I would like to be able to speak about 5 minutes, if possible.

Mr. SPECTER. Now we are up to 35 minutes.

Mr. President, the unanimous consent request is modified to 35 minutes.

Mr. REID. Now we are up to 55.

Mr. NICKLES. We want equal time. I insist on equal time.

Mr. SPECTER. We have already had a considerable amount of time.

Mr. NICKLES. I would be happy to yield it back if we don't need it. I want equal time.

Mr. SPECTER. 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. SPECTER. 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. SPECTER. Mr. President, I ask unanimous consent we proceed with 45 minutes on each side to get this moving.

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

The Senator from Missouri.

Mr. ASHCROFT. I yield myself 5 minutes.

Mr. President, I previously spent some substantial time in talking about the need for a Medicare lockbox. I spent time indicating that as Social Security is off budget, I think it would be good to protect Medicare with a lockbox. In addition to talking about the common sense of not taking trust funds and spending them for things other than that for which they were paid into the trust fund, I indicated there were a broad group of people who supported this concept, including the Vice President, who has endorsed the concept of a Medicare lockbox, and the President of the United States, who very recently has endorsed the concept of a Medicare lockbox.

I was in the midst of reading an extensive set of points that had been made available by the White House supporting the concept. I believe the concept is worthy of our support.

I think it is important that we do it with integrity, that we don't leave any gaping holes or opportunities for the lockbox to be invaded or otherwise dispersed. It is important we not have a lockbox that appears to be a lockbox that doesn't satisfy the idea of a lockbox.

I hope Senators will join with me and with an almost unanimous House of Representatives and join the President and the Vice President of the United States, who have all voiced support for this concept of a Medicare lockbox.

When I came to Washington 5 years ago, people said it would be impossible to balance the budget, but we did it. They said we could not and would not balance the budget without using the Social Security trust fund. We have done it. And there are those who say we cannot and will not balance the budget and protect Medicare Part A surpluses. But we can and we will. We are more than halfway to this point. The House has voted. The President has expressed himself in support of a lockbox, as has the Vice President. Now it is the Senate's turn.

I believe the Senate will sign a Medicare lockbox measure. That would send a powerful message. A lockbox amendment also requires the President to protect Medicare and Social Security by submitting a budget that does not spend either surplus. We make these changes. They are beneficial changes for the people. I call upon the Members of this body to enact a Medicare lockbox that is durable and strong and real—not one with loopholes but one that will protect Part A Medicare surpluses for expenditure for their intended purpose.

It is with that in mind I ask my colleagues to vote in favor of the amendment I proposed.

I ask unanimous consent the Senator from Michigan, Mr. ABRAHAM, and the Senator from Wisconsin, Mr. FEINGOLD, be included as a cosponsors.

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

Mr. ASHCROFT. I yield the floor and I reserve the remainder of my time.

AMENDMENT NO. 3690

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise today to offer a lockbox amendment with Senator LAUTENBERG and Senator REID designed to protect Social Security and Medicare.

This amendment is simple but important.

First, it says we must protect Social Security surpluses each and every year. The budget has finally been balanced without counting Social Security, and we must make sure it stays balanced without counting Social Security and Medicare.

Second, my amendment takes the Medicare hospital insurance trust fund surpluses off budget to prevent those surpluses from being raided for anything but Medicare.

According to the Office of Management and Budget, the Medicare trust fund will run a surplus of over $400 billion from the year 2001 to 2010. Taking these surpluses off budget and locking them away will ensure that they are used only for Medicare and to pay down the debt. Taking the Medicare trust fund off budget, as in Social Security off budget, will ensure that these payroll taxes that workers pay will be used to meet the future demographic challenges Medicare and Social Security face.

We have reached a bipartisan agreement that Social Security belongs off budget and that its surpluses should be preserved solely for Social Security. For seniors, Medicare is just as critically important for financial independence in their golden years. It is now time to give the same protection to Medicare that we already accord to Social Security, by taking Medicare off budget, too.

Medicare is absolutely critical to the health and economic well-being of nearly 40 million senior citizens. Before Medicare, many of our senior citizens were one major medical event away from poverty. Today, our seniors enjoy the security of knowing Medicare is there for them. We should not put at risk Medicare because of a failure to protect Medicare from raids for other purposes. We have been through this on Social Security.

The amendment I am offering says we are going to treat Medicare the same as we are treating Social Security. Unfortunately, the amendment of the Senator from Missouri fails to do that. It suggests it is a Medicare lockbox, but it really isn't. When we examine the amendment of the Senator from Missouri, we find there is a fatal flaw. The fatal flaw is that the Senator from Missouri has no enforcement mechanism for its provision taking Medicare surpluses off budget. In fact, it does not move Medicare off budget. It only removes Medicare surpluses off budget.

The result is, under the Ashcroft amendment, no point of order would apply against legislation that uses Medicare surpluses for other reasons. Under the Ashcroft amendment, the Medicare trust fund could be depleted for any purpose, as long as the overall budget remained in balance. Unfortunately, because of the way the amendment of the Senator from Missouri has been drafted, it is opening Medicare to raids for other purposes. That is a fatal flaw. That is what my amendment corrects. My amendment takes Medicare trust fund surpluses off budget, protecting them with points of order so there could not be a raid on Medicare.

Let me make my point as clearly as I can. If we look at the fiscal year 2000, we have a unified surplus projection of $224 billion. Social Security is in surplus by $150 billion. We will not permit that to be raided.

Medicare is in surplus by $24 billion. We will not permit that to be raided under my amendment. But under the amendment of the Senator from Missouri, one could take every penny of the $24 billion in surplus in Medicare because the overall budget would still be in balance. That is the fatal flaw of the amendment of the Senator from Missouri. The Senator does not protect these Medicare funds if the overall budget is in balance. I don't know if that was realized by the other side, but that is a fatal flaw. That is why the amendment of the Senator from North Dakota, my amendment, the amendment I am offering with Senator LAUTENBERG and Senator REID, is critically important; we would prevent any raid on Medicare funds.

Our lockbox is simply stronger. We establish points of order that protect the integrity of the Medicare trust fund in each and every year. Our plan was drafted to make the Medicare trust fund status exactly the same as Social Security. For some reason, the amendment of the Senator from Missouri has been drafted differently. It does not give the full protections to Medicare that we have given to Social Security. Why not?

If we look at the Congressional Budget Act of 1974, and I direct my colleagues to page 17, on the bottom of

that page are laid out the specific protections we provide for Social Security. We provide them for Medicare in the amendment that I am offering. The Senator from Missouri has failed to do so. He has left them out. For some reason he is giving lesser protection to Medicare than we give to Social Security. My amendment solves that fatal flaw that is in the amendment of the Senator from Missouri.

In our plan, we treat Medicare similar to Social Security by excluding all receipts and disbursements of the Federal Hospital Insurance trust fund from budget totals. We exclude the Medicare trust fund from sequestration procedures and create parallel Budget Act points of order to protect the surplus in the Medicare trust fund in each and every year.

Our plan also creates a new point of order against legislation that would cause or increase an on-budget deficit. So it protects the integrity of the Medicare trust fund and the on-budget surplus for debt reduction. Our plan also strengthens existing protections for Social Security by enforcing points of order against reducing Social Security surpluses in each and every year.

The Ashcroft amendment is silent on Social Security. It has verbiage there, but there is no new protection for Social Security in the amendment of the Senator from Missouri. Our amendment adds a point of order against violating the off-budget status of Social Security and requires Social Security revenues and outlays to be set forth for every fiscal year in a budget resolution rather than for only the 5 years under current law.

In addition, we strengthen existing points of order protecting Social Security by enforcing points of order against reducing the Social Security surplus in every year covered by the budget resolution rather than only in the first year and the total of all years covered by the budget resolution as current law provides.

The amendment I am offering with Senator LAUTENBERG and Senator REID is very clear: We are protecting Social Security and Medicare in a lockbox that has real protections, and we treat them in the same way. Unfortunately, the proposal of the Senator from Missouri creates a difference between the protection we provide Social Security and the protection we provide Medicare. The Senator from Missouri provides much less protection for Medicare than we provide Social Security. It has a fatal flaw: no enforcement mechanism. The result is, under the Ashcroft amendment, the Medicare trust fund could be depleted for any purpose as long as the overall budget remained in balance. That is a profound mistake.

The amendment of the Senator from Missouri would allow the Medicare trust fund surplus in the year 2000 to be raided of every penny. We should not allow that. That is not a lockbox; that is a ''leakbox.'' We are trying to construct a lockbox here to protect Medicare, not a figleaf that will make people believe we protected Medicare but really open up a gigantic loophole that would allow for raids on Medicare as we used to see on Social Security.

This is a defining vote. Those who care about protecting Social Security and Medicare, and are serious about it, will support our amendment. Those who want a figleaf and a press release will be in opposition.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey. Who yields time?

Mr. LAUTENBERG. Mr. President, I think the Senator from North Dakota is going to yield the time. How much time do the proponents of the second-degree amendment have remaining?

The PRESIDING OFFICER. The proponents have 34 minutes remaining.

Mr. LAUTENBERG. Mr. President, I rise in support of the second-degree amendment, which I am pleased to be cosponsoring with Senator CONRAD.

This amendment would establish a lockbox to protect both Social Security and Medicare surpluses from being raided to pay for other programs or tax breaks. The amendment would take Medicare completely off-budget, and it would add iron-clad guarantees to ensure that neither Social Security nor Medicare surpluses can be used for any other purposes.

This amendment is based on a proposal first put forward last week by Vice President GORE. And I want to commend the Vice President for his leadership in this area. As he has argued so forcefully, it is wrong for Congress to use Social Security or Medicare surpluses as a piggy bank either for tax breaks or new spending. Instead, Social Security and Medicare should be taken off the table, and out of the Federal budget.

Social Security already is officially off budget. That is the law. There is a bipartisan consensus that we should not use Social Security surpluses for any other purpose. We all agree on that.

But what we have not all agreed on is that Medicare surpluses should be protected, as well.

Senate Democrats have long argued that Medicare must be included in any Social Security lockbox. That is why last year, when Republicans sought to move a lockbox that dealt only with Social Security, we held firm and insisted on our right to offer at least one amendment. The amendment we wanted to offer would have added Medicare to the GOP proposal.

But the Republicans were so opposed to that, they pulled the bill from the floor. In fact, this happened several times. Each time, we Democrats insisted that Medicare be part of the equation. And, each time, Republicans said: No.

I am hopeful that Republican opposition to protecting Medicare is softening, and I give Vice President GORE a lot of the credit for that. He has taken the lead and put this issue at the forefront of the public agenda. With the spotlight now clearly on the Congress, I am optimistic that we will respond.

We should not respond with half-hearted measures, like the bill approved in the House of Representatives or the pending Ashcroft amendment. We should do ti right, and that means taking Medicare completely off-budget, with all the procedural protections now provided to Social Security.

That is what this amendment does.

It treats Medicare just as we are already treating Social Security. It says: Medicare, like Social Security, will now be taken completely off of the Government's books. It will not be counted in the President's budget calculations. It will not be counted in the budget resolution, and it will not be used as a piggy bank for tax breaks, or for any other Government programs.

The legislation also creates points of order against any legislation that would deplete the Medicare Hospital Insurance Trust Fund for any other purpose. Similar points of order already apply for Social Security. Medicare deserves the same protections.

In addition, the amendment would protect Medicare from across-the-board cuts that could be triggered if Congress exceeds other budgetary limits. Under current law—the so-called ''pay-as-you-go'' rules—if Congress raids surpluses either for tax breaks or mandatory spending, Medicare automatically gets cut. That is not right, and that will end under this amendment.

In addition to taking Medicare off-budget, the amendment also strengthens existing rules that protect Social Security. For example, the amendment would establish a supermajority point of order against any measure that would put Social Security back on budget, or violate the prohibition against including Social Security in a budget resolution.

Our amendment also strengthens existing law by requiring every budget resolution to include Social Security totals for each year covered in the resolution, and then establishing a point of order to protect those funds in each year. This is an improvement over current law, which protects Social Security surpluses in the first year of a budget resolution, and for the entire period of the resolution, but not in each individual year. There is no similar provision in the pending Ashcroft amendment.

Mr. President, I want to take a moment to comment on the Ashcroft amendment.

The Ashcroft amendment is described as taking Medicare offbudget, something deserving consideration. But the proposed amendment does not really do it. It does not fully protect Medicare. And the public must know why it is an inferior proposal to the second-degree amendment proposed by Senator CONRAD and myself.

The Conrad-Lautenberg amendment calls for more than a surface accounting change. Yes, we take Medicare's Hospital Insurance Trust Fund off-budget, and that's important. But we are also insisting that we include procedural protections against any budget resolution or legislation that would use Medicare funds for other purposes, and permit undermining its solvency.

We do that by establishing a process that will protect Medicare by requiring a 60-vote point of order against any legislation that would invade the trust fund's solvency to be used for other purposes. Under our amendment, if you want to use Medicare funds to pay for tax breaks, or for anything else, you will need those 60 votes to do it.

That is not true of the prevailing amendment, however. The Ashcroft amendment isn't really able to protect Medicare. It does establish a point of order, a higher hurdle, that obstructs creation of a larger budget deficit. And that's a good thing that will help promote debt reduction.

But preventing an on-budget deficit is not the same thing as protecting the Medicare Trust Fund.

For example, if legislation was proposed that reduced revenues into Medicare's Trust Fund and increased the possibility of earlier Medicare insolvency, that legislation would not be subject to a point of order under the present Ashcroft amendment. That is because, again, the Ashcroft amendment isn't really designed to protect the solvency of Medicare. It is only designed to prevent on-budget deficits. And that just doesn't go far enough.

The point of all this talk about Medicare is to ensure that the program will still be solvent and strong in the future, when the baby boomers retire. Well, if you don't protect Medicare's solvency, you are really not accomplishing that goal.

That is why the Ashcroft amendment is grossly inadequate and why I urge my colleagues will instead support the Conrad-Lautenberg second degree amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I yield myself, initially, 7 minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, what we have before us is a genuine lockbox amendment by the Senator from North Dakota, and we have a ''box'' amendment offered by the Senator from Missouri. Now, notice I said ''lockbox.'' A lockbox is what has been offered by the Senator from North Dakota; no lockbox by the Senator from Missouri. That really is the difference.

What do I mean by ''lockbox''? What I mean is that we are trying to treat Medicare as we treat Social Security; that we are going to say that in the future, the Medicare trust fund should be off budget, should not be counted in budget totals, that it should be off budget and should not in any way be able to be tapped into by this Congress or any succeeding Congress to pay for any deficit, to pay for any tax cuts, to pay for any other kind of spending in which this Congress or any future Congress wants to engage.

That is really what a lockbox is. You take funds and you set them aside; you put them in a box and you lock it. That means you cannot tap into it.

That is what the American people want us to do with Medicare and with Social Security. This is money that they have paid into out of payroll taxes. This is money that has been set aside for them for Medicare—and for Social Security, if we are talking about Social Security. We are only talking about Medicare here.

The American people believe very deeply about this; that no Congress ought to be able to say: We want to give a tax cut to the wealthy, and we are going to pay for it by taking it out of the surplus. And if the only surplus we have is Medicare, we will take it out of there, or, if the only surplus we have is Social Security, we will take it out of there.

What we are saying on the Democratic side is, no, no deal. We are going to take Social Security and Medicare off budget, lock the money away, you cannot tap into it for tax cuts or spending or anything else.

The Senator from Missouri may think that is what he is doing. I heard him describe his amendment as a lockbox, taking it out, but that is not what his amendment does. His amendment does not do that. It does not protect the Medicare trust fund from procedures that might be used by a future Congress to pay for spending or tax cuts totally unrelated to Medicare.

I could get into the jargon used around here by talking about points of order and sequestration and stuff such as that. Who understands what all that means, unless it is just a few of us around here. And I am not certain all of us understand it either.

But just to put it in simple lay terms that the American people can understand, the amendment offered by the Senator from Missouri sort of puts the Medicare surplus in a box. It closes the lid. That looks pretty good, but the next Congress or two Congresses from now may decide: Hey, we have had a downturn in the economy. We might want to give a tax cut to a group. We might want to do some spending. We don't have enough of a surplus in our budget, but we do have a big surplus in that box. In that box there is a big surplus. We will just go open the lid and scoop a little bit out. That is what the Ashcroft amendment allows. It allows a future Congress to open the lid on the box, put the scoop in there, and dig some money out for whatever that Congress wants.

What the Conrad amendment does is take the Medicare money our people have paid out of their payroll taxes and puts it in a box, just as Ashcroft does, closes the lid, locks it, and throws the key away. That is the difference between the Conrad amendment and the Ashcroft amendment. What the Conrad amendment says to a future Congress is, if you want a tax cut for the wealthy, if you want to spend on some programs, go somewhere else to get the money. You can't pry open the box in which we have Medicare and Social Security funds; that is to be used only for Medicare and only for Social Security. That is what the Conrad amendment does.

Don't be misled that these two amendments are the same. They are not the same. The American people should not be misled. If your goal is to set aside Medicare funds and put them in a box but if a future Congress wants it can go in and open the lid and scoop some money out, vote for Ashcroft. Maybe some people think that is legitimate. Maybe some people say: Well, we should not tie the hands of future Congresses. If they want to take some of that Medicare surplus and use it for something, let them open the lid on the box and take the money out.

Maybe some people here believe that. I don't believe that. Senator Conrad does not believe that because it is his amendment. What he says is, we will put it in that box and lock it. The only thing you can use that money for is Medicare, just as we should only use Social Security for Social Security.

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mr. HARKIN. How much more time remains on our side?

The PRESIDING OFFICER. Ten minutes remain.

Mr. HARKIN. Mr. President, I will take 1 more minute.

If you want to secure Medicare funding and you want to lock it away, you have to vote for the Conrad amendment. If, however, you want to take Medicare funding and put it in a box and say that future Congresses can go in there, open the lid and take the money out for other things, then vote for Ashcroft. It is that simple.

I yield back whatever time I have remaining.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I yield such time to the Senator from Michigan as he may consume.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I will be brief because in many ways I am very pleased with the direction of today's debate, particularly with the fact that it actually will result in some votes. We have been on the floor talking about trying to lock up Social Security on many occasions. I was seeking to get a final vote on a lockbox that I think really does do the job of protecting Social Security. I think we did it four times and couldn't get to a final vote.

Today, we are moving in the direction of getting final votes on both a

form of Social Security lockbox and on the issue of locking up Medicare. I think that is an important step.

While I am happy to support almost any effort that makes it more difficult to spend the Social Security surplus, I do not believe that the forms offered today go as far as we should to ensure a permanent off-limits nature of the Social Security surplus. I hope the spirit which we have seen today, of working towards giving people options to vote, is one that we can build on, and that I will soon have an opportunity to have a vote on the Social Security lockbox proposal on which Senator DOMENICI, Senator ASHCROFT, and I have been working.

I think it is a very productive debate to talk about treating the Medicare surplus, the Part A of the Medicare trust fund, in the same fashion. The disagreements over details are ones that ought to be something we can work out.

I do not think implications of intent with respect to the future spending of these dollars that are being made are on point with the intent of the draft Senator ASHCROFT has offered. I think his goal is very clearly to try to protect the surplus in Social Security from being spent, period. I think that is his motive. I will leave it to him to comment.

I think implications that there were any ulterior goals in his proposal are off the mark. In fact, I hope people will examine more closely his longstanding position on this issue. While it may be now, in the middle of a Presidential campaign, that people are talking about a Medicare lockbox, I remember Senator ASHCROFT talking about a Medicare lockbox more than a year before the Presidential election and certainly months before it was an issue in terms of the national Presidential debate. As a colleague, I appreciate the fact that he was ahead of everybody else in trying to raise that issue on the Senate side. We have worked together to try to move both of these issues today and in the past.

I want to go on record in favor of having mechanisms in place that protect these trust funds from seeing these dollars used for anything other than their purpose. One hopes that would be the outcome. If not in the context of this legislation, then let us be honest about it: The likelihood that this type of amendment is going to be able to survive the entire conference process may be questionable. I hope by going on record—as I suspect by the end of this afternoon every Member of the Senate will—in favor of locking up both of these surpluses, we will take a step in the direction of ultimately achieving it. I certainly intend to come back to the Senate and, in the context of legislation that can get to final passage inclusive of such lockboxes, give the Senate opportunities to support such an effort.

As I talk to constituents in my State, and from comments made by people all over America, there is little doubt that one of the most frustrating things to people, whether they are already Social Security recipients or will be in the future, is the fact that they have watched as too many Social Security surplus dollars have been spent on other things in order to make the deficit appear smaller. I think they are going to be very pleased this year when we end the fiscal year not only with a balanced budget but also without spending one penny of Social Security on anything but Social Security or the reduction of debt. That is a sea change.

I don't think we should lose sight of the circumstances in which it has come about. Senator ASHCROFT, myself, Senator DOMENICI, and others in the budget process have worked to make sure there were in place the kinds of budget rules that precluded Social Security surpluses from being spent on other things. This year taxpayers who have been so disappointed in the past that such moneys were used for other purposes are going to receive the good news that they were not and that they are not going to be in the future. Indeed, this year's budget resolution, as last year's, incorporates the kinds of rules that will protect it. I am proud to have been involved in the drafting of those rules.

I am glad we are back on this topic. It may not resolve it fully, in the context of the Labor-HHS appropriations bill, but hopefully, after today, we have at least set the precedent that we will create these lockboxes, that we are not going to prevent votes from being taken on final passage of the various options that are out there, at least to get final votes on those options in some context.

I look forward to bringing back an even stronger Social Security lockbox and for a chance to get a vote on the version we have drafted. I would like to have that opportunity.

I yield the floor.

The PRESIDING OFFICER. Who yields time? If neither side yields time, time will be charged equally against both sides.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak for 15 minutes out of order, without the time being charged to anyone.

The PRESIDING OFFICER. Is there objection?

Mr. COVERDELL. Mr. President, reserving the right to object, I know the Senator from West Virginia has some remarks he wants to make. We are about to get this tangle resolved. Does that side have any more speakers?

Mr. REID. Mr. President, with all due respect to my friend from Georgia, if the senior Member of the Republican side wanted to come out and speak, we would drop everything no matter what we were doing. I think we should give the Senator from West Virginia the same opportunity.

Mr. COVERDELL. Mr. President, the question is, Is there time on your side that we might use?

Mr. CONRAD. On this side, we have 4 minutes remaining. Obviously, we would like to reserve some of that time for the purpose of making a statement at the end.

Mr. COVERDELL. How much time remains on our side?

The PRESIDING OFFICER. There are 30 minutes remaining.

Mr. COVERDELL. Thirty minutes. Mr. President, I yield 10 minutes of our time to the distinguished Senator from West Virginia and do not object to the additional 5 minutes that would bring him to his 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I apologize for imposing myself at this moment. But I had noticed several quorums of considerable length, and I thought this might be a good time to have a statement made. I thank all Senators.

''THE SEARCH FOR JESUS''

Mr. BYRD. Mr. President, I found disappointing Peter Jennings' ''The Search for Jesus,'' which aired on ABC Monday night. The promotions for the show promised a pilgrimage to the roots of Christianity, but I think what we were actually given was more of a slide show.

All too often we are told by members of the media that they are constrained by time. Broadcasters divvy up air time into 30 seconds, 60 seconds, an hour, 2 hours, and they are constrained by these blocks, which are further constrained by their ability to sell advertisements to support their use of time.

In case after case, including that of ''The Search for Jesus,'' too little time is devoted to providing a serious look at important issues. Whatever one's view of Jesus may be, it is hard to deny that few, if any, other lives have so affected our world and humanity as that of Jesus Christ. Here is someone who literally split the centuries in two.

The questions and controversies surrounding His life on Earth certainly deserve more than the 2 hours devoted to it by ABC. Two hours—in fact, much less than that when one subtracts the commercial time, which was substantial—hardly scratches the surface.

The program presented many provocative ideas. A very limited number of theologians, historians, and ordinary folk had much to offer in the way of researched information, speculation, theory, heartfelt notions, and simple faith. But they were given only seconds here and there to provide us with what may well have been valuable insight and inspirational ideas. If there is a topic that deserves plenty of time, this is it. And, I daresay, as much as it may also cause what to many, including myself, is a distasteful commercialization of religion, this is a topic for which I assume the network easily sold loads of advertising time—as apparently it did for the broadcast Monday night. In this case, what actually aired was light on substance, but heavy on

advertising, giving the effort the appearance, at the very least, of a high-toned money grab.

I cannot be sure what motivated the show, ''The Search for Jesus.'' Evidently, Peter Jennings and staff spent months preparing for it, conducting interviews, researching, and traveling to Biblical sites. But viewers were certainly done a disservice by the encapsulated version that the network provided. As much as any journalist may try to let others do the talking, to give the experts the floor, and to present a rounded, unbiased view, when it comes right down to it, the finished piece—except on very rare occasions—reflects the decisions, good or bad, of producers and editors who must slice and trim to make their program fit into the time frame relegated to it by the network.

The show's conclusion—that Jesus was a man, that he existed—comes as no revelation to anyone who has lost someone dear and found solace only in the Trinity. As the program noted, there were others before and during His time who professed to be the messiah. They came and went, sometimes by execution, and their followers were either executed alongside their leaders or they found new ''messiahs'' in whom to place their faith. But, as the ABC show noted, Jesus was an exception. There was something extraordinary—one might say miraculous—in the way that His death promoted the proliferation of His teachings, and in the fact that, nearly 2,000 years after His crucifixion, He continues to inspire followers around the world.

There is, indeed, no need to go to the Middle East to find Jesus. He can be found in any West Virginia hamlet or hollow. He can be found in the arid West, among towering urban buildings, and along peaceful ocean shores.

In the words of Job, that ancient man of Uz, ''Oh that my words were now written! Oh that they were printed in a book! That they were graven with an iron pen and lead in the rock for ever! For I know that my Redeemer liveth, and that He shall stand at the latter day upon the earth.''

I do not judge the intentions or the views of those who helped to put together ''The Search for Jesus'' program, but I know exactly where to place my faith.

Mr. President, I ask unanimous consent that an article entitled ''He's everywhere but here,'' be printed in the RECORD.

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

[From the Washington Post, June 25, 2000]

HE'S EVERYWHERE BUT HERE

(By Tom Shales)

An essentially thankless task that proves also to be a pointless one, ''The Search for Jesus'' is likely to anger many of those who see it—and merely bore others. A two-hour ABC News special, the documentary proceeds from a foolhardy premise and, in the end, doesn't accomplish much more than a dog chasing its tail.

And it's not much more illuminating to watch.

''Peter Jennings Reporting: The Search for Jesus''—yes, Jennings gets top billing over even the Messiah—supposedly aims to discover what can be learned about ''Jesus, the man,'' in historical rather than religious terms. But can those two aspects of Jesus's life really be separated? The danger is that what you'll end up with is an exercise in myth-debunking potentially offensive to devout members of the Christian faith. And that is precisely what happens.

The program, at 9 tonight on Channel 7, is peppered with disingenuous disclaimers. ''We are very aware of our limitations,'' Jennings says at one point, though much about the program suggests journalistic arrogance and hauteur. He concedes that it is difficult for a reporter ''to get the story right'' in this case, but isn't it rather presumptuous even to try? A little later, when Jennings says the question of Jesus's divinity is ''a matter of taste,'' he sounds ridiculously nonchalant about a topic of the deepest spiritual profundity.

Devout Christians may not be the only ones taking umbrage. Whenever Jennings parades into the Middle East, warning flags are raised by American Jewish groups that have objected several times to what they see as a pro-Palestinian, anti-Israeli bias evident in some of the anchor's past work.

Thus one can only groan and shudder when Jennings, later in the broadcast, opens the old can of worms about whether ''the Jews'' or the Romans are more responsible for the crucifixion of Christ. Oh how we don't need to get into that again. As it turns out, the issue is rather diplomatically skirted by one of several guest theologians who says, tiptoeing carefully, that ''a very narrow circle of the ruling Jewish elite'' probably did collaborate with the ruling Roman elite in nailing Jesus to the cross.

As for the resurrection of Christ, upon which the entirety of Christian faith rests, Jennings notes in his cavalier style that there is ''a wide range of opinions'' about whether it occurred. Come, now. You believe it or you don't. That's the range of ''opinions.'' Anyone looking for scientific or historical ''proof'' is flamboyantly Missing the Point.

''All but the most skeptical historians believe Jesus was a real person,'' Jennings is willing to concede. But one by one he sets about discrediting what Matthew, Mark, Luke and John say about the miracles and divinity of Jesus, making a big fuss, for one thing, over the fact that the four New Testament books contain inconsistencies in their recountings of the story.

Did a star in the east guide the Three Wise Men to the manger where Jesus was born? ''I don't think there were Three Wise Men,'' a biblical scholar huffs, and that's supposed to dispel that detail. Jesus may not even have been born in Jerusalem but rather in Nazareth, Jennings says; does it make a particle of difference to the spiritual essence of the matter?

Sometimes Jennings is content with ''analysis'' of the most innocuous sort. Jesus ''must have been a controversial figure'' in his own time, Jennings says. No kidding. But mostly we get specious debunkery. Stories of Jesus performing miracles were most likely ''invented'' by ''the gospel writers,'' Jennings tells us. Even as relatively mundane a detail as Jesus getting a hero's welcome when he entered Jerusalem on Palm Sunday is dismissed: The crowd ''may have been singing and shouting, but not necessarily for Jesus,'' one of the ''experts'' opines.

It's also suggested, despite the daring Jennings pronouncement that Jesus was ''controversial,'' that Jesus may in fact have been ''a rather minor character'' in the political turmoil of the era.

To the credit of producer Jeanmarie Condon, ''The Search for Jesus'' does contain many visually arresting images, and the program was for the most part beautifully shot by Ben McCoy. There are such piquant ironies as a sign warning ''Danger! Mines!'' near a spot where it is believed John the Baptist and Jesus himself once preached. The first image on the screen is striking: a silhouette of the Bethlehem skyline today, a cross atop one building and a satellite dish atop another.

Thus the program is handsomely produced yet stubbornly wrongheaded and bogus, often seeming a gratuitous effort to cast doubt on deeply and widely held beliefs. This isn't really proper terrain for journalists to traverse. It was a bad idea to do the show and it came out as flawed and muddled as anyone might have dreaded.

Some of the padding in the two-hour time slot is filled with modern, hip and usually dreadful recordings of hymns and religious songs. A lot of territory, physically as well as thematically, is covered, but for little purpose. At several of the shrines in the Holy Land, we see tourists with video cameras making their own personal documentaries about a visit to the Middle East. Some viewers would be quite justified in wishing they could look at those tapes rather than at ABC's misbegotten and misguided ''Search.''

It is a search that leads nowhere. Slowly.

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

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THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS, 2001—Resumed

Mr. BROWNBACK. Mr. President, I yield up to 15 minutes to the Senator from New Mexico, the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Thank you very much. I hope I don't use all of the time and that I can yield Senator BROWNBACK time because he started this great discussion with his amendment, on which I support and commend him—the Ashcroft Medicare lockbox.

I have a pretty good suspicion that sometime soon it is going to be adopted by the Senate. The Senator can take great credit, being one who from the very beginning wanted to have a lockbox on Social Security—and even joined in the real lockbox bill, which, incidentally, was not the lockbox we are considering for Social Security today. He has been on the cutting edge of new ways to save both the Social Security trust fund and today on the Medicare HI part of the trust fund.

I rise to talk a little bit about the Social Security lockbox.

First of all, everybody should think for a minute. What kind of lockbox must the Democrats have when they have resisted a lockbox five times? That was a lockbox we came up with that the distinguished Senator from Michigan, Mr. ABRAHAM, introduced with me and others. And five times the Democrats have resisted it and have

not let us pass it. That ought to put up a little bit of a question: what is the difference between the two, since all of a sudden today on an appropriations bill—which probably means amendments are going to go nowhere other than to make a little racket here—we have two distinguished and good colleagues of mine adopting a Democrat lockbox for Social Security.

First, let me change that to six occasions when we have offered a lockbox we put together. Most people who check for a real lockbox, in the sense of what that word means, say ours will do it and that others are questionable. Others are, in one degree or another, more easy to use in terms of violating the lockbox and spending the money elsewhere.

The reason they are different is that ours is real. In the very sense of a lockbox written into law, ours is real.

Let me essentially tell you what we did. We calculated where the debt of the United States would be if all of the Social Security money were left in, if we knew the numbers, and if we put in law and statute the level of debt each year for the foreseeable future. Then we said that statute locks that money in, except in the case of war or the case of economic emergency—we defined that as most economists do—and great national disaster.

That is a lockbox. In order to spend it, we have to have a statute, a law that will change that level of debt that is related to Social Security.

My friend on the Budget Committee, Senator CONRAD, has for a long time been a proponent of making sure we have the debt down, and I commend the Senator. He has been concerned about Social Security, as have many of us.

Essentially their lockbox is an invitation to waive the lockbox or, by a 60-vote majority, get rid of it. Thus, whatever you want you spend.

I urge, instead of the lockbox they have before the Senate, serious consideration of accepting the lockbox that Senator ABRAHAM, Senator DOMENICI, and Senator ASHCROFT have tendered on six occasions. It is truly what the senior citizens deserve when speaking about lockbox. We should not be telling them it is a lockbox, but it can be waived simply on the floor of the Senate.

How simple is it? We have just waived, for the two bills before the Senate, the Budget Act, which precluded doing what they were doing. We got up and said: Let's waive it. We could reach the point where we want to spend Social Security and Members could come to the floor with a vital program and say, just as we waived the Budget Act in order to take this off budget, let's waive it to spend it.

If you do the Abraham-Domenici-Ashcroft lockbox for Social Security, you have to introduce a bill, say we want to change the debt limit as Social Security impacts it. Frankly, I am very proud to have come up with that idea. I think my friend from Michigan would acknowledge I came up with it. I am very proud of him. For a long time, he has been trying to get that voted on. He has told people what he was for, as Senator ASHCROFT has. We have not had a vote.

We tried six times to get a lockbox vote, and we were denied it by this institution, by our fellow Senators on the other side. Then all of a sudden, on an appropriations bill, with a pretty positive chance that the amendments aren't going anywhere because we cannot pass this kind of an amendment on an appropriations bill when it gets to the House—you can take it out the door and send it to the House, but you are pretty sure if it is not dropped before getting to the House, it is probably dropped when you open the doors to the conference because it does not belong on this bill. I am not suggesting that either amendment is being offered knowing full well it is not going anywhere, but I am asking why doesn't the Senate vote on the real lockbox for Social Security.

We are going to have our vote today. I am wondering whether the Senator might give consideration to offering the real lockbox and see where we stand. I ask Senator ABRAHAM what he thinks of that idea in terms of being a chief proponent.

Mr. ABRAHAM. I spoke on the floor a few minutes ago and raised many of the same inquiries the Senator has raised. I am disappointed, after so many efforts on our part to get a vote, that we couldn't.

On the other hand, I indicated I was heartened that today at least there seems to be a willingness to begin to give people votes on issues relating to the lockbox. I want to have the votes.

There is a clear distinction between the lockbox we have authored together and we want to have an opportunity for that stronger lockbox to be considered. I want it done soon. It ought to be done on a vehicle that becomes a law.

Mr. DOMENICI. One last point in reference to the Medicare lockbox off-budget proposal that my friends on the other side of the aisle have offered.

There is a giant loophole that we have never considered in the Social Security trust fund lockbox, nor is it considered in their lockbox on Social Security. Current HI law permits all kinds of additions on the expenditure side of Medicare.

If we leave that language in, we are opening that trust fund instead of closing it. When we take it off budget we open it to spend it, which, to me, seems almost inconsistent with why we are doing it.

I am not going to vote for either of the Democratic lockboxes because I think the Medicare does not work and the Social Security is not a real lockbox.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). The Senator from North Dakota.

Mr. CONRAD. I say to my colleague and my friend from New Mexico, his last reference is to a provision that says you can spend Medicare money for Medicare programs. That is so we can have a BBA add-back, a balanced budget add-back, for Medicare, as we did last year. There is nothing mysterious about that.

The Senator from New Mexico asked why we weren't supporting the lockbox proposal he made previously. There are two reasons: No. 1, we got a letter from the Secretary of the Treasury saying that could threaten default on the debt of the United States; No. 2, our analysts indicated that could threaten Social Security payments to those who are eligible for Social Security. Those are the reasons we have not accepted that lockbox proposal.

I didn't just come here today proposing a lockbox. For 2 years, I have proposed a Social Security and Medicare lockbox as a senior member of the Senate Budget Committee. Frankly, our friends on the other side of the aisle have resisted.

If the choice is between the lockbox proposal I have made today and the lockbox proposal of the Senator from Missouri on the question of which is stronger, there is no question which is stronger. The amendment I have offered is stronger. That is because there is a fatal flaw in the amendment of the Senator from Missouri. He provides no enforcement mechanism for the provision taking Medicare surpluses off budget.

Under the amendment of the Senator from Missouri, no point of order would apply against legislation that could use Medicare surpluses for other purposes. Under the Ashcroft amendment, the Medicare trust fund could be depleted for any purpose as long as the overall budget remained in balance. That is the fact. That is the reality.

I notice the chairman of the Budget Committee never referenced the amendment the Senator from Missouri has before the Senate today. Never referenced it. He talked about a lockbox proposal they have had previously—not about the lockbox proposal before us today.

I yield the floor.

Mr. ASHCROFT. Mr. President, I yield to the Senator from New Mexico 4 minutes.

Mr. DOMENICI. For 10 years, we have had a written proposal with reference to the lockbox for Social Security and never have we put in language that said what their Medicare lockbox amendment says, that the surpluses can be used for spending related to the programs currently in HI. As a matter of fact, we have used the money for Social Security with a lockbox, a ''verbal'' like theirs, that never included such language, and we have spent the money on Social Security.

What I am saying is this is an invitation to expansion and spending, rather than an invitation to protecting it. We could be making HI less solvent under this language rather than more solvent.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I yield to the Senator from Michigan so much time as he may consume up to 5 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I want to comment, in response to the comments of the Senator from North Dakota, the following: The Senator from North Dakota has characterized the stance of those of us who have not supported his proposal for a Medicare and Social Security lockbox as resisting his efforts for 2 years. Resisting his efforts is not, in my judgment, a proper characterization. We have not supported those efforts. But what we have done today is provided the Senator from North Dakota a chance to have a vote on a proposal he has worked on and for which he has sought support. I would like to distinguish that from what I consider to be the accurate definition of resistance, which is to not even give a vote to people who have a legitimate proposal to bring to the floor of the Senate, and I consider the amendment Senators DOMENICI and ASHCROFT and I drafted with respect to a Social Security lockbox to be a legitimate piece of legislation that deserves the same consideration that we will soon give the Senator from North Dakota.

I say to the Senator from North Dakota and his colleagues, I hope, in the spirit with which a vote is being offered on the proposal that he has today, we will get a straight up-or-down vote on the proposal we have been offering because now that you have had this chance we will see what happens, obviously, both here and in the conference that will follow the passage of this legislation. I would like to have the opportunity to get a straight up-or-down vote on the legislation that on five or six or whatever number it is separate occasions has been prevented from happening. That to me would be the difference between resistance and lack of support.

I do not ask the Senator from North Dakota to vote for my proposal. I hope he and his colleagues would at least give us an opportunity to let all of us cast our votes up or down on it. I hope we get that chance. I yield the floor.

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

Mr. CONRAD. Mr. President, I am running out of time. The Senator from Missouri informs me he has 20 minutes left. I have 2 minutes left. Under the rules, if neither of us uses time right now, the remaining time of each of us is used equally, which means I would run out of time. He has indicated that is what he would do. If I do not take this time for my final argument, we just lose the time. Those are the rules of the Senate. That is fair.

I say this. I am saying this for the benefit of colleagues on my side who are wondering if there is additional time available. Clearly, there is not.

The Senator from Michigan and the Senator from New Mexico have again raised the question of the lockbox they offered previously; not the lockbox on which we are about to vote, but what they offered previously. The reason our side resisted that lockbox approach is because we received a letter from the Secretary of the Treasury from which I quote:

> Our analysis indicates that the provisions Senators Domenici and Abraham and Ashcroft were previously offering could preclude the United States from meeting its financial obligations to repay maturing debt and to make Social Security benefit payments, and could also worsen a future economic downturn.

That is the reason we resisted those plans, because they were flawed. That is the same reason I believe the amendment I have offered today, to have a Social Security and Medicare lockbox—something I have proposed for 2 years—is superior to the option we are actually voting on today. The reason our proposal is superior, I believe, is because it protects Medicare. It protects it in the same way we protect Social Security: by points of order to make certain that it is not raided.

Unfortunately, the amendment of the Senator from Missouri does not have that level of protection. He has less protection for Medicare than for Social Security. He does not have a point of order that can apply against legislation that would use Medicare surpluses for other purposes. The problem with that is under the Ashcroft amendment the Medicare trust fund could be raided, could be depleted for any purpose as long as the overall budget remained in balance.

I thank the Chair.

The PRESIDING OFFICER. All time under the control of the Senator from North Dakota has expired. Who yields time? The Senator from Missouri.

Mr. ASHCROFT. Mr. President, how much time remains?

The PRESIDING OFFICER. There remain 17 minutes.

Mr. ASHCROFT. I yield to the Senator from Michigan as much time as he may consume up to 5 minutes.

Mr. ABRAHAM. Mr. President, I thank the Senator from Missouri. I cannot resist responding to the closing remarks by the Senator from North Dakota. I have to say, I interpret his comments as saying he and his colleagues, because they oppose or would vote against the lockbox proposal we have offered so many times, would not even let us have an up-or-down vote on it. I think that is unfortunate.

I think the way the Senate works, they certainly have an ability to prevent votes. But so do we. I hope we will not have to get to the point where we have to engage both sides in those kinds of tactics. We have certainly demonstrated today a willingness to have a vote on his Social Security lockbox proposal. The concerns he raised in the letter that was written by Secretary Rubin, the long-since departed Secretary of the Treasury, were in fact responded to by us in the modifications that we brought in the most recent version of this lockbox.

Certainly I am not going to get into the merits of that at this point, but the notion that because the Secretary of the Treasury argues that something could cause problems should prevent us from having a chance to vote on an issue—there are plenty of issues we vote here where Cabinet members have raised the specter of problems if such votes or legislation were passed.

It is pretty clear to me that notwithstanding the seemingly positive steps taken today to give the Senator from North Dakota an opportunity to have his Social Security lockbox voted on, we are still going to meet impediments in the effort to get ours voted on. I would put the Presiding Officer and the Senate on notice, we are going to keep trying. We, unfortunately, may have to go into the sorts of tactical approaches that cause a lot of time to be taken when it seems to me we could accommodate both sides on this fairly easily. In any event, we will keep pressing forward on it.

I close by complimenting the Senator from Missouri whose steadfast efforts on both the Social Security lockbox as well as the Medicare lockbox front predated the efforts of anyone else of whom I am aware, certainly on the Medicaid issue. He has certainly demonstrated his commitment to that. Certainly his efforts to bring these issues to the floor deserve all our praise and thanks.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Michigan for his kind remarks and for his commitment to maintaining the integrity of our Social Security and Medicare trust fund. Frankly, I thank the Senator from North Dakota for coming to the floor to engage in the debate about a very important issue, as well as the other Senators who have come forward to indicate their support for discontinuing—or stopping—what has become a rather traditional exercise of this Congress: spending money out of the Medicare trust fund for other purposes.

It is time for us to cease that kind of expenditure. It is time for us to say the trust fund, which is made up of taxes specifically paid by working people—you have to work to pay the Medicare tax; it is a specific tax paid by working people—should be off limits to other expenditures.

I thank the Senator from North Dakota. I thank the Senator from Michigan. I thank the Senator from New Mexico. I am grateful for the others—the Senator from New Jersey and others—who have talked about this issue. It is a major step forward.

There are a lot of folks who have come to the floor talking about how they wanted this for a long time. Frankly, we have not had this kind of

debate on protecting the Medicare trust fund in my memory. When I filed this legislation last November, I was not aware of any, and I still do not know that there is, any other legislation similar to this that had been filed at that time. I am delighted we are making this progress. I commend people on both sides of the aisle for this progress.

My amendment protects the Social Security surplus as well. Social Security is off budget already. My amendment prohibits on-budget deficits.

The Senator from North Dakota is talking about how durably he protects the Medicare trust fund with a point of order that takes 60 votes in the Senate. I am pleased for him to embrace that and to talk about it and say how good it is, in part because that is the budget rule which I proposed.

Mr. DASCHLE. Will the Senator from Missouri yield for 30 seconds? If he will yield for a couple of seconds, I want to yield 5 minutes of my leader time to the senior Senator from North Dakota.

Mr. ASHCROFT. I yield the floor for 5 minutes of leader time for the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. Mr. President, I will not take 5 minutes at this point. I want to make the point that I appreciate the Senator from Missouri. He is serious and sincere about an effort to provide a Social Security and Medicare lockbox, but when you look at the specifics of what he has proposed, it falls short. There is a fatal flaw.

Let's look at fiscal year 2000. There is projected a $150 billion Social Security surplus. That is protected. There is a $24 billion projected Medicare surplus. Under the proposal of the Senator from Missouri, every penny of the Medicare surplus could be taken for other purposes because the protection he provides is aimed at the overall budget being in surplus, not at the Medicare component being in surplus. So he has a lockbox that leaks. That is the problem.

The reason the amendment I have offered, along with Senator LAUTENBERG, the ranking member of the Budget Committee, is superior is that it solves that problem. We do not have a leak. We have a budget point of order that prevails.

In addition, the Senator from Missouri does not have Social Security protection. We do. We have additional points of order that apply to make sure nobody raids Social Security.

Our colleagues are going to have a defining vote in just a few minutes: Do you want to have the strongest protection for Social Security and Medicare, or do you want a weak tea version? That is going to be the choice, and all of us are going to be held accountable for our votes. That is the point.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that I be allowed to finish my remarks on this measure without further interruption.

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

Mr. ASHCROFT. Mr. President, I begin——

Mr. REID. I am sorry, I was talking with someone else. What was the request?

Mr. ASHCROFT. Mr. President, I believe I have the floor.

Mr. REID. I am sorry, I could not hear the Senator's request.

The PRESIDING OFFICER. The Senator from Missouri has the floor, but the Chair will repeat the unanimous-consent request, which was, he be allowed to finish the remainder of his time uninterrupted.

Mr. REID. I apologize.

Mr. ASHCROFT. Mr. President, I tried to accommodate the Senators on the other side. When the leader from the other side asked for 5 additional minutes, I interrupted my own remarks, and I thought it would be fair for me to have an opportunity to spend my time without being interrupted. I will start over.

I commend the Senator from North Dakota for his concern and for coming to the floor to debate this issue. I am delighted we have now come to a place where we are debating ''hows'' instead of if we are going to do it—how we are going to do it. Both of these measures provide a 60-vote point of order, which is a pretty high hurdle to climb over, as a way of protecting Medicare. As a matter of fact, that is the mechanism that is used in the protection for Social Security.

The Senator from North Dakota has commended that as durable, strong, vigorous, robust protection. It happens to be the protection which I placed in the law as a result of an amendment I offered in the budget process in previous budget years so that we would find ourselves incapable of infringing the Social Security surplus. When we adopted that amendment and embraced it, we had tremendously good results.

This year, it looks as if there may be as many as $175 billion we will save, not spend; that we will respect instead of invade in terms of the Social Security surplus. That is a big positive. Really, what both sides of the aisle are talking about is getting the kind of robust, strong protection for Medicare that we have for Social Security.

I have to say how much I appreciate the remarks of the Senator from New Mexico, the chairman of the Budget Committee, who talked about the fact we need protection in the statute, not just in the budget rules. It is lamentable that each time we have sought to upgrade that protection from the budget rules to a statute, there has been a filibuster on the other side.

They now say the reason they were filibustering—one time they said it is because of Medicare; another time they waved an opinion that came from the Secretary of the Treasury. One of the reasons the Secretary of the Treasury indicated he would not want to support what we were offering was they might need to do additional spending in certain times in our economy. I understand there are those who believe wanting to spend more is a reason not to do this, but the real reason for wanting to do this is to spend less, especially to spend less of the money that is in the lockbox.

The Senator from North Dakota has raised issues regarding the security of the lockbox which I have proposed. A good debate on these issues is important and appropriate. As a matter of fact, we want to have the strongest lockbox we can. I would not come to this Chamber and offer lockbox legislation that is not durable and not strong. I do not think the Senator from North Dakota would either. There are problems with the proposal of the Senator from North Dakota. This particular phrase on the fifth page of his amendment beginning with the words:

> This paragraph shall not apply to amounts to be expended from the hospital insurance trust fund—

That is, Medicare trust fund——

> for purposes relating to programs within part A of the Medicare as provided in law on date of enactment of this paragraph.

Frankly, they may have a durable lock on that box; they may have reinforced corners on the box; they may have a stout handle on the box; but if there is a hole in the side of the box, we have problems.

I appreciate the Senator from New Mexico raising this issue about potential leakage from the box. What we should be about, though, is not trying to find ways in which our proposals are inadequate or whether there is a hole in his box or whether my supermajority point of order is as durable as his supermajority point of order. We should be about the business of protecting the Social Security surplus and the Medicare surplus and doing it in a durable way and a way which means this Congress will not relapse into habits that Congress engaged in for decade after decade. It is time for us to respect the need for a lockbox.

I filed the measure last November. Last month, Vice President GORE endorsed the concept of a lockbox. This week, 2 days ago, the President of the United States said we ought to have a lockbox to secure the Medicare box so that it would not be available for spending. I do not know what the Treasury said last year, but I know what the President said last week. And I agree with that.

So it is possible to quibble here or there about one aspect of this or the other. It is instructive for me to know that these amendments were not proposed until I came to the floor to propose this.

I am delighted that for the first time in my memory we are debating a Medicare lockbox, in conjunction with a Social Security lockbox, that is durable.

May I inquire as to the time remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 15 seconds remaining.

Mr. ASHCROFT. So with that in mind, I commend to the Members of the Senate, generally, the concept of a lockbox: a durable, secure, mechanism that keeps this Congress from reengaging in activities it has engaged in over time.

As this measure moves forward, let's do what we can to improve it in every way possible. Let's talk about a lockbox for Social Security that is statutory.

I was delighted to be able to put it in the budget rules of the Senate so that it is out of order for someone to propose spending Social Security income trust funds for non-Social Security purposes. But I would like to see it enshrined into law.

We have talked about waiving budget points of order. Obviously, I would like to have this be beyond a point of order. I would be very pleased to have a law enshrined for the way in which we would enforce these rules.

It is with that in mind that I express my appreciation to the Members of the Senate and say that our objective here is relatively uniform. From what I can tell from arguments made on the other side, to arguments made on this side, we both want a lockbox. We both want a lockbox that is durable. We want one that does not leak. We want one that is enforceable.

The lockbox—I think we are agreeing today—should be one that protects not only Social Security but Medicare. When we get this close to this kind of agreement on an issue that is this important, I think it is time for us to work together.

I do not want to fight with my colleagues on the other side of the aisle. I want to work with them. If we are close to having a durable Social Security lockbox and if we are close to having one that protects Medicare, I want to do it.

I have been working on this for over 2 years. Early in 1999, S. 502, the Social Security Safe Deposit Act, was incorporated in the fiscal year 2000 budget resolution, and again in the fiscal year 2001 budget resolution, with those kinds of rules. That is why we have the durability of at least the rules.

Finally, the Conrad amendment does not offer stronger protection for Social Security than the Ashcroft budget rule. It is the same thing. It is codified. I think we can even do better than that. I would like to do better than that with a statute.

While both offer the same point of order protection for Medicare, my amendment does not have the hole in the side of the box and, as a result, I think it is stronger. But, very frankly, I want to work with folks on the other side of the aisle who agree with me on this issue. I am not opposed to the idea of our working together to get it done.

So I announce to my colleagues in the Senate, I do not think it is a difficult thing to vote for my amendment. I think it is a very good amendment. I do not think it is a difficult thing to vote for the amendment on the other side of the aisle.

I hope if we vote for these amendments, and they are enacted, that we will be able to work together toward a solution that really helps the American people, that protects senior citizens from having the Medicare trust fund violated, and from having the trust fund for Social Security violated as well.

I would like to see that done in statute as well as in the rules of the Senate. It is with that in mind that I thank the Members of the opposition and those who have spoken on behalf of this amendment. I think we can work together for a really important purpose.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

All time on the Conrad amendment and the Ashcroft amendment has expired.

Mr. CONRAD. Mr. President, I had 3 minutes of leader time remaining.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. CONRAD. Mr. President, first, I assure my colleague that my amendment was not in response to his. I had filed for an amendment yesterday. I offered this amendment in the Finance Committee yesterday. I have offered a lockbox for Social Security and Medicare for 2½ years—a different Medicare-Social Security lockbox than is advocated here today by the Senator from Missouri because I believe there is a fatal flaw in the amendment of the Senator from Missouri.

That fatal flaw is that his protection does not work. It does not work because, under the Ashcroft amendment, no point of order would apply against legislation that would use Medicare surpluses for other purposes. The result of that is, under the Ashcroft amendment, the Medicare trust fund could be depleted for any purpose as long as the overall budget remained in balance. That is the problem with the amendment of the Senator from Missouri.

That is the reason the amendment that I have offered is superior. It is stronger. It provides real protection for Medicare, by way of special points of order against a budget resolution that would violate the off-budget status of Medicare Part A.

The fact is, the amendment of the Senator from Missouri does not provide the same protection to Medicare that we provide to Social Security.

Now, why would we do that? If we are serious about protecting Medicare, wouldn't we have the same points of order apply to protect Medicare in the same way that we protect Social Security? I would hope so. Because if we do not, the hard reality is the amendment of the Senator from Missouri would permit us to go and raid every penny of the Social Security surplus or every penny of the Medicare surplus this year and use it for another purpose. That is a mistake.

In addition, the Ashcroft amendment is silent on Social Security, while the amendment that I have offered adds a point of order against violating the off-budget status of Social Security.

I hope my colleagues will vote for the Conrad-Lautenberg-Reid amendment so we really protect Medicare in the same way we protect Social Security. That is what we ought to do here today. That is the opportunity we have here today. We ought to take it. We ought to protect Medicare and Social Security. We ought to adopt this lockbox proposal.

Mr. President, I ask unanimous consent that Senator FEINGOLD be added as a cosponsor of my amendment.

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

Mr. CONRAD. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

All time on the Conrad amendment and the Ashcroft amendment has expired.

Mr. REID. Mr. President, I ask unanimous consent that the yeas and nays be ordered on both amendments.

The PRESIDING OFFICER. Without objection, it will be in order to order the yeas and nays on both amendments.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that the second vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. SPECTER. On the time of the votes that are about to occur, I remind my colleagues of what Senator LOTT said earlier today in response to what the Senator from Nevada said, that Senators need to be prepared to have the time limits enforced.

VOTE ON AMENDMENT NO. 3690

The PRESIDING OFFICER. The question is on agreeing to Conrad amendment No. 3690. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG and the Senator from Kentucky Mr. MCCONNELL) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—60

Abraham	Dorgan	Levin
Akaka	Durbin	Lieberman
Ashcroft	Edwards	Lincoln
Baucus	Feingold	Mikulski
Bayh	Feinstein	Moynihan
Biden	Fitzgerald	Murray
Bingaman	Gorton	Reed
Boxer	Graham	Reid
Breaux	Harkin	Robb
Bryan	Hollings	Rockefeller
Burns	Hutchison	Roth
Byrd	Jeffords	Sarbanes
Campbell	Johnson	Schumer
Chafee, L.	Kennedy	Smith (OR)
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Torricelli
Daschle	Landrieu	Voinovich
DeWine	Lautenberg	Wellstone
Dodd	Leahy	Wyden

NAYS—37

Allard	Grams	Nickles
Bennett	Grassley	Roberts
Bond	Hagel	Santorum
Brownback	Hatch	Sessions
Bunning	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Coverdell	Inhofe	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Warner
Frist	McCain	
Gramm	Murkowski	

NOT VOTING—3

Gregg	Inouye	McConnell

The amendment (No. 3690) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will now proceed to vote on the Ashcroft amendment No. 3689. The yeas and nays have been ordered.

The Chair reminds the Senate that this is a 10-minute vote by previous order. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG) is necessarily absent.

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

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—54

Abraham	DeWine	Inhofe
Allard	Domenici	Jeffords
Ashcroft	Enzi	Kyl
Bennett	Feingold	Lott
Bond	Fitzgerald	Lugar
Brownback	Frist	Mack
Bunning	Gorton	McCain
Burns	Gramm	McConnell
Campbell	Grams	Murkowski
Chafee, L.	Grassley	Nickles
Cochran	Hagel	Roberts
Collins	Hatch	Roth
Coverdell	Helms	Santorum
Craig	Hutchinson	Sessions
Crapo	Hutchison	Shelby
Smith (NH)	Specter	Thurmond
Smith (OR)	Thomas	Voinovich
Snowe	Thompson	Warner

NAYS—43

Akaka	Edwards	Mikulski
Baucus	Feinstein	Moynihan
Bayh	Graham	Murray
Biden	Harkin	Reed
Bingaman	Hollings	Reid
Boxer	Johnson	Robb
Breaux	Kennedy	Rockefeller
Bryan	Kerrey	Sarbanes
Byrd	Kerry	Schumer
Cleland	Kohl	Stevens
Conrad	Landrieu	Torricelli
Daschle	Lautenberg	Wellstone
Dodd	Levin	Wyden
Dorgan	Lieberman	
Durbin	Lincoln	

NOT VOTING—3

Gregg	Inouye	Leahy

The amendment (No. 3689) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that a Jeffords amendment be modified to be formatted as a first-degree amendment. I further ask unanimous consent that at a time determined by the majority leader, after consultation with the minority leader, a vote occur in relation to the Daschle amendment No. 3688, to be followed by a vote in relation to the Jeffords amendment, with no other amendments in order to either amendment prior to the votes.

I further ask consent that the time for debate prior to votes in relation to the amendments be the following: Senator JEFFORDS, 25 minutes; Senator DASCHLE, 25 minutes.

Mr. DASCHLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I ask if the distinguished manager of the bill would modify the request to allow for votes to take place immediately following the disposition of the debate on the two amendments. The unanimous consent did call for that. I assume that is the understanding of the proponent of the unanimous consent request.

Mr. SPECTER. Mr. President, it would be my preference to stack these votes at the end. We always run into delays. We have a number of amendments. If we vote in between, it is going to add considerable time to the bill. We will have three or four votes. It will be my hope—it requires the Senator's consent, of course—that we stack the votes.

Mr. DASCHLE. Mr. President, I was asked to delay the consideration of this amendment this morning. I said I would. I have been attempting to accommodate Senators all the way through. We have lost a couple of Senators already. I would be compelled to object to this unless we were able to get the two votes immediately following the debate on the two amendments.

Mr. SPECTER. Mr. President, it appears it will be faster to accept Senator DASCHLE's recommendation, so I do so.

Mr. DOMENICI. Reserving the right to object—I will not object—I ask if you could add 5 minutes for the Senator from New Mexico on this general subject, your amendment. I ask 5 minutes be set aside for me.

Mr. DASCHLE. Mr. President, I ask that Senator JEFFORDS and I be given 30 minutes each.

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

Who yields time?

AMENDMENT NO. 3691

(Purpose: To prohibit health discrimination on the basis of genetic information or genetic services)

Mr. JEFFORDS. Mr. President, I call up my amendment, amendment No. 3691, and ask unanimous consent Senators FRIST and SNOWE be added as cosponsors. I ask unanimous consent also Senator ASHCROFT be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself, Mr. FRIST, Ms. SNOWE, and Mr. ASHCROFT, proposes an amendment numbered 3691.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. JEFFORDS. Mr. President, may I inquire of the Chair as to the amount of time I have?

The PRESIDING OFFICER. The Senator from Vermont has 30 minutes.

The Senator from South Dakota has 30 minutes.

Mr. JEFFORDS. Mr. President, this week's announcement of the completion of the rough draft of the human genetic map is cause for both celebration and concern.

One of the challenges that comes to mind immediately is that we must protect Americans against genetic self-incrimination. What we are, should not be used against us.

This vast new storehouse of knowledge must be used to advance, not retard, individuals' health and welfare.

In 1998, the Senate Labor and Human Resources Committee held a hearing on genetic information and health care which proved to be one of the most important of the 105th Congress.

Following the hearing, I and Senator FRIST, with the other members of the HELP Committee, together with Senator MACK and Senator SNOWE, began drafting legislation that builds on Senator SNOWE's bill, S. 89, to ensure that individuals would be able to control the use of their predictive genetic information.

After a lot of hard work, we agreed to a set of strong protections against the use of genetic information to discriminate in health care. The results of these efforts are reflected in the genetic information provisions of The Patients' Bill of Rights Plus.

As Dr. Francis Collins, director of the public genomic effort, pointed out this week:

Most of the sequencing of the human genome by this international consortium has been done in just the last fifteen months.

The pace of change is rapid, and this issue has increased in importance since our hearing two years ago.

Everyone in this Chamber and outside of it agrees we need to guard genetic privacy and guard against genetic discrimination.

Citing a study that found that 46 percent of Americans thought that the consequences of the Human Genome Project would be negative, Dr. Craig Venter said:

New laws to protect us from genetic discrimination are critical in order to maximize the medical benefits from genome discoveries.

That's why it's included in the Bill of Patients' Rights passed by the Senate as our body of scientific knowledge about genetics increases, so, too, do the concerns about how this information may be used.

There is no question that our understanding of genetics has brought us to a new future. Our challenge as a Congress is to enact legislation to help ensure that our society reaps the full health benefits of genetic testing, and also to put to rest any concerns that the information will be used as a new tool to discriminate against specific ethnic groups or individual Americans.

Our amendment which is already in the Patients' Bill of Rights, addresses the concerns that were raised at our hearing two years ago:

First, it prohibits group health plans and health insurance companies in all markets from adjusting premiums on the basis of predictive genetic information;

Second, it prohibits group health plans and health insurance companies from requesting predictive genetic information as a condition of enrollment.

Finally, it bars health plans from requiring that an individual disclose or authorize the collection of predictive genetic information for diagnosis, treatment, or payment purposes. A plan or insurer may request such information, but if it does, it must provide individuals with a description of the procedures in place to safeguard the confidentiality of the information.

Our amendment is identical to the provision adopted by the Senate last July. We should adopt it again today.

Technology and scientific developments, stimulated by the Human Genome Project, have led to remarkable progress in genetics and better understanding of alterations in genes that are associated with diseases in humans. We should witness extraordinary opportunities to diagnose, treat, and prevent disease.

With the enactment of this amendment, we will be able to ensure that these breakthroughs will be used to provide better health for all members of our society.

A second challenge that we face is the possibility that employers might use genetic information to screen employees for various purposes, discriminating against one group or another based on genetic information. This, too, I think we should prevent.

I am not sure, and I do not think anyone in this Chamber can be sure, that we do not already do so. It was my understanding that the Americans With Disabilities Act already outlawed genetic discrimination in employment.

That was certainly Congress' intent when we enacted the ADA.

I am not alone in my belief. The Equal Employment Opportunity Commission has interpreted the ADA as including genetic information relating to illness, disease or other disorders and the Supreme Court issued a decision that provided further support for this position.

As recently as March of this year, EEOC Commissioner Paul Miller stated that the ADA does indeed cover genetic discrimination. However, if I am mistaken, then this just highlights the need for further examination of the issue.

I am also concerned that Senator DASCHLE's amendment contains new statutory language that is different from the ADA, which would result in treating genetics differently than other health care information.

More and more, I think this will be an increasingly difficult line to draw.

If that is not confusing enough, there is yet another definition of genetic information that is part of the rule being promulgated by the Department of Health and Human Services to protect individually identifiable health information.

I want to guard against employment discrimination, but I want to do it right.

The Health, Education, Labor, and Pensions Committee will hold a hearing in the next month or two on genetic discrimination in the workplace.

In the hearing, the committee will explore whether the ADA adequately covers genetic discrimination in the workplace. If we find that the ADA does not provide adequate coverage for genetic discrimination in the workplace then we will work to enact legislation that will provide adequate protection.

However, I think it is important that any law we enact is in parity with the ADA and our other employment discrimination laws.

Senator DASCHLE's amendment has good intentions, but putting provisions regarding genetic discrimination in employment into an appropriations bill, without studying the issue further, is inappropriate. This issue deserves and requires a thorough discussion in its own forum.

Again, I urge adoption of my amendment. It has already been agreed to by the Senate, and it is the product of two years of thought and hard work.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, we now know what this is all about. Some of our Republican colleagues are going to try to convince a majority in this body that employment ought not be included when we consider discrimination based upon genetic character. I do not think employment discrimination should be treated differently from insurance discrimination. I do not think people who have experienced discrimination, as we have already seen in so many illustrations, ought to be told they have to be concerned about their job simply because of some genetic defect.

That has already happened. We have already seen that happen in case after case. I described a case this morning where Terri Seargent, who had moved up the corporate ladder and was given promotion after promotion, was asked to resign when it was learned that she had the genetic marker for ''Alpha 1''. No woman, no man, no person, no employee, should be subjected to discrimination based upon genetic characteristics, and that is happening today.

ADA passed a long time ago. That law did not envision the challenges science presents us today. We are simply proposing that we clarify that it should be unlawful to discriminate on the basis of genetic information.

The bottom line question is, when it comes down to these two proposals, whether we should prohibit both health insurers and employers from using predictive genetic information in a discriminatory fashion? There is agreement, at least with regard to one issue: we should prohibit health insurers from doing it, but our Republican colleagues—at least the senior Senator from Vermont—are saying we just should not cover employers. We should not do it because he would like to have us believe it is already being done. Tell that to Terri Seargent. Tell that to myriad other people who already have had difficulty explaining their situation, in large measure because they have found some genetic defect.

We agree that insurance companies should not discriminate. We agree there should not be any tests for conditions of coverage. We simply disagree at this moment about whether or not we ought to take what we have already done for virtually every other form of discrimination in this country and extend it to genetic information.

The senior Senator from Vermont says no, he does not want to do that. But I cannot imagine that in this day, in this age, given what we are doing with the genome project and our recognition of what it will mean, both good and bad, for this country and for our people that now is not the time to ensure that, regardless of circumstance, we will not allow this to be used as a means of discrimination in the workplace.

Listen to what Francis Collins, one of the key people who headed the international research team that makes up

the human genome project, said about this very issue:

Genetic discrimination in insurance and the workplace is wrong and it ought to be prevented by effective Federal legislation.

This is from the head of the research unit. He does not have any question about whether or not ADA covers genetic discrimination. He has already decided. He is the head of the research team. He said this ought to be a wake-up call; let's ban it today. He did not say let's wait for more hearings. He did not say let's get out there and try to figure out a way to do it through regulation. He said this ought to be a wake-up call. That is not TOM DASCHLE; that is not Terri Seargent who has been discriminated against; that is Francis Collins, the head of the international research project calling upon the Senate today to ban discrimination based upon employment. It cannot be any clearer than that, Mr. President.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. JEFFORDS. I yield the Senator from Tennessee 7 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 7 minutes.

Mr. FRIST. Mr. President, earlier this week we received tremendously exciting news in that we essentially had completion of the mapping of the human genome. It is tremendously exciting to me, both as a policymaker but also as a physician, as someone who has spent his life taking care of thousands of patients because it introduces a whole new way of thinking that in the history of mankind we just simply have not had. Now there will be whole new ways of thinking.

I think we should salute both Craig Venter from Celera and Francis Collins for pioneering, for leading this great effort, which will totally change the way we do such things as engineer drugs, the so-called gene drugs. Now and into the future, we can begin to think how we use our own genes, our own proteins, our own metabolites in such a way that they become the pharmaceutical agent instead of a manufactured drug.

It changes the way we will think about organ replacement. Before I came to the Senate, I would make an incision, remove a diseased heart, and have to put in a new heart. Hopefully, 10 years from now, or 15 years from now, when we transplant kidneys or a pancreas, or other organs, we will be able to engineer them based on what we have uncovered.

A third area which this human genome project opens up, as we look to the future, is that of genetic testing. We have been talking about and debating the issue of genetic testing over the last couple hours. That is where you can take a swab, and by rubbing that swap over an array, a pattern of DNA that is lined up, you will be able to predict that a person has a 75-percent chance of getting prostate cancer 10 years from now or a 90-percent chance a person will have breast cancer.

The potential good is the change in behavior, the change in lifestyle, the change in the intervention that can come about to preempt, preclude, stop the progress of cancer.

Unfortunately, as has been laid out and debated today, there are potential dangers, potential harm, if that information is misused. Should policymakers address this potential abuse of genetic information in the workplace? There is no question; yes, we have a responsibility.

Technology has given us new tools which give us new ways to think about gene therapy, organ replacement, genetic testing, and the treatment of cancers and heart disease. We are obligated to make sure the barriers are lowered to take the good in the development of science but also minimize whatever harm there might potentially be.

But to do that, what is our responsibility? Not to have a knee-jerk reaction and accept a proposal which very few people in this body have even read, much less studied, discussed, and debated. But first, we should focus on the issues that we have studied, that we have addressed in committee, that we have debated, including the input we have solicited from doctors, physicians, scientists, and consumer groups, with both sides of the aisle coming to certain agreements.

Let us start there and systematically address these ethical-type issues which have been introduced by this new science just 3 days ago. Let's not have a knee-jerk reaction until every Senator can ask the important questions.

I agree 100 percent that we should not discriminate in any way using predictive genetic information in the workplace. That needs to be put first. I think it is unfair for the other side to say we are for discrimination in the workplace by genetic testing. It is just unfair. It is just unfair because we are against that.

But to address the policies, in looking at this amendment that has been offered today by Senator DASCHLE and his colleagues, there is a health insurance section. I have read most of that because I have had several hours to do that. I read a little of the employment section. The genetic privacy is very complicated. I can tell you, we need to discuss that a lot more.

As to the various definitions of what a predictive genetic test is, I would have to say, the genetic tests they are talking about, where they are actually talking about metabolites, I don't know, I will have to go out and talk to the real experts, but they may go too far.

So I do not want to pass a major reform bill that will potentially totally underwrite or change the way we treat people in the workplace based on definitions that I do not fully agree with now. But I do not know enough about it until we can talk to people broadly.

This whole expansion of penalties in the fourth section of the bill, I do not know exactly what we are penalizing, if it is just that one statement of penalizing people who use genetic information. First of all, it depends on what that definition is—which I do not agree with—but if it goes beyond that—and I don't know whether it does—I need to know that.

I say all that because this amendment Senator DASCHLE has offered simply has not been vetted. It has not been discussed. I have been involved in the genetic debates with my colleagues on both sides of the aisle—some initial discussions—but I can tell you, we have not gone into any sort of detail on this whole issue of expanding penalties in this expanded, complicated field of genetic privacy and employment.

The one area that has been mentioned is that of health care quality and the use of genetic information in health care, in the health insurance arena.

It is very clear that patients need to be free to undergo genetic testing because that can influence, in a positive way, the outcome of their health care. If they receive information that there is an 80-percent chance they will develop breast cancer, that is likely to change how many times they do self-exams a week, how often they go to the doctor, how often they get a mammogram. That information should be used. There should be no chance that information will be used by an insurance company to discriminate against them in denying them insurance.

It can change lifestyle. If there is a test with an 80-percent chance that you will develop lung cancer, you will want to know that. Why? Because it can change lifestyle.

We have a bill we have debated extensively since 1996 which does just that. Our bill, the Jeffords-Frist bill, prohibits health insurers from requiring patients to undergo genetic testing and prohibits health insurers from using genetic information to deny coverage or set rates for currently healthy individuals who may be at risk for a future disease.

Again, this issue has been vetted through the process, has been vetted through Chairman JEFFORDS' committee. Discussion has gone on. In 1995, the debate in the markup of the Kassebaum-Kennedy bill was extensive in numerous areas.

Mr. President, I urge our colleagues to adopt the amendment Chairman JEFFORDS has offered.

The PRESIDING OFFICER. The time has expired.

The Democratic leader.

Mr. DASCHLE. Mr. President, let me just respond to a few of the arguments posed by the Senator from Tennessee.

First of all, with regard to the technicalities to which he made reference, I do not know what technicalities and what information could be murky about what it is we are trying to do.

We simply say there should not be any employment discrimination based on genetic information. That is it. He talked about these discrimination actions being subjected to a mysterious penalty. All we have said in section 4 of the bill is that if you think you were discriminated against, you can go to court and have a court make some decision with regard to whether there is discrimination or not. That is the penalty. We do not prescribe any penalties. We prescribe some degree of accountability. We simply say, if you think you were discriminated against, you get to sue, period. That is all.

On another point, let me say that the legislation proposed by our Republican colleagues has already been analyzed in some detail as part of their Patients' Bill of Rights, as the Senator from Vermont has said.

On April 12, Senator HARKIN received a letter from 59 health organizations that wrote with concern about the language propounded in this amendment by the Senator from Vermont. Fifty-nine health organizations have already said: This is not the way we ought to do it.

They don't need more hearings. They don't need more information. They have looked at the bill. They have come to the conclusion that if we are going to write public policy regarding genetic discrimination, this isn't it.

I ask unanimous consent that the letter and names of all 59 organizations be printed in the RECORD.

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

APRIL 12, 2000.

HON. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: In the very near future, scientists will have deciphered the entire human genetic code, providing human beings with more information about our health than ever before. Tests are already available that can detect genetic traits associated with particular diseases, and the use of such tests is expected to increase dramatically in coming years.

Genetic testing will improve our lives by providing information on how we can prevent future health problems, and cope more effectively with unavoidable conditions. But the ability to predict diseases through genetic testing and family history opens troubling questions about discrimination, particularly in employment and health care.

As you begin to consider the House and Senate versions of managed care reform, we write to draw your attention to Title III of S. 1344, the Senate bill. We commend the Senate for including provisions intended to protect individuals from discrimination in health insurance based on genetic information. However, we believe that the provisions in the Senate bill as currently crafted are inadequate to meet the challenges raised by the extraordinary scientific advances of our time.

Without comprehensive protections covering both employment and health care, patients have reason to fear that their genetic information could be used as a basis for discrimination. Many health care professionals report that because of these fears many patients are reluctant to participate in important clinical studies that require genetic testing, slowing medical and scientific progress.

The undersigned organizations, representing patients, people with disabilities, consumers, women's and civil rights organizations and many others, urge the conferees to retain and improve Title III of the Senate Bill in the final conference bill, by incorporating the following changes.

1. Add meaningful penalties and sanctions. As currently drafted, the provision for punishing violators is tremendously weak. Without meaningful mechanisms for holding violators accountable, even the strongest genetic discrimination protections become meaningless. Victims of discrimination must have the ability to enforce their rights in state or federal court and to receive appropriate legal and equitable relief.

2. Add protections from discrimination in employment. As currently drafted, the Senate bill bans discrimination by group health plans and issuers, but provides no protection against job-based discrimination. Thus, even if group health plans and issuers are prevented from misusing genetic information, the very same information could be used against individuals in employment. Genetic information must not be misused to deny people employment opportunities.

3. Prevent unauthorized disclosure of genetic information. One of the best ways to protect people against discrimination is to prevent the disclosure of information to those in a position to misuse it. There is no federal law that prohibits group health plans or issuers from disclosing people's genetic information. We urge the committee to add strong protections against disclosure of genetic information.

4. Clarify plans' limited ability to request predictive genetic information. S. 1344 provides that a plan can request (but not require) that an individual disclose predictive genetic information for purposes of ''diagnosis, treatment, or payment.'' We are concerned that this formulation makes it possible for plans to obtain an individual's genetic information in an overly broad set of circumstances. This language should be rewritten to clarify that when plans are seeking information related to payment for genetic services received, they may only request such evidence as is minimally necessary to verify that an individual received the services. In such circumstances, only individuals within the plan or insurance company who need access to the information for purposes of that claim should have access to it.

5. Clarify definition of ''Predictive Genetic Information.'' As currently drafted, S. 1344's definition of predictive genetic information is potentially confusing. The legislation states that ''predictive genetic information'' means information ''in the absence of symptoms, clinical signs, or a diagnosis of the condition related to such information.'' This phrasing is potentially troubling, because ''diagnosis'' is a fairly broad and imprecise term. In fact, as doctors and scientists learn more about genetics, it is possible that someday they will consider the presence or absence of a particular genetic trait a ''diagnosis.'' Thus, we suggest that this phrase be rewritten to read ''in the absence of symptoms or clinical signs, and a diagnosis'', in order to clarify that the presence or absence of a genetic trait should not be considered a ''diagnosis'' if the individual has no symptoms or clinical signs, and genetic information would not be excluded from protection under those circumstances.

The definition of predictive genetic information in S. 1344 also specifically excludes information derived from ''physical tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests; and information about physical exams of the individual.'' This language should be clarified so that it is clear that genetic information derived from either physical tests or physical exams is considered protected information. This can be accomplished by adding language such as ''unless the physical test [or physical exam] reveals genetic information.''

We would like to discuss these issues with you further at your convenience. Please feel free to contact Susannah Baruch at the National Partnership for Women & Families (202) 986–2600 if you have any questions about this letter. We commend you on your willingness to take on these critical and complex issues, and we wish you well as the conference continues its work.

American Association of Occupational Health Nurses, Inc.
American Association of People with Disabilities
American Association on Mental Retardation
American Cancer Society
American College of Nurse-Midwives
American Civil Liberties Union
American Health Information Management Association
American Heart Association
American Hemochromatosis Society
American Jewish Congress
American Nurses Association
Association of Women's Health, Obstetric and Neonatal Nurses
Beckwith-Wiedemann Support Network
Canavan Foundation
CARE Foundation (Cardiac Arythmia Research and Education Foundation)
Center for Patient Advocacy
Coalition for Heritable Disorders of Connective Tissue
Crohn's and Colitis Foundation of America
Digestive Disease National Coalition
DNA Dynamics
Dystonia Medical Foundation
The Ehlers-Danlos National Foundation
Genetic Alliance
Great Lakes Regional Genetics Group
Hadassah
Hemochromatosis Foundation
Intestinal Multiple Polyposis and Colorectal Cancer (IMPACC)
Little People of America, Inc.
National Medical Journeys Network
National Association for Pseudoxanthoma Elasticum (NAPE, Inc.)
National Association of People with AIDS
National Coalition for Cancer Survivorship
National Hemophilia Foundation
National Incontinential Pigmenti Foundation
National Marfan Foundation
National Multiple Sclerosis Society
National Organization for Rare Disorders (NORD)
National Osteoporosis Foundation
National Ovarian Cancer Alliance
National Partnership for Women & Families
National Pemphigus Foundation
National Society of Genetic Counselors
National Tay-Sachs & Allied Diseases Association
National Tuberous Sclerosis Association
National Women's Health Network
National Workrights Institute
Nationl Women's Law Center
Oncology Nursing Society
Polycystic Kidney Foundation
Religious Action Center of Reform Judaism
Ruth G. Gold
Spondylitis Association of America
Susan G. Komen Breast Cancer Foundation
The Sturge-Weber Foundation
The Title II Community AIDS National Network

Tourette Syndrome Association
Union of American Hebrew Congregations
University of North Dakota School of Medicine and Health Science, Division of Med. Genetics, Dept. of Pediatrics
Xavier University Health Education Program

Mr. DASCHLE. We have the director of the National Human Genome Research Institute who has said we have to pass a bill immediately to bar discrimination in the workplace. We have a bill pending that will allow us to do just that. We have another bill pending that does not provide that protection in terms of discrimination. Fifty-nine health organizations, including the American Association of Occupational Health Nurses, the Genetic Alliance, the CARE Foundation, the Oncology Nursing Society have said: Please, do more than the legislation offered by the Senator from Vermont.

So it isn't just Dr. Collins, it isn't just Terri Seargent, it is a list of health organizations, the likes of which you rarely see, who have come together to say: We ought to do better than this.

I yield 5 minutes to the distinguished senior Senator from the State of Massachusetts.

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

Mr. SPECTER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts will withhold.

Mr. SPECTER. Isn't it the rule of the Senate that the first person seeking recognition gets recognition and the Senator does not have the authority to yield to another Senator without unanimous consent?

The PRESIDING OFFICER. The time is under the control of the Senator from South Dakota. He had the floor and is in control of the time, and he may yield time since he is on the floor and has recognition.

Mr. SPECTER. Mr. President, does that ruling supersede the rule that the first Senator seeking recognition gets it?

The PRESIDING OFFICER. The Senator was recognized and had the floor at the time that he yielded.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I want the record to show that I was on my feet seeking recognition at the time the Senator from South Dakota yielded the time.

I want to take a moment of the Senate's time to review what has happened in terms of this policy issue in the Human Resource Committee so there is no confusion about it. We had a hearing on genetic discrimination in health insurance on 21 May 1998. That was a good hearing. That was in 1998.

Then, in May of 1998, a number of us asked the chairman of the committee to have a further hearing about discrimination in the workplace. We have not received it. So I don't take kindly to those who suggest that when we raise this issue on the Senate floor, we are somehow acting out of order. Our committee, the committee of jurisdiction, has tried to focus attention on the dangers of the utilization of genetic information toward possible discrimination for health insurance and employment, and we have been unable to do so. Thankfully, with the Daschle amendment, we will have the opportunity to do so this afternoon.

The Jeffords amendment pretends to be a half a loaf because it addresses insurance, but does not address employment. But it is not a half a loaf. It is no more than a thin crust or a thin slice. It will not deal with the central problem of people failing to get needed genetic tests because of unfair discrimination. That is the issue. As long as they can lose their job and as long as their children can be denied jobs, this protection is no protection at all. This program is as full of holes as Swiss cheese. They can still require genetic information. They can still disclose it, and there is still no meaningful enforcement. An insurance company can still get the information to the employer. There is no prohibition on that in the amendment of the Senator from Vermont. They can still do that.

The fact is, they are doing that. In a 1990 survey by the American Management Association, 20 percent of employers collected family medical history information on applicants, including genetic information. Five percent of the employers acknowledged using that information in hiring decisions. We already know that employers are using genetic information to make employment decisions. We must ensure that employees and applicants are not discouraged against getting those kinds of tests. That is what this is all about.

I ask for 1 more minute.

Mr. DASCHLE. I yield the Senator 1 more minute.

Mr. KENNEDY. As Senator DASCHLE pointed out, there is a group of more than 60 organizations that support the Daschle amendment. The National Breast Cancer Coalition is, once again, supporting the Daschle amendment:

> Passage of this amendment, and the protections it offers, are essential not only for women with a genetic predisposition to breast cancer, but also for women living with breast cancer, their families, and the millions of women who will be diagnosed with breast cancer. We strongly urge you to support this legislation.

Let us stand with the patients. Let us stand with the victims. Let us not stand only with the insurance companies.

That is what this issue is about. I hope the Jeffords amendment will be defeated.

Mr. President, I ask unanimous consent to print in the RECORD a letter from the National Breast Cancer Coalition.

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

NATIONAL BREAST CANCER COALITION,
Washington, DC, June 29, 2000.

Senator EDWARD KENNEDY,
Senate Committee on Health, Education, Labor and Pensions (Minority), Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the National Breast Cancer Coalition (NBCC), I am writing to urge you to support Senators Daschle, Kennedy, Dodd and Harkin's Genetic Nondiscrimination in Health Insurance and Employment Act, S. 1322, being offered today as an amendment to the Fiscal Year 2001 Labor, Health and Human Services, and Education Departments appropriations bill.

NBCC is a grassroots advocacy organization made up of over 500 organizations and tens of thousands of individuals, their families and friends. We are dedicated to the eradication of the breast cancer epidemic through action and advocacy. Addressing the complex privacy, insurance and employment discrimination questions raised by evolving genetic discoveries is one of our top priorities.

In light of the recent announcement by the White House about the completion of initial sequencing of the human genome, the National Breast Cancer Coalition is cautiously optimistic about this important step in learning more about disease, prevention, treatment and cure. However, while the mapping of the ''genetic blueprint'' has potential for great advancements in healthcare, there is also the potential for great harm. NBCC is committed to working to ensure that employers and health insurers do not use genetic information to discriminate. Information learned from one's genetic blueprint should only be used to cure and prevent various genetic diseases and cancer.

Discrimination in health insurance and employment is a serious problem. In addition to the risks of losing one's insurance or job, the fear of potential discrimination threatens both a woman's decision to use new genetic technologies and seek the best medical care from her physician. It also limits the ability to conduct the research necessary to understand the cause and find a cure for breast cancer.

The Kassebaum-Kennedy Health Insurance Reform Act (1996) took some significant steps toward extending protection in the area of genetic discrimination in health insurance. But it did not go far enough. Moreover, since the enactment of Kassebaum-Kennedy, there have been incredible discoveries at a very rapid rate that offer fascinating insights in the biology of breast cancer, but that may also expose individuals to an increased risk of discrimination based on their genetic information. For instance, because of the discovery of BRCA1 and BRCA2, breast cancer susceptibility genes, we now face the reality of a test that can detect the risk of breast cancer. Genetic testing may well lead to the promise of improved health as we better learn how genes work. But if women are too fearful to get tested, they won't be able to benefit from the knowledge genetic testing might offer.

We commend the efforts of Senators Daschle, Kennedy, Dodd and Harkin to go beyond Kassebaum-Kennedy toward ensuring that all individuals—not just those in group health plans—are guaranteed protection against discrimination in the health insurance and employment arenas based on their genetic information. S. 1322 would also guarantee individuals important protections against rate hikes based on genetic information, would prohibit insurers from demanding access to genetic information contained in medical records or family histories, and would restrict insurers' release of genetic information.

Passage of this amendment, and the protections it offers, are essential not only for

women with a genetic predisposition to breast cancer, but also for women living with breast cancer, their families, and the millions of women who will be diagnosed with breast cancer. We strongly urge you to support this legislation.

Thank your for your support. Please do not hesitate to call me or NBCC's Government Relations Manager, Jennifer Katz at (202) 973–0595 if you have any questions.

Sincerely,

FRAN VISCO,
President.

Mr. JEFFORDS. I yield 5 minutes to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had sought a parliamentary inquiry a few minutes ago. I am glad to wait 5 minutes until Senator KENNEDY has finished his comments. I have asked the Parliamentarian to review his rules.

There was a very heated exchange for more than an hour back in 1987, shortly after Senator BYRD had Senator Packwood arrested, as to the practice of having one Senator, the leader, yield time to other Senators. I believe the correct application of the rule is that the first Senator who seeks recognition is recognized and then the question arises as to whether time will be yielded to him when there is a time agreement. That is the point I was making. I have no concern about waiting 5 minutes or longer for another Senator. I do have a concern about the propriety of a Senator being recognized who first seeks recognition.

I have sought recognition to comment briefly about this legislation. I believe the Jeffords amendment is a solid amendment. His committee has looked into this issue very extensively with respect to eliminating discrimination based upon genes and medical information and research with respect to health care.

I do think the objectives of the Daschle amendment are sound, in seeking to avoid discrimination in employment as well as in health care. I have had an opportunity to review the Daschle amendment very briefly. From the review which I have made and which staff has made, I have some grave concerns about some of the provisions which are very complicated and which have not been subjected to hearings.

Again, I think its objectives are laudable. I think the American people do expect protection and confidentiality on these issues on employment as well as on health care.

I express my concern about our ability to handle this matter in conference on this state of the record. I think it is more than a matter of people's rights and obligations and objectives and what we ought to have. We need to have a bill which sticks together, which makes sense, and which will stand the kind of scrutiny and examination and analysis to which it will be subjected.

One of the grave problems our legislation has, when subjected to judicial review, is that it is hard to figure out sometimes, especially when there are no hearings, no markups, and no analysis. I have discussed with the Senator from Vermont the possibility of his committee having hearings in July. He may have a problem with that. My subcommittee will have hearings on this subject so that if the Daschle amendment passes and we have in conference its consideration, we will try to work through the complexities of this legislation.

Again, I think the objectives of what Senator DASCHLE looks to are exactly right. I do think those people who vote against the Daschle amendment are going to be questioned for not having concerns about privacy on a very important matter.

Last week we had a motion to recommit this bill for prescription drugs. If that motion had passed, I, frankly, don't know what my subcommittee would have done on prescription drugs. Our subcommittee is a very competent subcommittee, but I don't know that our competence extends to legislating on prescription drugs, taking that into account and working that through, which is really a matter for the Finance Committee. I have been questioned about why I was unwilling to have the recommitment. I have said, because I have the responsibility for dealing with it as the manager of the bill.

So there is a lot to recommend the Daschle amendment in terms of objectives and moving along, but I caution my colleagues about where we end up in terms of this bill without the hearings, without the refinement, without the analysis. I am not making any critique or criticism of the author of the bill. Any bill which is constructed without hearings and without markup and without that kind of rigorous analysis has natural problems. Even with hearings and with markup, there are still problems that have to be worked out.

I express my agreement with the Senator from Vermont on his legislation, express my agreement with the objectives of the legislation of the Senator from South Dakota, and say that if we have it in conference, we will do our best to try to work through the kinds of problems and deal with this very important issue.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. DASCHLE. Mr. President, I have immense respect for the Senator from Pennsylvania and consider him a very able legislator. I am disappointed that he will be opposing my amendment when we have our vote.

Mr. SPECTER. If the Senator will yield, I ask him what makes him think I am going to oppose his legislation?

Mr. DASCHLE. I thought he announced he intended to oppose it because we didn't have hearings. If there is still an opportunity to gain his support, I will give him all the time he needs to further discuss the issue.

Mr. SPECTER. Mr. President, I am very much inclined to support the Daschle legislation, but I recognize the job ahead of trying to work it through for the reasons I have said. I think the objectives are admirable. I am not committed yet. I want to hear the balance of his argument. I have not stated an intention to oppose it.

Mr. DASCHLE. Mr. President, I appreciate the clarification. I am delighted to hear that there is still some hope I can persuade him with the merits of our legislation.

To ensure that everybody understands—I think it is pretty basic—three-fourths of the people in this country obtain their health insurance through their employer. Whether or not employers may discriminate against employees and potential employees on the basis of genetic information, in large measure, will be determined by whether or not we write into law a pretty simple concept. It doesn't take any complex legalism to say, look, you should not discriminate based upon genetic information, period. If you think you are discriminated against, you ought to have recourse in a court of law. That is all we are saying.

Now, the Jeffords amendment provides no protection against employment discrimination. That is clear. It does not prohibit insurers from disclosing the results of genetic tests without consent. That is clear. It does not prohibit the use of predictive genetic information for hiring, advancement, salary, or other workplace rights and privileges. That is clear. It doesn't provide persons who have suffered genetic discrimination in either arena with the right to seek redress through a legal action. That is clear.

It is no wonder that 59 health organizations have said: We have looked at what Senator JEFFORDS is proposing and we think you can do better. That is no accident. They are asking us not to support this legislation because there is no meaningful protection in the Jeffords amendment.

I am all for more hearings, but it is ironic—how many times has the majority bypassed a committee to go straight to the floor without hearings on bills of great import? We are going to do that as soon as we come back from the Fourth of July recess. We are going to vote on an estate tax provision that will cost, in the full 10-year period, three quarters of $1 trillion; we are going to vote on it without one hearing, without one committee markup. I will bet you we are not going to hear the argument by the other side that we ought to have hearings on that. This is pretty simple. This is basic math. If you don't want discrimination in the workplace, vote for the Daschle amendment.

Mr. President, I yield 5 minutes to the distinguished Senator from Iowa, Mr. HARKIN.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I am supporting the amendment of the Senator from South Dakota because I have been involved in this issue for a long time. In 1989, when I was chairman of the subcommittee that my good friend, Senator SPECTER, chairs now, we started funding for the Human Genome Center at NIH. So I have been involved in this effort for a long time and am very supportive of it.

I could not have been happier with the announcement that came out this week that we have now completed the map, and they will be completing the sequencing of the human genome. With that, we are going to have a very powerful diagnostic tool that will allow medical practitioners to more accurately assess the health of an individual and their proclivity to come down with an illness or a disease, or to be more predictive of what kind of illnesses to which a person might be subject.

Well, that is a very powerful diagnostic tool, and it is going to do a lot to help millions of people all over this world. There may be other spinoffs in terms of gene therapy, and things such as that, but I wish to focus on the diagnostic tool that will help people get better control over their health care. That is the upside.

The downside is that in the hands of the wrong person this information could then be used to discriminate against a person who may have a genetic predisposition toward a certain illness. As I understand it, both of the amendments we have before us—the one by the Senator from Vermont and the one by the Senator from South Dakota—prohibit discrimination when it comes to insurance. Well, that is all well and good, but that is only a part of it.

Why the amendment of the Senator from South Dakota is the one we need to adopt is that it also prohibits discrimination in the workplace. Why is that important? I understand that earlier my friend from Vermont said we didn't have to be too concerned about this because the Americans With Disabilities Act covered the workplace. Well, as the chief sponsor of the Americans With Disabilities Act, and one who has lived with it since its inception back in the 1980s, I say to my friend from Vermont that some lower courts have ruled, for example, that breast cancer is not a disability, so the ADA really does not cover the workplace when you come to genetic discrimination. Some lower courts have held that breast cancer is not a disability and not covered by the ADA. If they rule that, are they then going to rule that the gene for breast cancer is covered? Hardly.

So that is why I wanted to take this time to make it clear that genetic predispositions and disorders should be covered in employment, because of some of these lower court rulings regarding the Americans With Disabilities Act. So that is why it is so important that we have it in the workplace.

Secondly, we need to have better enforcement. The penalties that are in the amendment offered by the Senator from Vermont are toothless—$100 a day. Well, a large business concern can factor that into their cost of doing business. That is not really a stiff enough penalty.

It seems to me that if I am discriminated against, under the law, I ought to have a private right of action; I ought to be able to go to court and say, wait a minute, my rights are being abused, my civil rights are being abused. And if we have this law that says you can't discriminate against someone because of their genetic predisposition, that person ought to have a right of action. That person ought to be able to go to court and seek redress. So that is why I say the Daschle amendment is the only one that really protects people both in the workplace and in insurance.

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

Mr. DASCHLE. Mr. President, I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I yield myself such time as I may consume.

Although many of us came into today's debate believing that the ADA did in fact cover genetic discrimination in the workplace, we certainly understand the importance of this issue and of the need to hold a hearing on this issue. However, I would like to emphasize that as recently as a few months ago experts in employment law and, in particular, EEOC Commissioner Paul Miller is quoted as stating that

> * * * discrimination against an employee on the basis of diagnosted genetic predispositions toward an asymptomatic condition or illness is covered under the ADA's ''regarded as disabled'' prong.

So it is not as if we approached this debate believing that employees should not be protected against genetic discrimination in the workplace. We simply thought that they already were covered.

I want to reassure my colleagues that the HELP Committee will hold a hearing in the near future on this issue and that if we find that the ADA is not providing protection to workers we will develop and pass legislation to ensure that genetic information is properly protected. I yield 4 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Senator from Vermont.

Mr. President, I rise today with the Senator from Vermont, chairman of the Health, Education, Labor, and Pensions Committee. The matter of genetic discrimination in employment has taken on new relevance given a number of recent events. Most notably, the Human Genome Project announced this week that the ''rough draft'' of the map of some 3 billion human genes has just been completed. This just became a sexy issue. While there are months, if not years, of research still required to realize the potential of this information, we must be responsive to the range of pros and cons regarding its use.

The committee has spent a lot of time developing a bill to address where there do appear to be gaps in preventing discrimination. Those gaps are most apparent in health insurance, where a person's health information, as well as his family's health history, are a determinant in their access to coverage. This is an immediate concern that requires our immediate response. That is why I strongly support the amendment being offered by Senator FRIST, which would prohibit insurance companies from discriminating based on a person's genetic makeup.

The amendment Senator DASCHLE has offered also attempts to address genetic discrimination in employment. Unfortunately, this issue is not nearly as clear cut. Until very recently, the prevailing opinion among employment discrimination experts was that genetic discrimination was already captured under the Americans with Disabilities Act (or ''ADA''). In fact, it is still not clear that the ADA does not cover genetic discrimination. Even as recently as March 24 of this year, the Commissioner of the Equal Employment Opportunity Commission, Paul Miller, told the American Bar Association genetic discrimination was covered under title I of the ADA. Specifically, Commissioner Miller said protect against genetic discrimination was provided by the prong of the act which prevents discrimination against people who are regarded as disabled.

However, because no court has ever ruled definitively on this issue and because of some related—but not controlling—recent Supreme Court cases, I understand that there may now be some insecurity about whether genetic discrimination is covered by the ADA. And understandably, this insecurity is being increased by the recent announcement of the Human Genome Project.

We are sympathetic to this insecurity, and I think we can all agree that employers should not be permitted to discriminate against employees based on genetic information in the same manner that employers may not discriminate based on disability, gender, race, age, and other characteristics. I believe our committee needs to evaluate the conflicting evidence as to whether or not genetic discrimination is already covered under current law, particularly in light of the recent scientific developments. I support holding a hearing on this issue as soon as possible and I understand my colleague Senator JEFFORDS has scheduled a hearing on this issue for July 11. We should examine not only the question of whether the ADA captures genetic discrimination, but also what the implications are for the numerous workplace and work force issues that will

arise based on the availability of genetics. Safety concerns and privacy concerns being the most important. Also, I believe we should consider genetic discrimination in employment in the broader context of the cultural implications and evaluate the historical experience with genetic information. Researching this issue has been a 10-year priority of the Human Genome Project's Ethical, Legal and Social Implications (ELSI) program. I welcome my colleagues to join the hearing process in a bipartisan effort to address this matter.

Given the complexity of this issue, I believe it is critical that we not rush to accept Senator DASCHLE's amendment without resolving all of these important issues. We may determine that new legislation is necessary to protect against genetic discrimination—and if it is necessary, we will work hard to pass it. But Senator DASCHLE's amendment simply goes too far. We must be certain that any new legislation is comparable to existing discrimination legislation. Senator DASCHLE's amendment is not comparable, it is much broader.

For example, Senator DASCHLE's amendment would permit unlimited damages for genetic discrimination. It would also permit parties to completely bypass the Equal Employment Opportunity Commission—the federal body set up to deal with employment discrimination disputes—and go straight to federal court. This is significantly more extensive than the ADA, the ADEA and title VII discrimination protections. This just makes no sense at all. Under Senator DASCHLE's amendment, an individual with a genetic marker showing he may at some future point develop a genetic disease or condition would have more protection than a paraplegic. Again I say this makes no sense at all. And it will overtax federal courts and juries with highly complex genetic issues and give opportunistic trial lawyers a jackpot.

If Senator DASCHLE has a valid reason why genetics should have such substantial additional protections, I welcome him to come to our committee hearing and explain them, but we should be very careful not to rush into such significant legislation and treat genetic information differently than existing diseases, disorders, and illnesses. If we accept Senator DASCHLE's amendment, we are simply not doing our job. Again, I think we can all agree that genetic discrimination should not be permitted, but I think we should also be able to agree not to pass legislation on such a significant and important issue without having all the proper information before us. I urge my colleagues to vote against Senator DASCHLE's amendment so that we can examine this issue through the proper procedural channels and pass responsible, reasonable legislation if such legislation is necessary.

There isn't anybody here who wants to have any discrimination done on a genetic basis, or any other basis, in the workplace or in health care. We are being lead to believe that this is a very simple bill, and that we ought to accept it. ''Simple'' is not 50 pages. Simple is the statement that the Senator from South Dakota made. But 50 pages to explain that means it is a lot more complicated than the explanation we are being given. We don't want discrimination. Quite frankly, I think one of the reasons we are being presented with this is a good example of why you don't legislate on appropriations bills and avoid the entire process. It is a handy way to do it. If I had a bill, that is how I might try to do it too. But it isn't the right way to do it.

I hope we will step back a minute and go through the procedure for doing a 50-page bill that covers something as important to people as discrimination in the workplace, or discrimination in any other place.

If this bill passes, a person who can find and accidentally disclose a genetic marker will have greater protection in the workplace than a paraplegic would. Not only that—this allows people to bypass the legal system. You can go immediately to court.

This will become a turnstile for trial attorneys. This becomes a jackpot proposition. This will clog the courts, if it passes. It will be a heyday. Every single trial attorney will have their own slot machine. That is not what we are trying to do.

This isn't an area that just comes under the workplace safety and training subcommittee that I chair. It also comes under the health committee that Senator FRIST chairs.

It is a topic that our entire committee needs to address and will address. But it has to be done through a hearing process so we don't wind up with some of the unintended consequences that I have just mentioned.

As far as the Americans With Disabilities Act, on March 24 of this year, the commissioner of the Equal Employment Opportunity Commission, Paul Miller, told the American Bar Association that genetic discrimination was covered under title I of the ADA. I guess that is why this 50-page ''simple'' bill bypasses the Equal Employment Opportunity Commission. We shouldn't bypass that group. That is a bill for protection and for having a hearing process for individuals. The commissioner of the Equal Employment Opportunity Commission says it is covered under title I of the ADA. Maybe there have been some decisions that have come out since.

We can't just be doing knee-jerk legislation on an appropriations bill. This is an issue that deserves time and consideration, and a hearing that will produce the kind of bill of which we can be proud—the kind of bill that has some opportunity for amendment.

I know if we were trying to pass a bill of that magnitude and precluded the minority from having any say-so, or any amendment, they would raise a little bit of a fuss, as they have on other occasions, and as we do on occasion.

I don't believe there should be legislation on appropriations bills.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I have great admiration for the Senator from Wyoming. I have worked with him on many issues. I never find it easy to disagree with a colleague, but let me say with regard to his argument that this is going to be a turnstile to more lawsuits; that is the same argument used on so many occasions and that was used against the ADA.

I was on the floor. I remember those debates so well. I participated in them. They said this was going to cause a flurry of lawsuits.

Who today would vote to repeal the ADA? I daresay not one Senator—Republican or Democrat.

He made reference to the EEOC's position on whether the ADA covers genetic discrimination. I hope they are right. But what is wrong with making absolutely sure they are right? That is what this bill does. This bill isn't complicated. I know some of our colleagues would like to point to the volume of this amendment and say that bulk is clear evidence of complication.

We are simply saying, as simply as we can, that you shouldn't discriminate in the workplace; and, if you do, you ought to have some opportunity to redress that problem.

I have a real concern as well about what inaction means for research. Dr. Craig Venter was on the Hill on several occasions and has made several public statements. His concern about discrimination is one that we ought to be truly appreciative of as well. Dr. Venter, president of Celera Genomics, said:

> The biggest concern I have is genetic discrimination. This would be the biggest barrier against having a real medical revolution based on this tremendous new scientific information.

Dr. Venter is worried, if we see discrimination, that automatically and almost immediately it is going to bottle up his opportunity to continue the research.

I go to the next chart, and look at what others have said. Dr. Collins, somebody I have quoted on several occasions, says:

> Genetic information and genetic technology can be used in ways that are fundamentally unjust . . . Already, people have lost their jobs, lost their health insurance, and lost their economic well-being because of the misuse of genetic information.

It doesn't get any clearer than that. First, you have the top researcher saying they are concerned about the ramifications of a lack of congressional action, not only for job discrimination, but for research. Then you have Dr. Collins who says we have already seen cases where people have lost their jobs and lost their health insurance as a result of this.

The Secretary's Advisory Committee on Genetic Testing was equally as concerned in their public statement. Keep in mind that this isn't some Democratic advocate; this is the Advisory Committee on Genetic Testing. This is a quote:

Federal legislation should be enacted to prohibit discrimination in employment and health insurance based on genetic information. . ..Without these protections, individuals will be reluctant to participate in research on, or the application of, genetic testing.

How much more information do we need? How many more hearings do we have to have when you have the most credible experts anywhere to be found, here or anywhere else, who are pleading with the Congress to do something before it gets even worse, before more people lose their jobs and their health insurance, and before we see some real ramifications with regard to medical testing?

That is what we are doing. That is what this amendment does. That is why it needs to be passed this afternoon.

I retain the remainder of my time and yield the floor.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Senator MACK be added as a cosponsor of this bill.

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

Mrs. SNOWE. Mr. President, I rise to speak in support of the amendment being offered by Senators JEFFORDS and FRIST on genetic nondiscrimination in health insurance. This amendment, based on language I authored with Senator JEFFORDS and Senator FRIST, provides strong protection to all Americans against the unfair and improper use of genetic information for insurance purposes.

This amendment will:

Prohibit insurers from collecting genetic information

Prohibit insurers from using predictive genetic information, such as family background or the results of a genetic test, to deny coverage or to set premiums and rates, and

Require insurers to inform patients of their health plan's confidentiality practices and safeguards.

The need for this legislation is clear. As Senators DASCHLE and DODD pointed out this morning the announcement this week that scientists have completed their mapping of the human gene is a remarkable and historic event. It opens the door to new scientific breakthroughs that may well help lead us one day to the cause and the cure for cancer, for Parkinson's and for Alzheimer's disease.

This remarkable new tool has the potential, unfortunately, to become a dangerous tool. Because knowledge is power—Mr. President—and an insurance company could use genetic information to deny insurance to an individual because they know that the person is predisposed to a particular disease or health problem.

Consider a letter that I received from a constituent, Bonnie Lee Tucker, of Hampden, Maine, who wrote:

I'm a third generation [breast cancer] survivor and as of last October I have nine immediate women in my family that have been diagnosed with breast cancer . . . I want my daughter to be able to live a normal life and not worry about breast cancer. I want to have the BRCA test [for breast cancer] done but because of the insurance risk for my daughters future I don't dare.

Another of my constituents, Dr. Tracy Weisberg, Medical Director of the Breast Cancer at the Maine Medical Center Research Institute, told me that while she has offered screening for the breast cancer gene to approximately 35 women in 1997, only two opted for the test. She said that many of these women did not undergo testing because of their fear of discrimination in health insurance.

Dr. Weisberg emphasized the need for legislation to protect patients from this type of discrimination, so that they could make genetic testing decisions based on what they believe is best for their health, and not based on fear.

As a legislator who has worked for many years on the issue of breast cancer, and as a woman with a history of breast cancer in her family, I am delighted with the possibilities for further treatment advances based on the discoveries of two genes related to breast cancer—BRCA 1 and BRCA2. Women who inherit mutated forms of either gene have an 85 percent risk of developing breast cancer in their lifetime, and a 50 percent risk of developing ovarian cancer.

Although there is no known treatment to ensure that women who carry the mutated gene do not develop breast cancer, genetic testing makes it possible for carriers of these mutated genes to take extra precautions—such as mammograms and self-examinations—in order to detect cancer at its earliest states. This discovery is truly a momentous breakthrough.

But the tremendous promise of genetic testing is being significantly threatened by insurance companies that use the results of genetic testing to deny or limit coverage to consumers. Unfortunately, this practice is not uncommon. In fact, one survey of individuals with a known genetic condition in their family revealed that 22 percent had been denied health insurance coverage because of genetic information.

And consider that people may be unwilling to participate in potentially ground-breaking research trials because they do not want to reveal information about their genetic status. At NIH, 32 percent of women eligible for genetic testing for the breast cancer gene declined to undergo testing—the majority of those who declined cited privacy issues and a fear of discrimination as their reason.

Mr. President, this is simply unacceptable. The Jeffords, Frist, Snowe amendment before us today will go a long way toward putting a halt to the unfair practice of discriminating on the basis of genetic information, and to ensure that safeguards are in place to protect the privacy of genetic information. Now it's up to us to act by passing this amendment, and I urge my colleagues to join me in doing just that.

Mr. JEFFORDS. Mr. President, I yield to the Senator from New Mexico. I believe he has 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. JEFFORDS. I point out that is all of my time. So the Senator from Alabama will have to ask for additional time.

Mr. DOMENICI. He and I are going to share a little time.

Before I do that, I say to Senator DASCHLE, believe it or not, I was the first Senator involved in genome. Whether people know it or not, it was not the National Institutes of Health that started this program. It was the Department of Energy. In fact, the National Institutes of Health did not want the program, and a very distinguished doctor left them and went to DOE. They came to me. The first bill was introduced and Senator Lawton Chiles funded it. That is the origin, which I am going to talk with my friend, Senator SESSIONS, about in a minute.

Let me suggest that I don't know what is in the Senator's amendment. But I do know from the very beginning that there has been concern about the effect of discrimination. I don't believe we should go from being concerned about the effects of discrimination to a 30- or 40-page bill that we—how big is it? Ten. Frankly, we need to make sure that what we are not doing is putting genome research into a vulnerable position where it is not stable and people do not know precisely what they can do on it.

That is all I have to say about the amendment.

I yield to Senator SESSIONS for a question.

Mr. SESSIONS. I know the Senator has been involved in this. I am excited so many others are involved with the possibility that we can have a detailed map of the human genome through the identification of the 3 billion nucleotide basis that make up the human genome, helping to cure diseases.

It is an exciting time. This Congress has played an important role. I know Dr. Charles DeLisi has played a key role. I know Senator DOMENICI, perhaps more than any other official in government, saw the possibilities of this several years ago, and used the power and leverage he had to make it a governmental project of the highest priority. I know he cares about it.

Would the Senator share with the Senate his insight as to where we are in the human genome at this time.

Mr. DOMENICI. But whether it is Congress or the President, someone should recognize formally a Ph.D. named Dr. Charles DeLisi, the dean of engineering at Boston University. In the year 1986, he left the National Institutes of Health in protest over their unwillingness to proceed with a genome project of national significance.

He went to the Department of Energy. He said there were a lot of big brains in the Department of Energy, and maybe they would listen and come to the same conclusion.

They were researching genetic projects because they were charged with deciding the extent of radiation incapacity generationally as a result of the two bombs that were dropped in Japan. The Department has all the scientists. He went there. They put together a team in DOE. I am very fortunate because they came to see me. They said: Why don't we do this since the National Institutes of Health doesn't want to? Why don't you start it?

I got a little tiny bit of a bill through, saying the DOE will run the program. That was the beginning for the National Institutes of Health. As soon as they saw the bill introduced saying DOE would do it, they came running to me saying: We told Lawton Chiles we would like to get in on it. Of course, then we passed legislation that said both DOE and the National Institutes of Health would run this program.

Since then, it has been a scientific marvel. The entire chromosome system of human beings is mapped. Pretty soon it will be available for scientists investigating grave diseases. They will have them at their fingertips in terms of transmutation.

Perhaps we have just laid before the public and the people of the world the greatest wellness potential in the history of mankind. We may find locked up genetically the secret to most diseases. The scientists may pick it up and find solutions in the next 25 or 30 years that nobody thought possible.

Sooner or later I will have somebody recognize Dr. Charles DeLisi. I have spoken to him. He is a marvelous educator at a great university. President Clinton is now aware of this and very interested. I am very hopeful he will be recognized. It is important people understand.

Mr. DASCHLE. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. DASCHLE. I compliment the Senator from New Mexico. He truly has been one of those leaders in the field. In fact, I have before me S. 422 which he introduced in the 105th Congress. Title IV of his bill, discrimination by employers or potential employers, is almost exactly what is in the Daschle amendment this afternoon.

He was one of the first to be out there. I give him great credit for what he has already done with his leadership on this issue. He has given some history this afternoon about how this started. He was here in the last Congress advocating that this body oppose discrimination in the workplace.

So that everyone knows prior to the time they vote what it is we are talking about, the Jeffords amendment does not prohibit insurers from discriminating on the basis of genetic information in the workplace. The Jeffords amendment does not prohibit the disclosure of test results without consent. It does not prohibit the use of predictive genetic information for hiring. It does not ensure that those who suffer from genetic discrimination have the right to seek redress through legal action. It fails on a basic level with regards to what we ought to do with respect to genetic discrimination.

It is on that basis I remind my colleagues that 59 organizations have come forward to urge Members to say no to legislation that fails to regulate the workplace. Don't listen to me. Listen to those organizations. Listen to Craig Venter of the Clera Genomics. Listen to Francis Collins, the director of the National Human Genome Research Institute. Listen to the editorial writers from papers across this country who have said, again and again, we must pass legislation quickly before it is too late.

This is a no-brainer. This is our opportunity today to say yes to Craig Venter, to say yes to Dr. Collins, to say yes to the organizations, and to say yes to Terri Seargent, who has already been victimized as a result of this. This is our opportunity to say no to discrimination in the workplace, to say the Senate will go on record for the first time that we will not allow any genetic discrimination regardless of circumstances.

I hope on a bipartisan basis our colleagues will join in support of this legislation. The time has come. It was introduced in the last Congress. It is now being offered in this Congress with every expectation and hope that we can send the clearest message possible that we will not tolerate discrimination. We will allow the research to go forward without any question that the information can be protected. That is what we want. That is what the health organizations want. That is what Terri Seargent wants. That is what we all should want in the Senate.

I ask unanimous consent to have printed in the RECORD editorials from around the country.

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

[From the Phoenix Gazette, Dec. 17, 1996]

DNA DILEMMA: GENE TESTS CAN COST YOU

Imagine the scene: A middle-age patient, visiting her doctor for her yearly physical, reminds him that her mother and aunt had breast cancer. With the patient's consent, her well-meaning physician decides to conduct a new test that will reveal whether she carries genetic mutations that could radically increase her chances of developing breast cancer.

The doctor submits a claim for the test to the woman's insurer. Before the results are back, the insurer, seeing what the test is for, triples the price of her coverage.

An impossible chain of events? Think again. Several companies have begun marketing tests that will tell women whether they have the recently discovered gene mutations that markedly increase their risks for breast and ovarian cancer.

A Utah biotechnology company, Myriad Genetics Laboratories, sent 100,000 cancer specialists a glossy ''resource kit,'' boasting of its new ''gold standard'' testing for the gene mutations. The company warns doctors about the risks of insurance and job discrimination.

But the promotional kit also tells doctors that the Equal Employment Opportunity Commission ''has in included language in the Americans with Disabilities Act making it unlawful to discriminate'' base on the results of genetic tests.

Peggy Mastroianni, the associate legal counsel for the commission, dismissed this claim, saying that it merely issued an opinion, which has yet to be tested in the courts.

Some scientists and medical ethicists say that Myriad and other companies are overselling these tests. Should a woman test positive for a gene mutation, there is still no way of knowing whether she will develop cancer. Even if that information was available, there is no sure-fire preventive treatment.

The Food and Drug Administration could regulate genetic tests, as it regulates new drugs. But so far the agency has declined to become involved. And where discrimination is concerned, many women would have little recourse if their health insurance skyrocketed in cost or they lost their jobs on the basis of a genetic test.

More than a dozen states have enacted limits on insurance or employment discrimination related to genetic testing. But even in New Jersey, where Gov. Christine Todd Whitman signed the country's most comprehensive law last month, almost half of the insured aren't protected, because they belong to self-financed plans, which aren't subject to stringent state regulations.

At the federal level, the new Kennedy-Kassebaum law, among other things, protects people moving between jobs from being dropped by health insurers because of their genetic information. But the law doesn't protect those with individual health insurance from seeing their premiums raised if they happen to carry an unlucky genetic fingerprint. It also does not protect against job bias.

Women are not the only ones affected by this problem. Genetic tests for other diseases have been developed. Others are on the way. Last month, scientists announced that they were zeroing in on the mutant gene in hereditary prostate cancer.

In the last Congress, a dozen bills would have guarded against genetic discrimination and protected medical privacy. But even those with some bipartisan support fell victim to a crammed legislative calendar and insurance industry resistance.

The 105th Congress has a chance to pass comprehensive laws protecting medical privacy and barring insurers and employers from discriminating on the basis of genetic information. For its part, the FDA should regulator genetic tests. Those charged with protecting the public welfare have to move quickly.

[From the Washington Post, Feb. 12, 2000]

GENETIC PRIVACY

President Clinton has issued an executive order limiting the use of genetic test results in deciding whether to hire, promote or extend particular benefits to federal employees. For now, the order will have limited significance, since genetic testing is not yet as common as it is likely to become. But it sets the right example; in a not-yet-settled area of medical ethics and privacy, it's a pioneering step. The order includes a plug for a bill by Senate Minority Leader Tom Daschle and Rep. Louise Slaughter that would impose the same restraints on employers nationwide as well.

The problem is that people fear—and, it has been shown, avoid—being tested for a predisposition to a genetic disease because they think employers or other authorities might penalize them for the results even if they never develop the disease. This specific concern is symptomatic of a larger one: the danger that people may become less open with their own doctors—or avoid treatment altogether—for lack of confidence that information about their health is any longer veiled in the traditional confidentiality.

Federal rules to protect patients' privacy when they give sensitive information to their doctors are finally nearing completion; the public comment period ends this month. These, too, are only a start, though an energetic one. They give patients a right to see and correct their medical records, oblige all health care providers and insurers to follow confidentiality safeguards and set civil and criminal penalties for violations. There are holes that Congress ought to fill: The rules cover only electronic transactions, and allow a formidable array of exceptions where information may be shared without a patient's consent.

Lawmakers have been slow to recognize the broad political appeal of strengthening medical privacy, partly because of the many conflicting interests that are represented in the fight over medical records. But polls show privacy concerns rank high, and a bipartisan Congressional Privacy Caucus and a Democratic privacy task force both declared their existence Wednesday. There's plenty for these privacy advocates to do.

[From the Houston Chronicle, Feb. 15, 2000]

GENE SECRETS; CLINTON RIGHT TO OPPOSE GENETIC DISCRIMINATION

From the moment of conception, the lives and medical futures of human beings are greatly determined by the genes received from their mothers and fathers.

For the genes not only determine physical traits such as the color of a person's eyes and hair, but also a person's predisposition toward certain medical ailments, ranging from heart trouble and diabetes to cancer and Alzheimer's disease.

As the result of a national research effort, doctors are within a few years of completing a map of all the genes that make up human beings, carefully identifying which gene does what. The overall aim, of course, is that one day doctors will be able to use genetic information to treat people and make them healthier.

That's all well and good, as they say. Suffering from diabetes? Well, the doctors will just give you an injection of anti-diabetes genes, and you will soon become as healthy as a horse.

But this fascinating research, with all of its fine promise, has a terrible negative side if misused. Such genetic information on John and Jane Q. Citizen—information that they are likely to suffer from heart disease in their 40s or colon cancer in their 50s—could be used by employers, insurance companies or others to discriminate against them.

Employers might not hire or promote Jane or John Q. Citizen because of the potential displayed by their genes that some future medical condition might cost them lost time and higher insurance expenditures, as an example. Insurance companies, with a person's gene map in their hands, might refuse to sell that person insurance because of health risks.

President Clinton is acting correctly in signing an executive order barring federal agencies from discriminating against employees based on genetic testing. And he is also correct in urging Congress to pass legislation that would ban genetic discrimination in the private sector. Congress should attend to this matter as soon as possible and also to the problem of protecting individual gene maps.

Discrimination in the workplace is wrong, whether it is based on a person's personal genetic code or the color of his skin.

Genetic discrimination is un-American.

[From the St. Louis Post-Dispatch, Feb. 14, 2000]

DISCRIMINATION GOES HIGH-TECH

CIVIL RIGHTS

The frightened middle-aged woman was relieved she would not have to give her name. She handed over several $100 bills, counting them out with trembling hands. She had never done anyuthing like this before. She rolled up her sleeve and looked away, awaiting the needle.

It was not a street corner drug deal, although it felt like it. She was in a major teaching hospital undergoing genetic testing to see if she had an increased risk of contracting a life-threatening disease. Along with her fears that this glass tube identified by number might render a deadly warning in every unseen strand of her DNA, she also was afraid of other threats unseen: that the test alone might prevent her, or a family member, from getting health or life insurance, a job, a promotion, custody of her children, an organ transplant; or perhaps even something as simple as a home loan.

As technology soars forward in the Human Genome Project and computer science, we will know more about ourselves than ever before, and be less capable of keeping it to ourselves. Medical science already has hundreds of genetic tests that detect mutations putting a person at increased risk for such ailments as ovarian, breast, colon and prostate cancers, Alzheimer's and other, rarer diseases. The potential for good abounds in areas of prevention, early detection, treatment and, most spectacularly, cures.

But there is also tremendous potential for abuse. In California, a government laboratory had for years genetically tested government employees for diseases, including sickle cell anemia, without their knowledge following pre-employment physicals. Even though genetic testing does not render a diagnosis, only indicators of increased risk, it has been used to deny medical insurance and charge higher rates. Such cases led Congress to pass legislation in 1996 outlawing genetic discrimination in group health insurance plans serving 50 or more employees.

But according to a Senior White House official, many people who could benefit from genetic testing still are deciding not to have it, solely because they are afraid the results will be used against them by employers and insurers.

Last week President Bill Clinton took an important step, issuing an executive order that forbids federal agencies genetic testing in any decision to hire, promote or dismiss workers. The order protects 2.8 milllion federal employees.

There is much left to be done. Genetic information that can be gleaned from testing will only increase, through innovations like the biochip, which one day may be able to map from one strand of hair a person's entire identity, from hair color to inquisitiveness. Mr. Clinton challenged private sector employers to adopt similar non-discriminatory policies. Even better is his endorsement of Congressional legislation sponsored by Sen. Tom Daschle, D-S.D., and Rep. Louise M. Slaughter, D-N.Y., that would make it illegal for employers to discriminate on the basis of genetic testing.

All of us are predisposed to some illness. No one should be penalized for discovering what that illness might be.

[From the Chicago Tribune, Apr. 27, 1996]

GROUND RULES FOR DNA SAMPLING

Two Marine corporals were court-martialed in Hawaii recently and convicted of disobeying orders to give tissue samples for a Defense Department DNA registry.

The idea behind the registry is that should they become casualties in a future conflict, there would be a foolproof way of identifying their bodies. This is no frivolous concern, as the recent exhumation of an allegedly misidentified Vietnam War casualty in Ft. Wayne, Ind., demonstrated.

Despite their convictions, the two Marines got light penalties: seven days of restriction each, letters of reprimand and no dishonorable discharges.

This leniency may have stemmed from the fact that their concerns also were not frivolous: They feared that, somewhere down the line, the DNA samples could be used to their detriment. And the Defense Department, like the rest of American society, is only gradually evolving answers to such concerns.

Almost daily, it seems, scientists announce that they've found a new gene that causes or predisposes a person to some disease or trait. Almost as rapidly, biotechnology companies are developing tests to screen for those genes.

What those two Marines feared is what many Americans in many other walks of life fear: that samples given for one ostensibly benign purpose, or the data gleaned from such samples, may be put to other uses, not all necessarily benign.

Earlier this month, for example, researchers at Harvard and Stanford universities released a study citing more than 200 cases of ''genetic discrimination.'' Prominent among these were cases in which insurance coverage was denied because a member of a family had a gene-based disorder. Employment discrimination is another common fear, along with social ostracism.

What happens when DNA screenings become readily and routinely available for a whole range of diseases or conditions? Will insurers be able to demand that would-be customers submit to such screenings? Will they be free to grant or deny coverage on the basis of the results? (The essence of insurance is, after all, assessing and balancing risks.) What about employers—what will they be able to demand?

By comparison with civilian society, the military has it easy. The Pentagon can simply promulgate rules for its DNA repository, and it recently did. Among other things, those rules allow a service member to request that his or her DNA sample be destroyed immediately upon final separation from the military and require that the request be fulfilled within 180 days.

Civilian society must work the issue through the process of public discussion, legislative debate and legal enforcement. Laws will have to provide tough anti-discrimination strictures and confidentiality requirements, with severe penalties for anyone who violates either. Congress should get to work on such laws quickly, because science is not standing still.

I yield the floor and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 3688. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the

Senator from Vermont (Mr. LEAHY) are necessarily absent.

Mr. BYRD. Mr. President, may we have order, please.

Can we have the well cleared. Unless Senators are voting, Senators should not be in the well.

The PRESIDING OFFICER. The Senate will be in order.

Will those in the well vacate the well.

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—44

Akaka	Edwards	Lincoln
Baucus	Feingold	Mikulski
Bayh	Feinstein	Moynihan
Biden	Graham	Murray
Bingaman	Harkin	Reed
Boxer	Hollings	Reid
Breaux	Johnson	Robb
Bryan	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Levin	Wyden
Durbin	Lieberman	

NAYS—54

Abraham	Fitzgerald	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Roth
Bunning	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee, L.	Helms	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Enzi	Mack	Warner

NOT VOTING—2

Inouye	Leahy

The amendment was rejected.

VOTE ON AMENDMENT NO. 3691

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 3691.

Mr. JEFFORDS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—58

Abraham	Campbell	Enzi
Allard	Chafee, L.	Feinstein
Ashcroft	Cochran	Fitzgerald
Bennett	Collins	Frist
Bond	Coverdell	Gorton
Brownback	Craig	Gramm
Bunning	Crapo	Grams
Burns	DeWine	Grassley
Byrd	Domenici	Gregg
Hagel	Mack	Smith (OR)
Hatch	McCain	Snowe
Helms	McConnell	Specter
Hutchinson	Murkowski	Stevens
Hutchison	Nickles	Thomas
Inhofe	Roberts	Thompson
Jeffords	Roth	Thurmond
Kyl	Santorum	Voinovich
Lieberman	Sessions	Warner
Lott	Shelby	
Lugar	Smith (NH)	

NAYS—40

Akaka	Edwards	Mikulski
Baucus	Feingold	Moynihan
Bayh	Graham	Murray
Biden	Harkin	Reed
Bingaman	Hollings	Reid
Boxer	Johnson	Robb
Breaux	Kennedy	Rockefeller
Bryan	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Levin	
Durbin	Lincoln	

NOT VOTING—2

Inouye	Leahy

The amendment (No. 3691) was agreed to.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from North Dakota is recognized.

Mr. SPECTER. Mr. President——

Mr. KENNEDY. Parliamentary inquiry, Mr. President. Wasn't the Senator from North Dakota recognized?

The PRESIDING OFFICER. The Senator from North Dakota was recognized. If the managers wish to pose an inquiry——

Mr. SPECTER. Mr. President, I ask the Senator from North Dakota to yield for a moment.

Mr. DORGAN. I am happy to yield for the purpose of a question.

Mr. SPECTER. What I would like to say for the record is that we hope to have a unanimous consent agreement here—we are not ready to propound it—where the Dorgan amendment and the Nickles amendment, which would be ordinarily a second-degree amendment, would be treated as first-degree amendments and try to seek a time limit of 45 minutes on each. But we understand that we are not in a position to do that because there has not been an adequate opportunity to review the Nickles amendment. I wanted to make that statement.

If the Senator from North Dakota wants to lay his amendment down, that is entirely appropriate. We just hope that when we have another amendment ready to go, either the Helms amendment or Wellstone amendment, we could set aside the Dorgan amendment and proceed with argument on something we can close debate on, and then come back at the earliest moment to the Dorgan amendment, just as a management matter.

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

AMENDMENT NO. 3693

(Purpose: To require a federal floor with respect to protections for individuals enrolled in health plans)

Mr. DORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. KENNEDY, Mr. DASCHLE, Mr. GRAHAM, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. KERRY, Mr. EDWARDS, Mr. REID, and Mr. HARKIN, proposes an amendment numbered 3693.

The amendment is as follows:

On page 92, between lines 4 and 5, insert the following:

SEC. ____. Any Act that is designed to protect patients against the abuses of managed care that is enacted after June 27, 2000, shall, at a minimum—

(1) provide a floor of Federal protection that is applicable to all individuals enrolled in private health plans or private health insurance coverage, including—

(A) individuals enrolled in self-insured and insured health plans that are regulated under the Employee Retirement Income Security Act of 1974;

(B) individuals enrolled in health insurance coverage purchased in the individual market; and

(C) individuals enrolled in health plans offered to State and local government employees;

(2) provide that States may provide patient protections that are equal to or greater than the protections provided under such Act; and

(3) provide the Federal Government with the authority to ensure that the Federal floor referred to in paragraph (1) is being guaranteed and enforced with respect to all individuals described in such paragraph, including determining whether protections provided under State law meet the standards of such Act.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, I ask unanimous consent that the Nickles amendment be modified to be formatted as a first-degree amendment and that a vote occur on the Nickles amendment, to be followed by a vote on the Dorgan amendment, with no amendments in order to the amendments prior to the votes. I further ask unanimous consent that the debate prior to the vote be 45 minutes for Senator NICKLES and 45 minutes for Senator DORGAN.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, we are all operating in good faith and wanting to move ahead. I ask if our floor staff has seen this. I would like to, with all due respect, reserve a minute until our floor staff has an opportunity to see it.

Mr. SPECTER. Mr. President, I amend the request to 55 minutes on each side.

Mr. KENNEDY. Parliamentary inquiry: Is that on or in relation? Do I understand that it is their intention to have an up-or-down vote on both of these?

Mr. SPECTER. Up or down on both.

Mr. KENNEDY. No points of order.

Mr. NICKLES. If I may respond to my colleague, I have no objection personally. I understand the chairman of the Budget Committee doesn't want that waived. But it is not my intention to raise a point of order on the Senator's amendment, nor on our amendment. I think the Senator from New Mexico has a standing objection.

Mr. KENNEDY. If it is the understanding that we treat both of them the same way, is it agreeable with the floor manager that the point of order be on both so they are both treated the same way?

Mr. SPECTER. It is.

Mr. NICKLES. I have no objection to that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, I renew the request, and, as previously stated, I ask unanimous consent that there be 55 minutes on each side.

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

The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me begin by describing this amendment and why I have offered it to this bill.

Let me also say that the amendment is not subject to a point of order. This amendment deals with the Patients' Bill of Rights. Quite simply, it says that when this Congress enacts patient protection legislation, we should protect all 161 million Americans enrolled in private health insurance plans.

Many of us have been attempting to get this Congress to pass a meaningful Patients' Bill of Rights, and so far, we have not been successful in doing so.

As most Americans know at this point, more and more of the American people are being herded into HMOs and managed care organizations which has jeopardized the quality of health care they receive. Too often these days, decisions about their health care are being made not by doctors but by some accountant in an HMO or in a managed care organization 1,000 miles away.

We have all heard stories on the floor of this Senate about the problems patients experience when their health care is viewed as a function of someone's profit and loss, not of his or her health care needs.

We proposed a Patients' Bill of Rights to address these problems. It is rather simple legislation. It says that: Patients should have the right to know all of their medical options—not just the cheapest medical options. That ought to be a fundamental right.

Patients ought to have the right to choose the doctor they want for the care they need, including specialty care when they need it. That ought to be a right of patients who believe they are covered with a health care policy.

Patients ought to have the right to emergency room treatment and emergency room care wherever and whenever they need it.

Patients ought to have a right to a fair and speedy process to resolve disputes with their health care plan. And they ought to be able to hold their health care plan accountable if its decision results in injury or death.

The Senate passed a piece of legislation last year that was called the Patients' Bill of Rights. Some of us called it a patients' bill of goods because it was a relatively empty shell.

The House passed a Patients' Bill of Rights that is a good bill. It is a bipartisan bill sponsored by Republican Congressman Norwood and Democratic Congressman Dingell. It passed by a 275–151 vote.

Since that time, the Senate appointed a set of conferees on October 15, and the House appointed its conferees on November 3. It wasn't until the end of February that there was a meeting of the conference committee. As I said previously, the conference committee isn't making much progress.

In this amendment, we deal with only one aspect of the Patients' Bill of Rights and that is the question of the number of Americans that a bill of rights should cover. If a Patients' Bill of Rights is enacted by this Congress, we propose with this amendment that Congress will cover all of the American people with private health insurance, rather than just the 48 million Americans proposed to be covered in the Republican Patients' Bill of Rights. We believe the Patients' Bill of Rights should cover all 161 million Americans in private health insurance plans, including the 75 million people whose employers provide coverage through an HMO or private insurance. Unfortunately, these folks are not covered in the Republican plan. The 15 million people with individual policies are not covered in the majority party's plan. The 23 million State and local government employees are not covered in the majority party's plan.

We propose that when and if Congress passes a Patients' Bill of Rights, that all 161 million Americans are covered by those provisions. Very simple.

We understand from the previous vote held a couple of weeks ago that the majority in the Senate do not want to pass our Patients' Bill of Rights. We understand that. They voted against it. But how about at least passing a part of our Patients' Bill of Rights, the part that says everybody ought to be covered? That is what I offer today as an amendment.

Senator REID and I held a hearing in his home state of Nevada on the issue of the Patients' Bill of Rights. At the hearing we had a mother come, the mother of Christopher Thomas Roe. She stood up and told us about her son. He died October 12 of last year. It was his 16th birthday. The official cause of Christopher's death was leukemia, but the real reason he died is because he was denied the kind of opportunity for patient care that he needed to give him a chance to live. He was diagnosed with leukemia, but he had to fight cancer and his HMO at the same time. It is one thing to tell a kid you have to fight a dreaded disease, you have to battle cancer. It is quite another thing to tell that young child and his family: Take on cancer and, by the way, take on your insurance company as well. That is not a fair fight. That is never a fair fight.

The Roe family was told that the kind of treatment he needed to send his cancer into remission was experimental. The family immediately appealed the health plan's decision. The review, which was supposed to take 48 hours during a very critical period of this young boy's life, took 10 days. As the appeal dragged on, Christopher's condition worsened. And as Chris's doctor had known, the traditional chemotherapy did not work.

At the hearing, Chris's mother, Susan, held up a very large picture of Christopher, about the size of this chart. It was a picture of a strapping, bright-eyed, 16-year-old boy. Susan told Senator REID and I, with tears in her eyes, how Chris turned to her one day not long before he died and said: Mom, I just don't understand how they could do this to a kid.

This is a 16-year-old boy who died who wanted that extra chance to be cured but whose insurance company said no, no, no. And he died.

We all know the stories. There is the woman who fell off a 40-foot cliff in the Shenandoah Mountains. She was hauled into an emergency room unconscious with broken bones and all kinds of physical problems. She survived and was later told by her insurance plan: We will not cover your treatment because you didn't have prior approval to get emergency room care.

Or how about this young child, born with a horrible cleft lip? It is hard to look at. Dr. GREG GANSKE, a Member of the House of Representatives in the Republican Party who supports this legislation, says in his practice that it is often not considered a ''medical necessity'' to fix this kind of problem. Let me show you how a child with this condition looks when he receives proper medical intervention by a skilled surgeon. Is there a difference? How can anyone look at these two pictures and say fixing this condition is not a ''medical necessity''?

The point we are making with this amendment is very simple. Managed care organizations hold the future of too many patients in the palm of their

hands. Decisions are not being made by doctors in doctor's offices. Too often, they are made in accountants' offices 500 or 1,000 miles away. We are saying that it is wrong to make medical decisions a function of profit and loss. This country can do better than that. This ought to be a slam dunk. The legislation that provides real protection, a meaningful Patients' Bill of Rights, ought to get 100 votes in the Senate. But we can't get any movement on this at all from the conference committee charged with working out the differences between the House and Senate bills.

I know a few of the conferees and the chairman of the conference committee were saying we have made great progress. I describe that progress in glacial terms. At least glaciers move an inch or two a year. It is hard to see that this conference moves at all.

We are only asking today to say with this amendment that if we are going to pass a Patients' Bill of Rights, let's not create a hollow vessel. Let's create a Patients' Bill of Rights that provides real protection for 161 million Americans, not inadequate protection for 48 million Americans. If we are going to do this, let's do it right.

That is the amendment. We will have a chance to vote on it. We understand that the majority of the Senate decided they didn't want a real Patients' Bill of Rights. They wouldn't vote for the entire package, the one that provides protection for young kids such as Christopher, who are fighting leukemia, or for young people born with this severe cleft lip deformity. So all we ask is that whatever we are going to do with respect to patients' rights that we apply it to all Americans. Everyone ought to have the right and the opportunity to expect decent health care coverage if they have an insurance policy. What about a Patients' Bill of Rights for all Americans?

I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the issue of providing protection for American families has been before the Senate for the past 3 years, but we have been unable to pass legislation that will guarantee to the families of this country that medical decisions that are going to affect them and the treatment of the family are going to be made on the basis of sound medical reasons rather than for the interests of the HMOs. That is what this issue is all about.

This chart indicates very clearly what has been happening. The Senate, in July 1999, about a year ago, passed legislation, the Republican bill, 53–47. This 47 was basically the Norwood-Dingell bill, virtually identical to the Norwood-Dingell bill, which is a party-line vote. The House passed the Norwood-Dingell bill 275–151 in October, 1999. Then the House and the Senate conferees appointed. Now 8 months have passed. We have nothing that has come out of that conference.

We are going to have something now before the Senate, offered as an alternative to the Dorgan proposal, that evidently has been drafted solely by Republicans. Whether it includes Republicans in the House of Representatives or not is something we will have to wait and see. I doubt it very much.

Why? Because just this afternoon Congressman NORWOOD, who was the principal sponsor of the Norwood-Dingell bill, said in a press conference: What is significant about today is that all 21 Republican sponsors of the Norwood-Dingell bill are standing behind me and each of us has declared that we will not support any bill that does not allow patients to choose their own doctor, that does not protect all Americans, and that does not hold the insurance industry accountable for its decisions. It doesn't matter what the Senate does today. The 25 us will vote against any bill that does not guarantee patients the protections they deserve. If the Senate passes anything less, they are killing the bill.

That isn't a statement made by Democrats; that was made by Republicans.

So let's understand it. Here are the leaders in the House of Representatives, in a bipartisan effort that got a third of the Republican Party to pass an effective bill that we should pass, and it failed by one vote only 2 weeks ago. We are being denied, week after week after week, from being able to protect American families from being harmed.

That statement is made by the Republican Congressman. The legislation we on this side of the aisle support is supported by 300 organizations, including every medical organization, every doctor organization, every patient organization, every organization that represents women, every organization that represents children, every organization that cares about cancer—you name it, they support our proposal.

Do you know who supports the other side? The insurance industry. They supported them before and they are supporting them tonight. So you will have a chance to show, on the floor of the Senate, whether you are going to cast your vote with those who have been dedicated to protecting the lives and well-being of the families in this country, or protecting the profits of the HMOs. That is the issue as plain and simple as can be stated.

That is why Congressman NORWOOD, I think, has been so courageous, because he understands it. He was there when the Senate considered 2 weeks ago the Norwood-Dingell bill that failed by one vote. He was supporting our efforts, as was the American Medical Association.

The particular amendment that Senator DORGAN has proposed is a very basic and fundamental amendment that affects the Patients' Bill of Rights. It is the question of scope. Are we going to cover 161 million Americans, or are we going to cover only a third of those, as was covered in the Senate Republican bill before and I daresay will be in the Republican bill tonight—although they have not shared that with us, only with the staff for a few minutes. I daresay that will be the fact.

Here it is. They cover 48 million—self-funded proposals. They do not cover those fully insured; those who are represented by Blue Cross or by Kaiser. They don't cover those 75 million.

They don't cover the individual markets, the self-employed, the farmers, child care providers, the truckers.

They don't cover the teachers and the firefighters and the police officers.

We cover all 161 million. They cover 48 million. Here is a picture of Frank Raffa, Vietnam veteran, decorated war hero, 21 years in the fire department of Worchester, MA. He has two children. Do you think he is covered? No, not covered under the Republican plan. Why should Frank Raffa not be covered? Why should his family not be covered, his wife and his children? He has dedicated his life to the people of Worchester, MA, as a firefighter and to this country in Vietnam. But, oh, no, the Republicans say we are not going to cover State and county officials.

No. 2, here we have Dave Morgan, with two of his 63 employees. He is a pharmacist in Boston. Tonya Harris right here, she is a pharmacy technician, a single mother of two, and Rhonda Hines, another of Dave's employees. She is married and has three children. Do you think working for a business they are going to be covered? Absolutely not. He is a community pharmacist. He worked hard building a business employing 63 members of the community. Some are in training, some are getting advanced degrees—are they covered? Absolutely not. Why not? Why do you exclude those? Norwood-Dingell did not exclude them, why should we?

Finally, Leslie Sullivan, a family nurse practitioner in the Quincy Mental Health Center, a Massachusetts employee. She is not covered under the Republican plan. She has worked hard all her life.

I want to hear a justification from Senator NICKLES tonight why these people are being excluded. They can't get it. We have insisted, in that conference, on three basic things: One, you are going to have coverage and cover all Americans; No. 2, you are going to have accountability; No. 3, you are going to have a definition of medical necessity that is going to protect American consumers.

At the end of 3 months of hearings, 3 months of meetings in the Nickles office—as much as I like and respect DON NICKLES and consider him a friend, the fact is, of the 22 differences, only 2 had been agreed to.

I will just take 3 more minutes. Here are the guarantees under the legislation that the Democrats support: 22

different protections here. I would like to hear from the other side: Which ones don't you want to guarantee to the American consumers? You don't want to protect all of them? You don't want to guarantee the specialists? You don't want to guarantee that women that are going to be able to go to an OB–GYN without first going to a general practitioner? You don't want to guarantee prescription drugs? You don't want to guarantee the emergency room? These are our guarantees. This is what we stand for. If the Republican bill embraces those without the loopholes, we will support it. But if it does not, it ought to get defeated. That vote ought to be no, and we ought to continue to fight in this Congress to make sure we get a good Patients' Bill of Rights.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I regret our colleagues on the Democrat side of the aisle have decided to once again try to turn an issue, an important issue, Patients' Bill of Rights, into a political theater and not legislate, not come up with reasonable compromise. Instead, they want votes. They want to try to score points. I find that to be unfortunate because we are working very hard to try to come up with a responsible product.

A compromise in the conference committee is not easy on this issue because the differences between the House bill and the Senate bill are significant. They are significantly different in cost and scope and liability. We are trying to bridge those differences. It takes time, it takes compromise, it takes both sides working together.

We made a lot of progress with our colleagues on the Democrat side, in spite of what my good friend from Massachusetts says, a lot more progress than 2 out of 20 items. We agreed on an appeals process. Maybe not on every single last letter, but by and large we agreed on the appeals process. We invited the press in; we came to an agreement. It took about 2 months. I thought it should have taken a week. The reason why it took 2 months is because our friends on the Democrat side always kept wanting a little bit more. That is tough negotiating. I am not faulting them for that. But they are the reason why it took 2 months to come up with an appeals process. We basically agreed with it.

I just have to make a mention on scope. When they say: Wait a minute, their bill only applies to 50 million and our applies to 161 million; it should apply to everybody—our plan applies to everybody covered by ERISA. That is the plan we are amending, every employer-sponsored plan.

I know the Senator wants to overrule the State of Massachusetts State employee plan, he wants to regulate State individual plans—he wants national health care. I compliment him. He is being consistent. He always thought the Federal Government could do it better than States, and he always wanted the Federal Government to do it instead of States. I disagree with that. We have a disagreement. That is one of the items we were wrestling with in conference.

Now we have an amendment.

We tried to do this in a big fashion last year. They had their amendments. We had a lot of votes on amendments last year. Senator KENNEDY lost. We had an amendment on scope. We debated that last year. The Senator from Massachusetts lost. The majority of the Senate said: No, we don't want the Federal Government to take over State regulation of insurance. We don't think HCFA is very good at administering the insurance. They have a hard enough time in Medicare. Do we really want them to regulate State insurance? The Senate said no. The House said yes. We were negotiating that.

Incidentally, that is one of the things we are negotiating as we speak. But my colleagues on the Democrat side didn't wait for the conference. Two weeks ago they said: Let's ignore the conference. Let's just adopt the House position. In spite of the fact we have reached a bicameral agreement on a lot of patient protections, including the appeals process which, for my colleagues' information, is the backbone of the bill. It is the most important thing in the bill because if you do a good job in the appeals process, you don't have to go to the courthouse.

The patients who need care, whether it is the cleft palate that my colleague continues to show in the picture—they are going to have an appeal under the bill that we have. They are going to get care. It is going to be decided by a medical expert totally independent of the plan. That is going to be a binding decision. The person who is denied health care is going to have an appeal and is going to get the health care they need when they need it; not just go to court.

Mr. KENNEDY. Will the Senator yield?

Mr. NICKLES. No, I will not yield. I have a lot of comments to make. Maybe I will yield at a later time.

Instead of waiting for the conference to work, my colleague from Massachusetts put the Patients' Bill of Rights on either the Department of Defense authorization bill or the Defense appropriations bill.

There is no way in the world that bill is ever going to come out of conference. It was nothing but political theater. It disrupted the conference. I told him and my colleagues and I planned on having a conference that day with my Democratic colleagues. No, they engaged in political theater because maybe some people wanted to have a headline that said: ''Senate defeated Patients' Bill of Rights.'' We moved to table the amendment. The vote was 51–48. It accomplished nothing but headlines for my colleagues.

Two weeks after the vote, we have another Patients' Bill of Rights. Maybe we will have several and do them piecemeal. Maybe we will do one on scope and one on patient protections.

I tell my colleagues, this is not the way to legislate. We are on the Labor-HHS appropriations bill. Everyone knows this bill is not going to come back—maybe it will; maybe we will pass patient protections and put it on Labor-HHS. My colleagues put minimum wage on bankruptcy. Frankly, it is a complicated effort for both bills. Minimum wage did not belong on bankruptcy and patient protections does not belong on Labor-HHS.

Are they seriously legislating? No. Did they come up with a serious legislative proposal? They have a two-page proposal on scope. What is the amendment offered by my friend from North Dakota? He has an amendment which deals with scope.

My colleague talked about all these patient protections. Guess what. They are not in his amendment. His amendment basically says: We want the Federal Government to set standards, and, oh, States, you have to meet these standards. If not, the Federal Government is going to take over.

This little amendment, which looks innocuous and is like a thematic statement, says we are going to have the Federal Government design, mandate, and dictate benefits, and, States, if you do not meet these dictates, we are going to have the Federal Government take over; HCFA will take over; you will have to follow the HCFA standard.

This is the GAO report: Implementation of HCFA. The headline says: ''Progress slow in enforcing Federal standards in nonconforming States.'' We have a lot of States not conforming with existing laws where HCFA is supposed to have control—ask any of your doctors. Some people profess they want to be helpful to doctors. Ask the doctors. If we adopt the Dorgan amendment, we are asking HCFA to take over State regulation of health care. That would be a disaster. That would not improve quality health care. That would duplicate State regulation, confuse State regulation, and have Federal regulators who do not have the wherewithal or the talent—they say so themselves. They say in this report they do not have the talent; they cannot do it. They are not doing it in existing law.

They have three areas in existing law they are supposed to enforce, and they are not doing it. This is the GAO report saying this, not DON NICKLES. It is fact. And we are going to give them regulation over State health care? That is absurd. I know some people want national health care. They want the Federal Government to regulate health care in the States. I do not. I think it would be a serious mistake.

What about scope?

Mr. KENNEDY. Will the Senator yield?

Mr. NICKLES. I want to continue before I lose my train of thought.

What about scope? The scope proposal in our bill applies to every single ERISA-covered plan. Every employer-

sponsored plan would have an external appeal because that is ERISA. It has Federal remedies.

We also included in this proposal a cause of action, a cause of action liability. In case the external appeal overturns the HMO and they do not pay, we say you can sue the HMO. We did not have that in the bill before. We did not have liability. We compromised.

Some say the conference has not done anything. We made a concession. We have liability in our proposal so patients can sue HMOs. It turns out that a lot of our colleagues want to sue more, on every case. They want to turn this into an invitation for litigation. We do not.

We do have cause of action. We have remedies allowing patients to go after the HMO, and, frankly, the employer, if acting as the HMO, if they are the final decisionmaker, if they are the ones denying health care, if they are the ones causing injury, harm, damage, or death, because of their decision to deny health care, they can be held liable. My point being: We have moved forward in the conference. We have made compromises. We have been working.

This is not the way to legislate: We will put, at 5 o'clock on a Thursday afternoon, on the Labor-HHS bill and say we are going to do part of patient protections, we are going to pick out a piece of it, a very significant piece. Maybe we will do another piece tomorrow.

That is not the way we are going to do it. We offered a significant comprehensive proposal, one that deals with scope, liability, patient protections, one that has an appeals process that will apply to every single employer-sponsored plan in America. We are going to give everybody a chance.

You will not be voting on a real patient protections bill, not the one Senator DORGAN offered as a two-page amendment. We have an amendment pending that is 250 pages that has real patient protections and one we have been working on for over a year.

Frankly, over half that language—maybe over 70 percent of that language—has been negotiated with our colleagues on the Democratic side of the aisle. It had tentatively been signed off by Democrats and Republicans, House and Senate. It has patient protections. It has an appeals process. We have a significant proposal. We do not have two pages. We have a Patients' Bill of Rights. We have remedies and cause of action where someone can sue an HMO or sue a final decisionmaker if they are denied health care. We have a good proposal, and I hope my colleagues will vote for it and against the Dorgan proposal.

We will have up-and-down votes on both proposals, on a bill on which neither one belongs. That is not my choice. I told my colleagues on the Democratic side that I will agree to a time certain and a vote on both of these proposals sometime—July, September. I am happy to do that. No, they want to score points. They want press conferences. They are not interested in patient protections. They are interested in press conferences and political theater.

They are not interested in helping patients. If they were interested in helping patients, they would be working with us to resolve and compromise in conference. Unfortunately, that is not the case. Maybe they will have theater, but we are going to give people substance on which to vote.

Last time, when my colleague from Massachusetts offered basically the House-passed bill—let's adopt the House position—we said no, and we tabled it. We saw the headlines: ''Republicans Defeat Patients' Bill of Rights.'' Guess what. Today we are going to pass a Patients' Bill of Rights. We are going to pass a Patients' Bill of Rights and give every single patient in America who happens to be in an employer-sponsored plan an appeal. If they are denied health care by an HMO, they will have an appeal, done by a medical professional, an expert, using the best medical evidence available. It is a binding decision.

If for some reason that appeal is not adhered to nor complied with, they will have a right to sue. They can sue their HMO, they can sue the final decisionmaker, if it is a self-funded, self-insured employer, if they make a decision to deny health care. They can sue them in those circumstances. We are offering real patient protections.

Time and again I have heard: We have to have patient protections where there is remedy against HMOs denying health care. We do that in this bill. We do not want people going to court; we want them to settle it in the appeals process so they get health care when they need it, not through the court system when it is too late. We want to resolve those cases. We want people to get health care.

On the patient protections—about which my colleague says the Senate does not do anything for the firefighter in Massachusetts, we want patient protections—we just do not think we are protecting patients by coming up with some facade that the Federal Government is going to take care of them when we know it cannot, and have the Federal Government basically preempt State law with national health insurance.

Look at the countries with national health care. Do they have the quality of health care that we do in this country? The answer is no; absolutely not. People think we can draft these patient protections in Washington, DC, and do a better job than the States. I happen to disagree. I will give some examples.

The States have done a lot with patient protections. We should not ignore that. We should encourage it and compliment it. We should encourage them to do more. It would be presumptive.

We negotiated access to emergency room care; direct access to pediatricians; provider nondiscrimination; direct access to specialists; continued care from a physician; timely binding appeals to an independent physician; agreement on direct access to OB/GYNs; agreement to improve plan information; agreement on access to out-of-network physicians; agreement on open discussion on treatment options with physicians; agreement on access to prescription drugs; and agreement on access to cancer clinical trials.

We have made a lot of progress. My colleagues say we have not done that. Are we going to say the language we drafted is so much better than anything the States can do and so we have to supersede their language? Some people think we are the font of all wisdom. I do not agree with that. It is absurd for us to say that.

States have been issuing patient protections. Forty-three States have already passed patient protection bills way ahead of the Federal Government.

I think it would be presumptuous of us to say: We are going to draft something. We know it is better. And States, you must comply. If you don't comply, the Federal Government is going to come in to regulate.

That is a serious mistake. I do not want to do it.

I urge my colleagues to vote yes on the proposal that I have submitted on behalf of myself and several others who have worked for over a year and a half to put together. I urge my colleagues to vote in favor of that. And I urge my colleagues to vote no on the Dorgan-Kennedy amendment.

I yield the floor.

Mr. KENNEDY. Will the Senator yield for one question?

Mr. NICKLES. I am happy to yield on your time.

Mr. KENNEDY. I yield myself 2 minutes for that purpose.

What is the scope of and coverage in the Senator's proposal, not what will apply in terms of internal-external appeals, but what is the total coverage?

Mr. NICKLES. The total coverage is, on scope, every single employer-sponsored plan in America would have the right to internal-external appeals.

Mr. KENNEDY. In terms of numbers, what are we talking about in the NICKLES proposal? The initial proposal, the first proposal, was 48 million. We are talking about 161 million in the Dorgan proposal. Does the Nickles proposal include 161 million American families?

Mr. NICKLES. To answer my colleague's question, on the appeals process, it applies to 131 million Americans. We do not say we should design plans written by the States for State employees or for city employees or individuals. Those have always been regulated by the Federal Government. They have never been regulated by ERISA, and they aren't regulated by them in our bill, either.

Mr. DORGAN. Mr. President, let me answer the question of the Senator from Massachusetts. The Senator from Oklahoma took a long while to say no.

Their proposal does not cover the 161 million Americans. It is essentially the same proposal we have seen previously. It falls far short of covering the majority of the American people who our proposal would cover.

Mr. President, I yield 10 minutes to the Senator from Florida, Mr. GRAHAM.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, the issue before us today is whether we are going to give the American people what I believe they expect and what they have a right to receive which is uniform, consistent coverage of their fundamental rights as beneficiaries of an HMO contract and as patients in a health care facility as it relates to the responsibilities of that health maintenance organization.

The Senator from Oklahoma has indicated he is going to submit to us a counterproposal to the provision that has been offered by the Senator from North Dakota, which focuses on one of the most fundamental issues and that is, who is going to be covered.

It is a little difficult for us to respond to the Senator from Oklahoma since at least none of us on this side of the aisle has had an opportunity to see the version of the amendment that will be offered. It is similar to seeing a biplane fly by with a long sign dragging behind its tail. That is what we see—a long, fluttering sign that says Patients' Bill of Rights. But we can't see any of the detail that supports that title of a Patients' Bill of Rights.

The question raised by the amendment of the Senator from North Dakota is whether we should have a nationwide standard or whether we should have 50 standards.

We have already answered that question as it relates to the 39 million Americans who are covered by Medicare. We have a national standard for all of those 39 million Americans.

We have answered that question for the 20 to 25 million Americans who get their health care through the Medicaid program. All of those people are covered by a national standard.

The question is whether we are going to provide for those people who get their insurance through private HMO companies rather than through one of these governmental programs to also be granted the right to have a national standard.

The amendment Senator DORGAN has proposed would cover all 161 million Americans with private insurance. They will receive the same full array of protections. The proposal that I anticipate from the Senator from Oklahoma will only fund one type of insurance: self-funded employer plans, which cover only 48 million Americans. The others will be left out.

I take second place to no Member of this body in terms of my support for federalism. I basically believe in the principle that, where possible, decisions should be made at the community and State level. So I consider it incumbent upon myself to answer the question: Aren't you being inconsistent by now supporting a national standard of patients' rights? Why not leave it up to the 50 States to decide for the 113 million Americans who have private insurance rather than self-funded employer plans? Why shouldn't those 113 million Americans be covered by a State's Patients' Bill of Rights?

I would like to answer that question in the context of one of the provisions within this bill, and that is how you will be treated if you go to an emergency room. I think it is an appropriate provision to use as an example of the larger question of whether this should be determined 50 times by the 50 States or should there be a national consistent standard.

The emergency room happens to be the site of the largest number of complaints by patients against their HMO's treatment. There are more complaints as to access, as to standard of care, and as to care after the initial critical services are provided, there are more complaints by patients in that setting than any other aspect of patient-HMO relationships.

The emergency room is also a setting which is heavy with urgency and emotion. That is not just watching ''ER'' on television; it is the emergency room in reality.

I have a practice of taking a different job every month. In February of this year, my job was working at the emergency room in one of the largest hospitals in Florida, St. Joseph's Hospital in Tampa. In that setting, I had an opportunity, firsthand, to see some of the issues that an emergency room poses for an HMO patient, such as the question of the patient arriving and asking the question: Am I going to be covered for the services that I will secure from this emergency room?

Am I entitled to access to the emergency room?

It is the question of: Have I come to the right emergency room? Should I have gone to the emergency room that is part of the plan of my HMO or can I go to this emergency room because it is a half hour closer?

It is the question of: What is going to happen after they stop the hemorrhaging and have moved into the poststabilization period? What kind of services can I receive, and what types of authorization do I have to get from my HMO to be certain that those services are going to be paid for?

Those are very fundamental, tangible questions that a family who is taking a loved one to an emergency room will want to have answered.

I suggest it would be preferable to all of the parties involved in this urgent transaction in an emergency room if there were a standard set of answers, whether you were in Tampa or Topeka or Tacoma, WA; that you would get the same answer. It would be beneficial to the beneficiary, to the patient, to know that there would be a consistent set of standards, that he would know, for instance, that he would be judged by the standard of ''the reasonable layperson'' in terms of access, that he would not be judged, as happens to be the case in my own State of Florida, not by the reasonable layperson standard, which is the rule in Medicare and Medicaid and most States but, rather, as he is in Florida, by the standard of an appropriate health care provider making a determination after the fact as to whether the patient should or should not have considered his or her condition requiring emergency room treatment.

It also avoids confusion by the provider because the provider will know that they can render services to all the people who come into the emergency room based on a single set of standards in terms of what is in that individual's best interest.

Talking about emergency rooms specifically, as I understand it, in the provision of the Senator from Oklahoma, rather than using the norm, which is a 1-hour period in which the HMO can decide whether they will assume responsibility for the patient in the emergency room or allow the hospital of the emergency room to render poststabilization care, the Senator from Oklahoma is going to propose that that 1-hour standard, which is the standard for Medicare, for Medicaid, for most plans, is now going to be ballooned up to 3 hours. So for a person who has been in a serious automobile wreck, who has had bleeding, hemorrhaging, who is in very serious circumstances and has been stabilized but not yet cured or not yet cared for, we are going to have a 3-hour period for that individual to wait for the HMO to decide whether it is OK for the hospital where the injured patient is located to provide the care there, or is the patient going to have to be put in an ambulance and carried to one of their network hospitals. I don't think that confusion as to standard is good medical policy for the providers. It is even not good policy for the insurance companies that have to deal with 50 different State standards as to authorization, length of poststabilization care, the other issues that arise in an emergency room.

Mr. President, as a self-declared Jeffersonian Federalist, this is a case in which we need to have a national standard because it is for the benefit of the good health of the American people. I urge adoption of the amendment offered by the Senator from North Dakota.

Mr. NICKLES. Mr. President, I am assuming we have an informal agreement to go back and forth and to try to keep the time fairly equally divided. I might ask of the Parliamentarian what the division of time is remaining.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Oklahoma has 40 minutes remaining, and the Senator from North Dakota has 24 minutes.

Mr. NICKLES. I yield 7 minutes to my colleague from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise in support of the Nickles bill a little bit hesitantly—not my support—because of a conference which is underway which pulls together bills passed by the House of Representatives and by the Senate wherein progress is being made so that we can assure the American people of a real Patients' Bill of Rights.

This process seems to be interrupted time and time again, if not with bills brought to the floor, with press conferences day after day. You haven't seen that from this side. You have seen us working on a very aggressive, daily basis, in a bipartisan, bicameral way to put together a Patients' Bill of Rights—a real challenge because of the number of interests, the number of patient protection issues such as scope and liability. We are making progress.

Because of the political theater that seems to be the name of the play put forth on the other side, we have our response tonight. I am very excited about it. I am very excited because we are putting on the table a real Patients' Bill of Rights which has the objectives of returning decisionmaking back to that doctor-patient relationship, of getting HMOs out of the business of practicing medicine but not having the unnecessary mandates which needlessly drive the cost of health insurance so high that people lose their health insurance.

The alternative bill on the other side of the aisle—one that was defeated last year, a very similar bill defeated 2 weeks ago—we know would drive about 1.8 million people to the ranks of the uninsured.

I can tell the Senate, as a physician, as a policymaker, somebody who has now spent more than 2 years on this bill, we are obligated to the American people to present a bill which is a Patients' Bill of Rights that does not unnecessarily drive people to the ranks of the uninsured by driving up cost. That process is underway. It is interrupted once again tonight.

Tonight, for the first time, we are going to be able to put a new bill that reflects this bicameral, bipartisan work of the conference on the table. I would like to concentrate a few minutes on the actual ten or so patient protections that are in the bill that Senator NICKLES has put forward.

We heard a little bit from the Senator from Florida on a Florida Patients' Bill of Rights and patient protections. We will come back and talk about the scope of the bills a little bit more, but in Florida there are a total of 44 mandates that have already been passed by the legislature and are law in Florida today. The simple question is, Why do we in this body think we can do a better job when the State has jurisdiction already in putting forth mandates?

For example, in 1997, the State of Florida passed a comprehensive bill of rights, now 3 years ago. For ER services, emergency room services, 4 years ago they passed a Patients' Bill of Rights. They passed consumer grievance procedures; breast reconstruction in 1997; direct access to OB/GYNs passed in 1998 in Florida; direct access to dermatologists, 1997; external appeals, 1997.

It comes down to the basic premise that we believe we should write a bill in terms of scope, in terms of the ten patient protections that apply to those people under Federal jurisdiction, and not come in and say we know better than the Governor of the Assembly of Florida or Tennessee or Arkansas.

Very briefly, I will talk about the patient protections.

No. 1, emergency care: Under the Nickles bill, plans must allow access to emergency service. This provision guarantees that an individual can go to the nearest emergency room regardless of whether the emergency room is in the network, in the plan or outside of the plan. It is the nearest emergency room. So these press conferences where you see pictures of people skipping to different emergency rooms, it is not in the bill. In this bill you go to the nearest emergency room.

No. 2, point of service: In this bill all beneficiaries covered by a self-insured employer of 50 or more employees must have a point of service option regardless of how many different closed panel options an employer offers.

No. 3, access: Specialists such as an obstetrician/gynecologist, under the Nickles bill, patients receive a new right for direct access to a physician who specializes in obstetrics and gynecological care for all obstetrical and gynecological care.

No. 4, access to pediatricians: Under our plan, a pediatrician may be designated as the child's primary care provider; that is, if a plan requires the designation of a primary care provider for a child.

No. 5, continuity of care: Under the Nickles bill, when a provider is terminated from the plan network, patients currently receiving institutional care, if they are terminally ill, may continue that treatment with the provider for a period of up to 90 days.

No. 6, access to medication, a real issue for physicians and for patients, this whole idea of a formulary: under the Nickles bill, health plans that provide prescription drugs through a formulary are required to ensure the participation of physicians and pharmacists in designing the initial formulary and in reviewing that formulary.

If there are exceptions from that formulary and a nonformulary alternative is available, then the patient has access to that nonformulary alternative.

No. 7, access to specialists: As a heart and lung transplant surgeon, this is something I believe is absolutely critical and very important to have in the Patients' Bill of Rights. With the Nickles bill, patients will receive timely access to specialists when needed.

No. 8, gag rules: Under the Nickles bill, plans are prohibited from including gag rules in providers' contracts or restricting providers from communicating with patients about treatment options.

No. 9, access to approved cancer clinical trials: Again, this is very important. We have heard a lot about the human genome project today and the great advances. That is good because it gives you the ''phone book.'' We have to figure out what it means. In the same way, if you have new pharmaceutical agents, or treatments for cancer, you have to figure out whether or not they work; therefore, access to approved cancer clinical trials. The Nickles bill provides coverage of routine patient costs associated with participation in approved cancer clinical trials sponsored by the NIH, the Department of Veterans Affairs, the Food and Drug Administration, and the Department of Defense.

No. 10, provider nondiscrimination: Under the Nickles bill, plans may not exclude providers based solely on their license or certification from providing services.

No. 11, after breast surgery, mastectomy length of stay, and coverage of second opinions: Plans are required, under the Nickles bill, to ensure inpatient coverage for the surgical treatment of breast cancer for a time determined by the physician, in consultation with the patient.

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

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

Mr. LOTT. Mr. President, I have a unanimous consent request that has been cleared now on both sides of the aisle, if I may interrupt momentarily.

I ask unanimous consent that the motion to waive the Budget Act for consideration of the Gramm point of order be withdrawn.

I further ask consent that the Gramm point of order be temporarily laid aside, to be recalled by the Senator from Texas, after consultation with the majority leader and the minority leader, and the Chair rule on the point of order immediately, without any intervening action, motion, or debate.

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

Mr. LOTT. I yield the floor.

Mr. DORGAN. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

Mr. REED. Mr. President, I rise in support of Senator DORGAN's proposal. It is very straightforward, simple, and it states categorically that all Americans covered by health insurance should have the protections of the Patients' Bill of Rights. Nothing could be clearer or more effective and efficient in providing protections to the American people, to which we all, by and large, agree.

We have seen this proposal in the Democratic legislation that was submitted to this Chamber. It is included

within the Norwood-Dingell legislation in the other body. It is consistent, it is appropriate and, frankly, it seems so common sensical. Why should an American citizen be denied protections and practices and benefits because he or she is in an ERISA plan rather than a non-ERISA plan? ERISA is a time and security income program created to protect the solvency of retirement funds and the financial aspects of these plans. It was never intended to be a health care plan or to define the coverage for health care plans in the United States. So on that point alone, it seems to be an inappropriate way to discriminate against those Americans who have access to the protections of the Patients' Bill of Rights.

I have been listening to the proposals by the Senator from Oklahoma and the description of the Senator from Tennessee and trying to understand their proposals. My understanding is this: They have—and Senator FRIST has announced a long list of protections and rights, and they only apply to ERISA plans—48 million Americans. The appeals process, however, would be expanded to apply to 131 million Americans.

Now, it appears to be inconsistent, but I think the rationale and the logic is pretty clear. If you don't have rights, it doesn't matter whether or not you have an appeals process. If you don't have the rights outlined by the Senator from Tennessee, then you could have the appeals process, but what are you appealing? You are appealing nothing. It comes back to the point that Senator DORGAN has made so well. This issue is about scope, so that not only do you have the right to appeal—all Americans—but you actually have valid rights that you can insist upon in an appeals process. That is included within the Democratic proposal, the Norwood-Dingell bill, and it is significantly absent from the Republican proposal we are hearing today.

Now, the justification, of course, for this approach—the Republican approach—is we can't disrupt State regulations, or the sanctity of State regulations. However, step back and look again. Under the pressure of Norwood-Dingell, the pressure of Senator DORGAN's proposal, and the pressure building up month after month of trying to bring this Patients' Bill of Rights to the floor for final passage—something solid and substantive—the appeals process has been expanded. When it comes to appeals, we are saying we don't care about State regulations anymore. That argument falls out. If we don't care about the appeals process with respect to the sanctity of State regulations, why do we care when it comes down to fundamental rights? Or why do you care about it in this, I think, inappropriate, illogical, and irrelevant distinction between ERISA plans and non-ERISA plans? The answer is, this ERISA distinction is a convenient dodge to avoid providing rights for all Americans in this health care bill.

Now, also, they talk about the fact that the cost of these patient protections will go up dramatically. Yet the Senator from Tennessee just announced a long list of protections that apply to ERISA plans. Why, if these are so onerous and costly, would we allow them to be applied to ERISA plans and not to other plans? The answer, I think, also should be obvious. It is that, in fact, these proposals are not only necessary but appropriate, and that the costs will not unnecessarily drive people away from insurance protection.

So what we have in the Republican proposal is based upon illogical premises, distinctions that should not be in place with respect to ERISA or non-ERISA, and also would create a complexity that is one of the banes of our health care system today. On this side, and also on the bipartisan measure adopted by the House of Representatives, you have a very simple, direct proposal that will cover every American—not just in the appeals process but in the basic rights they have. I think, in comparison, it is clear that we should support the amendment of the Senator from North Dakota.

Mr. NICKLES. Mr. President, I yield 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, if we are going to talk about improving patient care, we should talk about improving quality of care. We believe that every patient is entitled to the best medicine available. Reducing medical errors is an important part of improving quality. In fact, it is a critical issue.

The Institute of Medicine released a report late last year, which I requested. It focused our attention on the need to reduce medical errors to improve patient safety. The IOM report said that more people in this country die of medical errors than die of breast cancer, AIDS, or motor vehicle accidents—the one statistic we cannot ignore. In response to this report, the HELP Committee held four hearings. On June 15, Senator FRIST, Senator ENZI, and I introduced S. 2738, the Patient Safety and Errors Reduction Act.

This amendment, which is based on our legislation, will attack the problem of medical errors in several ways. First, it will provide a framework of support for the numerous efforts that are underway in the public and private sectors. Second, it will establish a center for quality improvement and patient safety within the agency for health care research and quality. Finally, it will provide needed confidentiality protections for voluntary medical error reporting systems. These provisions are consistent with the Institute of Medicine's recommendations.

The IOM report calls on Congress to establish a center for quality improvement and patient safety at the agency of health care research and quality.

This Center will take the lead on patient safety research and knowledge dissemination so that what is learned about reducing medical errors can be communicated across the country as quickly as possible.

The Institute of Medicine's report also calls on Congress to provide confidentiality protections for information that is collected for the purposes of quality improvement and patient study. This is the only way to get doctors and nurses to begin to voluntarily report their errors. These protections apply only to medical error reporting systems and do not diminish the current rights of injured patients. They will still have access to their medical records and they will still have the same right to sue as they do now.

We heard loud and clear at our four hearings that we need to encourage the reporting of close calls. A close call is a situation in which a mistake is made, but it does not result in injury to the patient. No harm is done, but the potential for harm is there.

Many times these ''close calls'' or ''near misses'' are the result of problems with the system. The nurse calculates the dose incorrectly because the medication name ordered was folinic acid and she is accustomed to giving folic acid. The doctor orders an inappropriate medication because he has no way to know that another doctor has given his patient a medicine that will interact.

Studies show that mandatory systems may actually suppress rather than encourage reporting. Punishment of individuals who make mistakes is not only ineffective, it is not the goal. The goal is patient safety.

It is time that we include our health care industry in the list of industries that have adopted continuously quality improvement and have taken significant steps to reduce human errors. Good people make mistakes. We need to do everything we can to put the systems in place to ensure that health care mistakes are very hard to make.

Neither the Institute of Medicine nor Congress discovered this medical error problem. Health care professionals have been at work for some time in trying to address medical errors. I hope that by becoming a partner in this process, the federal government can accelerate the pace of reform and provide the most effective structure possible.

I am pleased that this confidential, voluntary, non-punitive approach to addressing medical errors has the support of both the provider community and their oversight agencies.

We cannot afford to wait on this issue. The Nickles amendment will raise the quality of health care delivered by decreasing medical errors and increasing patient safety.

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

The PRESIDING OFFICER. The Senator from North Dakota has 19 minutes, and the Senator from Oklahoma has 27 minutes.

Mr. NICKLES. Mr. President, I yield to the Senator from Wyoming 5 minutes.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Oklahoma.

I, too, am distressed that we are debating the scope at this point. We had the opportunity to discuss this in a bipartisan way and to come up with good solutions. We were making good progress. We have been making good progress. Unfortunately, the opposition has decided that a national health care plan is the only way to go. A national health care plan has been defeated around here a lot of times. I can tell you that there are a lot of people who do not want a national health care plan. They do not understand a national health care plan. If I even considered one, folks wouldn't send me back again—not the ones from Wyoming. We have a little different atmosphere in Wyoming than they do maybe in Massachusetts or New York or Florida. But the people there want health care as bad as anywhere else. They don't want to be driven out of the market by rising costs for regulations that do not really even affect them. We don't have HMOs in Wyoming, except one small one owned by doctors.

The regulations that will work for other States in this country will not work for Wyoming. We have an insurance commissioner. His name is John McBride. The nice thing about Wyoming is if you have an insurance problem you call the insurance commissioner. You can talk to him or to one of the people who work for him. You can call them by their first names. I don't have to call them ''Mr. Commissioner.'' And they will help you get your problems straightened out. They will help out a lot faster than using a national health care plan that results in a chart such as this.

Can you picture me telling the folks in Wyoming that the insurance commissioner can't help them anymore, and to just pick the phone up and call HIPAA? I don't know the thousands and thousands of employees who work there. I especially don't know any of the thousands and thousands who they will have to hire to do the kind of job that the scope is calling for by our opponent.

A reasonable scope that handles the rest of the people who are not covered by States where they can call the people and get the same person every time so they don't have to explain again their problem every single day is the kind of service people expect. It is the kind of service they can get, but not if we take away States rights.

Guess what. It looks even worse for consumers under the HCFA's ''protection,'' according to a release by the GAO on March 31 of this year.

The model the Democrats are supporting for implementing the Patients' Bill of Rights is the Health Insurance Portability and Accountability Act, affectionately known as HIPAA. I quote from the report:

> Nearly only four years after HIPAA's enactment, HCFA continues to be in the early stages of fully identifying where enforcement will be required.

There are all kinds of stories about the Washington bureaucracy. Under their scope, they want us to give up the State plans in favor of this group that is still trying to figure out where they are going. Is that responsible? No.

There are other things that need to be negotiated out in this bill. But that is not an option we are being given when they start piecemeal. Every piece of a Patients' Bill of Rights interacts with the other part. When you jerk out one part of the scope and try to do that without talking about all of the other parts of it that interacts with the scope you wind up with nothing but a mess. To try to do that in a little two-page bill makes it look easy. We have gone from hard on an earlier one to a really easy one now. And neither of them will do it and protect the people in my State. I suggest that it will also not protect people in other States.

I am becoming less surprised that after walking away from the conference for the Patients' Bill of Rights, the Democrats are hurling accusations about others not wanting to get a bill done and enacted. That's an incredibly counter-productive reaction to giant steps on our part toward compromise. This conference has been long and time-consuming, but it has been working. There is not a single reason why we should abandon a process that is working. Yet, politics has been invited in, and I think the majority of us here to highlight why that's such a terrible mistake. Choosing this path is a vote to abandon patients in favor of a political issue.

Among the handful of principles that are fundamental to any true protection for health care consumers, probably the most important is allowing states to continue in their role as the primary regulator of health insurance.

This is a principle which has been recognized—and respected—for more than 50 years. In 1945, Congress passed the McCarran-Ferguson Act, a clear acknowledgment by the federal government that states are indeed the most appropriate regulators of health insurance. It was acknowledged that states are better able to understand their consumers' needs and concerns. It was determined that states are more responsive, more effective enforcers of consumer protections.

As recently as last year, this fact was re-affirmed by the General Accounting Office. GAO testified before the Health, Education Labor, and Pensions Committee, saying, ''In brief, we found that many states have responded to managed care consumers' concerns about access to health care and information disclosure. However, they often differ in their specific approaches, in scope and in form.''

Wyoming has its own unique set of health care needs and concerns. Every state does. For example, despite our elevation, we don't need the mandate regarding skin cancer that Florida has on the books. My favorite illustration of just how crazy a nationalized system of health care mandates would be comes from my own time in the Wyoming legislature. It's about a mandate that I voted for and still support today. You see, unlike in Massachusetts or California, for example, in Wyoming we have few health care providers; and their numbers virtually dry up as you head out of town. So, we passed an any willing provider law that requires health plans to contract with any provider in Wyoming who's willing to do so. While that idea may sound strange to my ears in any other context, it was the right thing to do for Wyoming. But I know it's not the right thing to do for Massachusetts or California, so I wouldn't dream of asking them to shoulder that kind of mandate for our sake when we can simply, responsibly, apply it within our borders. What's even more alarming to me is that Wyoming has opted not to enact health care laws that specifically relate to HMOs, because there are, ostensibly, no HMOs in the state! There is one, which is very small and is operated by a group of doctors who live in town, not a nameless, faceless insurance company. Yet, under the proposal the Democrats insist is ''what's best for everybody,'' the state of Wyoming would have to enact and actively enforce at least fifteen new laws to regulate a style of health insurance that doesn't even exist in the state!

As consumers, we should be downright angry at how some of our elected officials are responding to our concerns about the quality of our health care and the alarming problem of the uninsured in this country.

It is being suggested that all of our local needs will be magically met by stomping on the good work of the states through the imposition of an expanded, unenforceable federal bureaucracy. It is being suggested that the American consumer would prefer to dial a 1–800–number to nowhere versus calling their State Insurance Commissioner, a real person whom they're likely to see in the grocery store after church on Sundays.

As for the uninsured population in this country, carelessly slapping down a massive new bureaucracy that supercedes our states does nothing more than squelch their efforts to create innovative and flexible ways to get more people insured. We should be doing everything we can to encourage and support these efforts by states. We certainly shouldn't be throwing up roadblocks.

And how about enforcement of the minority's proposal?

Well, almost one year ago this body adopted an amendment that stated, ''It would be inappropriate to set federal health insurance standards that not only duplicate the responsibility of the 50 State insurance departments but

that also would have to be enforced by the Health Care Financing Administration (HCFA) if a State fails to enact the standard.''

Yet here we are one year later where, not only is it being suggested that we trample the traditional, overwhelmingly appropriate authority of the states with a three-fold expansion of the federal reach into our nation's health care, they still insist on having HCFA be in charge. HCFA, the agency that leaves patients screaming, has doctors quitting Medicare, and, lest we not forget, the agency in charge as the Medicare program plunges towards bankruptcy.

And guess what, it looks even worse for consumers under HCFA's ''protection,'' according to a new report released by GAO on March 31 of this year. The model the Democrats are supporting for implementing the Patient's Bill of Rights is the Health Insurance Portability and Accountability Act, affectionately known as HIPAA. I quote from the report: ''Nearly four years after HIPAA's enactment, HCFA continues to be in the early stages of fully identifying where federal enforcement will be required.'' Regarding HCFA's role in also enforcing additional federal benefits mandates that Congress has amended to HIPAA, the GAO states, ''HCFA is responsible for directly enforcing HIPAA and related standards for carriers in states that do not. In this role, HCFA must assume many of the responsibilities undertaken by state insurance regulators, such as responding to consumers' inquiries and complaints, reviewing carriers' policy forms and practices, and imposing civil penalties on noncomplying carriers.'' And then, the GAO report reveals that HCFA has finally managed to take a baby step: ''HCFA has assumed direct regulatory functions, such as policy reviews, in only the three states that voluntarily notified HCFA of their failure to pass HIPAA-conforming legislation more than 2 years ago.''

Is this supposed to give consumers comfort? First we should usurp their local electoral rights or their ability to influence the appointment of their state insurance commissioner and then offer up this agency as an alternative? I'm sure I could find a single Wyomingite to clap me on the back for this kind of public service.

I could go on at length about the very real dangers of empowering HCFA to swoop into the private market, with its embarrassing record of patient protection and enforcement of quality standards. Such as how it took ten years for HCFA to implement a 1987 law establishing new nursing home standards intended to improve the quality of care for some of our most vulnerable patients. But I think the case has already been crystallized in the minds of many constituents: ''enable us to access quality health care, but don't cripple us in the process.''

The next, equally important issue is that of exposing employers to a new cause of action under a Patients' Bill of Rights. Employers voluntarily provide coverage for 133 million people in this country. That will no longer be the case if we authorize lawsuits against them for providing such coverage. This is basic math. If you add 133 million more people to the 46 million people already uninsured, I'd say we have a crisis on our hands. In my mind, a simpler decision doesn't exist. We should not be suing employers.

Let me close by saying that the conference has worked in incredible good faith. We have come to conceptual agreement on a bipartisan, bicameral basis on more than half of the common patient protections. We have come to bipartisan, bicameral conceptual agreement on the crown jewel of both bills—the independent, external medical review process. Most dramatically, the bicameral Republicans offered a compromise on liability and scope, to which the Democrats responded with only rhetoric and political jabs in the press. It is absolutely bad faith to have done so. I think it would be regrettable if these continued public relations moves torpedo what, so far, has produced almost everything we need for a far-reaching, substantive conference product.

I encourage all of my colleagues to take the high road and support the legislative process our forefathers had in mind, versus a public relations circus.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume.

I have listened to this discussion, and it is pretty interesting. It seems to me that if you don't want to pass a Patients' Bill of Rights—perhaps for the reason the Senator from Wyoming suggested, which is that the Federal Government ought not to have any involvement in this issue—then just say so. Don't come out here and describe an alternative as if it is doing something that it is not really doing.

According to my colleague, we have a 258-page amendment. It kind of reminds me of the ''Honey, I shrunk the plan'' approach, this suggestion that what we should go back to covering 48 million people rather than 161 million people.

The Senator from Tennessee talked earlier about emergency room care and a number of the patient protections we have proposed. I hope he will respond to my inquiry. Is it not the case that the emergency room care provisions in the Senator from Oklahoma's amendment applies only to about 48 million people. Isn't it so that two out of three people will not be covered with the kind of protection the Senator suggested was covered in their proposal? It seems to me it would be a much better approach to simply say we don't support a Patients' Bill of Rights.

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

Mr. DORGAN. I will yield for about 15 seconds.

Mr. FRIST. Mr. President, emergency room provisions are a good case in point. It comes up all the time. It is important that people have the right to go to emergency rooms. Emergency room provisions are important. The Senator is exactly right. For the 51 million people who the Federal Government regulates, we have a responsibility to put emergency room provisions in there. That is what the Nickles bill does for the States.

The other people the Senator is talking about—does he know how many people already have specific emergency room provisions legislated for managed care? We do. It is not 10 States or 20 States or 30 States or 40 States. I don't have the exact number. I know more than 43 States have taken care of the emergency room provisions.

Mr. DORGAN. I understand the Senator's answer, which is that the substitute offered by Senator NICKLES provides coverage for only about 48 million Americans. It is the same approach they have used previously.

One can suggest that all of these protections I am proposing are covered elsewhere. If that is the case, why does the Senator object?

The Senator from Oklahoma seems irritated we have raised this issue again. Let me tell you what Congressman NORWOOD, a Republican serving in the House who is a sponsor of the House legislation, said on May 25, and I quote: I am here to say the time's up on the conference committee. We have waited 8 months for this conference committee to approve a compromise bill. Senate Republicans have yet to even offer a compromise liability proposal. They have only demanded that the House conferees abandon their position.

This is a Republican saying the time is up on the conference committee.

Let me also point out that the Senate passed, in my judgment, a poor piece of legislation. It has the right title but it doesn't include the right provisions. The House passed a good piece of legislation, but the House leadership appointed conferees to the conference that voted against the House bill. Their conferees voted against the House bill. So the conference isn't even on the level.

If month after month after month goes by and you don't want to have a Patients' Bill of Rights because you don't believe the Federal Government ought to be involved in this, just tell the patients that. Say to the patients: We don't believe Congress ought to do this. You should go ahead and fight cancer and fight your HMO at the same time. Go ahead and do that.

The fact is, we can do better. The proposal we are offering today is very simple. We believe that a Patients' Bill of Rights establishing basic rights that patients ought to be able to expect in dealing with their insurance company is a proposal that ought to get 100 votes in this Congress.

There are some who say, when asked the question, Whose side are you on?

Let us stand with the insurance companies.

We believe Members ought to stand with the patients. There is a genuine and serious problem in this country with patients not getting the treatment they expect, need, or deserve. Patients find themselves having to fight cancer and their insurance company. That is not fair.

The question is whether this Congress will do something about it. The question is not whether this Congress will pass a national health care plan. That is nonsense. That is not what is being debated. I see more shuffle and tap dances going on around here on this debate. The fact is, if you want to pass a good Patients' Bill of Rights, do what the House did. Understand that Dr. NORWOOD, a Republican Congressman, knows what he is talking about. This conference hasn't moved. This conference isn't accomplishing anything. That is why we have offered this amendment.

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

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. To respond to a couple of comments, my colleague read from a Norwood letter that said the Republican conferees are not addressing liability. We have liability on the floor of the Senate. Mr. NORWOOD is not a conferee. Maybe he didn't know what he was talking about. We have liability on the proposal. Granted, there was not liability in the Senate bill we passed. There is on the bill we have before the Senate.

When we talk about scope, we have scope that applies to 131 million Americans in the appeals process and liability that they can sue their HMO.

To read a letter by a Congressman that says the conference is not doing anything, they don't have liability, and we have liability is a little misleading.

When my colleague from North Dakota says our proposal doesn't have a Federal takeover of insurance, you might read the amendment. The amendment on page 2 says:

(3) provide the Federal Government with the authority to ensure the Federal floor referred to in paragraph (1) is being guaranteed and enforced with respect to all individuals described in such paragraph, including determining whether protections under State law meet the standards of such Act.

In other words, the Federal Government will run State insurance, period. The Federal Government is going to take over. It is in his amendment.

I think that needed to be pointed out.

I yield 10 minutes to my colleague and conferee on this bill, the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I thank Senator NICKLES, whose leadership on this issue I think is without equal on any issue on which I have worked since I have been in the Senate. I know the people of Oklahoma, who Senator NICKLES represents, watch this on television at home. They wonder, what is this all about? You did, you didn't; you did, you didn't. This has to be confusing.

In the limited time I have, I want to set this debate in historical perspective so everybody knows what this is about. When Bill Clinton was elected President, he had a goal of having the Government take over and run the health care system. In fact, I have before me the Clinton health care bill. This would have mandated one giant, national HMO run by the Government; HMOs would set up health care collectives, and of course the right people would be chosen to decide what health care we all needed.

If you went to your doctor, he would have dictated, under the Clinton plan, the kind of treatment he could give. If he violated their guidelines because he thought you needed it, he would be fined $50,000.

If, under the Clinton health care bill, you went to a doctor and said, I don't think all these experts are right and my baby is sick, my baby could be dying, I will pay you to treat my baby, if the doctor did it, he could go to prison for 5 years.

That is the health care system my Democrat colleagues are for. The Members who were here voted for it and supported it. They know what they want. They want the Government to take over and run the health care system. They want to herd Americans into health care purchasing cooperatives, or collectives, as they call them, and you have to be a member or else you don't get health care in America. That is what they want. That is where this debate started.

Now, we are trying to give patients rights in dealing with HMOs. We want internal and external review. We want the external review to be independent. We want to guarantee them rights. But there is one fundamental difference between the Democrats and us. We think this is a delicate balance, because we don't want to drive up health care insurance costs so much that millions of people lose their health care.

Senator KENNEDY's bill was scored as driving up the cost of every person's health care in America by over 4 percent and costing 1.2 million American families their health insurance. What patient right is more basic than having health insurance? They give you lots of rights, but if you lose your health insurance, how do you pay for your health care? There is the difference between them and us. We have to be concerned about 1.2 million people losing their health care; they don't.

When Clinton said, let us take over and run the health care system and put everybody into these health care collectives, what did he say the problem was? The problem was that we had too many people without health insurance. So if their bill passed and millions of people lost their health insurance, what do you think they would say? They would say: We have a solution; the solution is a government takeover of health care.

This job is easier for them than it is for us because they don't care if the baby dies, because they want to replace it. It reminds me of that story in the Bible. Some of you may remember it. Two ladies had gone to bed, and during the night one of them's baby had died and the other one had taken the baby. They come before Solomon. Solomon, in his wisdom, after listening to their arguments, says let's just cut the baby in half. That is what they are saying—cut the baby in half. Then one lady said: OK, cut the baby in half; and the other said: No, let her have the baby. Then Solomon knew whose baby it was.

This is our baby. We love freedom. We love the right of people to choose. We love the greatest health care system the world has ever known. We are not going to let the Government take over and run the health care system. That is what this debate is about. That is what our Democrat colleagues want. They are willing to destroy the greatest health care system the world has ever known because they want the health care system where the Government runs it. They think it would work better. We don't. Neither did America in 1993 and 1994, which is why we have a Republican majority today.

The second issue is scope. What does that mean? For those watching this on television, what does ''scope'' mean? What it means is, what should this Federal law do as it relates to the State in which you live?

Our Democrat colleagues believe with all their heart—they are as sincere as they can be—that there is only one place in the world where people have really any sense: Washington, DC. They think people in city governments and county governments and State governments are ignorant and uncaring. They believe Washington is brilliant, all-knowing, and all-caring. So what they want to do is write one bill in Washington and impose it on every living person in America.

We do not agree. We do not believe that just coming to Washington all of a sudden makes you brilliant. In fact, it is a long way from Washington to Wyoming. It is a long way from Washington to Texas. We joined the Union in Texas because we wanted freedom. We didn't join the Union to give it up.

What is the difference between the two bills? Their bill says we are going to write things the way we want them, and you are going to do it that way or we are going to come to your State, we are going to cut off your money, we are going to cut off your health care, and in some cases we are going to put you in jail. That is their way of doing it. You remember, in their bill if you went to this doctor, got down on your knees and begged that he take your money and treat your child, he went to prison for it; That was in their bill, the Clinton health care bill.

What we say is: Look, we will write a basic standard for patient protections.

But what if the people in Wyoming decide, since they don't have any HMOs—and this bill is about dealing with HMOs—that they should not have to come under the Federal Government to deal with a problem they don't have? They don't think they should. I don't they should either.

People in Tennessee and Texas were protecting patients before we got into this business. They passed comprehensive bills. All we are saying is our bill applies to those not already covered. But if people in Texas, through their government, through their elected Representatives, decide they appreciate our help, they appreciate our caring, they know we love them, they kind of figure we know everything—but just in case we are wrong, they would rather implement their own program for their own jurisdiction, our Democrat colleagues say: No, they don't care enough, they don't know enough, they are ignorant.

We do not agree. We want people in Wyoming to be able to say: Look we really appreciate the bill, we know you guys want to help us, but we don't have any HMOs; we say they ought to have the right to opt out.

If Tennessee says: Look, we set up TennCare because we adopted the Clinton health care bill in Tennessee—they wish they hadn't done it, but they did—if they say we would rather do it our way than your way, our Democrat colleagues say: What do you know? What do you know in Tennessee? You people in Tennessee don't know and don't care about people. We want to do it for you. We are going to tell you how to do it.

What we say is: Look, we have written a good bill. We want everybody to look at it very closely. In those areas where only Federal law applies, the bill applies. You can't get out from under it because there are no other protections. But if Tennessee decides in areas where they have already passed a Patients' Bill of Rights that they would rather do it their way than our way, we say if their elected Representatives, their Governor, decides to do it that way, they have the right to do it.

Is that an extreme view? Is that somehow denying people protection? Is freedom a denial of protection? Is keeping the right to choose denying people a basic health right? I don't think so. I think it enhances rights. And that is what this debate is about.

Our Democrat colleagues with all their hearts believe that the Government ought to take over the health care system and they think everything should be done in Washington.

I reserve the remainder of our time.

Mr. DORGAN. Mr. President, I yield 7 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is always interesting to listen to my friend and colleague from Texas. But I still am trying to find out why he is opposed to the protections which are included in our Patients' Bill of Rights. There was a lovely, wonderful statement about his reservations and about the importance of freedom to HMOs: If we give total freedom to HMOs, the public be damned. That is what has happened too often. What we are talking about is the protections that are guaranteed in a Patients' Bill of Rights, which is, interestingly, all the kinds of protections he has in his health insurance under the Federal employees program.

There is not a Member of the Senate who has not accepted the Federal employees program, and it guarantees virtually every one of these protections we are talking about tonight with the exception of the right to sue.

The question before the Senate tonight is this: Are we going to insist that whatever protections we are going to pass in a Patients' Bill of Rights are going to be available and accessible to all Americans? That is the Norwood-Dingell bill, the bill we on our side of the aisle favor. Whatever protections we are going to put in ought to include the 161 million Americans with private health insurance. That is our principle, that is what we stand for.

All you have to do is read the Nickles bill and you will find out that it covers exactly what was in the Senate Republican bill—only the 48 million Americans who are self-insured. Whatever protections they are talking about cover only those 48 million.

Look at the Nickles access to pediatric provision: ''If a group health plan''—that would be 123 million people;—''other than a fully insured group plan.'' Other than; that knocks out the fully insured. It knocks all of them out. So the guarantees on pediatric care apply to only 48 million out of 161 million.

Go through the rest of the Nickles bill. Go through coverage of emergency services. It says, again, ''If a group health plan''—they are covering 123 million. The next sentence, ''other than a fully insured group health plan.'' Other than fully insured—75 million. How many are left out? Forty-eight million. They cover the same number of people they covered 7 months ago. That is the reality. Here it is in their bill. Every one of these guarantees: If a group plan, other than a fully insured group plan. You go for the 48 million in the legislation that is rejected by Dr. NORWOOD, who is the principal health spokesman for Republicans on health matters over in the House of Representatives.

There it is. Their own language. They cover 48 million. The Dorgan proposal said: Whatever we are going to do, in terms of protecting consumers, let's protect them all—161 million.

We are one vote away in the Senate from passing an effective Patients' Bill of Rights. The conference is a failure. The amendment offered by the Senator from Oklahoma does not even have the support of the House Republicans. And only one of the House Republican conferees was a supporter of the Norwood-Dingell bill.

There is no agreement on covering all Americans. There is no agreement on external appeals. There is no agreement on holding health plans accountable. There is no agreement on access to specialists, to clinical trials, or a host of other patient protections. There was no agreement.

This vote today is a chance for the Senate to make a statement. A vote for the Dorgan amendment is a vote for the proposition that every patient in America is entitled to protection. Establishment of that principle is a giant step towards the day the Senate will pass a true patients protection program. A vote for the Nickles amendment is a vote against patients and for insurance companies. It is a vote for covering less than a third of all Americans. It is a vote for the same limited coverage originally passed by the Senate. It is a vote for a review process that is not truly independent. It is a vote against meaningful accountability. It is a vote against access to specialists outside a plan, even if the specialist is the only one able to treat that condition. It is a vote against access to clinical trials for heart patients. It is a vote for a bill that is so inadequate it will never pass the House, and it will never be signed by the President. It will not protect the thousands of patients who are injured every day.

It is up to the Senate. We should vote for the principle that everyone be covered. We should vote against a plan rejected by every group of patients and doctors, and by House Republicans. And we should come back after the recess and pass a real patients' rights bill, of which we can all be proud, whether we are Republicans or Democrats. Let's protect patients, not HMOs. I withhold the remainder of my time.

Let's protect patients, not HMOs. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

The PRESIDING OFFICER. The Senator from Oklahoma has 10 minutes, and the Senator from North Dakota has 7 minutes.

Mr. NICKLES. Mr. President, for the information of all of our colleagues, it is my expectation we will have a vote about 7:20 p.m. I say to the majority leader, all time will expire by about 7:20 p.m. We are happy to vote on both proposals. So colleagues should be on notice to expect two rollcall votes beginning at 7:20 p.m.

I yield 5 minutes to my colleague, a conferee on the bill, the Senator from Arkansas, Mr. HUTCHINSON.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I compliment and commend the Senator from Oklahoma, Mr. NICKLES, for the

hard work he has done and the months of labor he has put into this conference. Anybody who has followed the reports of what has come out of this conference cannot honestly say it has been glacial movement. Enormous progress has been made. Concessions have been made on the part of the House conferees as well as the Senate conferees.

This is no way to legislate and no way to provide patient protections the way Senator KENNEDY and Senator DORGAN have done in parceling out a little piece here and there. Tonight we are going to do scope. That is not the way to legislate. This is truly the triumph of politics over policy.

I was writing as various Senators on the Democratic side made speeches. They spoke of a national standard, of universal coverage, and of a national health system. To this Senator's mind, they could be synonymous with a national health care system. We had that debate. We had it in 1993. It was called ''Clinton care.'' Senator GRAMM piled it up over here, and it was about 2 feet tall.

The American people made a judgment on ''Clinton care.'' We do not want a national health care system, nor is that in the best interest of Americans.

The real debate tonight centers around not whether we want protections for all Americans or whether we believe we are the only ones who can provide that protection or whether the States have a legitimate role in providing protections for their citizens. How many States have patient protection laws? Forty-three States have already enacted patient protection laws.

Do we not believe they have the best interests of their citizens in mind? What we are doing in our legislation is providing protection where States cannot do it where Federal jurisdiction is legitimate. Under ERISA and self-funded plans, we do that, as we should.

I listened to my colleague from Massachusetts, Senator KENNEDY. In his State, in 1996, they had a ban on gag clauses. They passed a grievance procedure. They, in fact, have 26 State mandates. Does the Senator not believe they care about their citizens?

I heard my colleague and good friend from Florida speak of the need for a national system. The State of Florida passed a comprehensive bill of rights in 1997, emergency room services in 1996. They have 44 State mandates. Do they not care? They care as much as we care, and they know their State better than we do.

I heard my colleague from the State of Rhode Island speak about the need for a national health care system. Rhode Island passed a comprehensive consumer rights bill in 1996. They have passed 27 mandates in Rhode Island. I can go on and on. Forty-three States already have a bill of rights. It is not our place to usurp their authority. It is not our place to take over insurance that has traditionally and historically been regulated at the State level. It is wrong for us to do that.

To my colleagues I say we have a conference in progress. It is progress. It is working hard. It is making progress. That is the way we should provide patient protections, not through an amendment on an appropriations bill.

I thank my colleague, Senator NICKLES, for the hard work he has done and all the conferees and look forward to when we will have a meaningful patients' rights bill passed into law.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, has the Senator from Oklahoma completed his debate? It is my intention to close debate on my amendment.

Mr. NICKLES. I will be happy to let my colleague close. How much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 5 minutes, and the Senator from North Dakota has 7 minutes.

Mr. NICKLES. I yield 3 minutes to my colleague from New Hampshire.

Mr. GREGG. Mr. President, I thank the Senator for bringing forward this extremely positive proposal in the area of patient protections. This bill has a lot of initiatives, many of which have been outlined very well by my colleagues. One that has not been highlighted as completely as I would like because of time—and I want to touch on it quickly—is the issue of liability.

When our bill initially passed the Senate, we did not include an opportunity to sue, but we have changed that policy. Under the bill as it is proposed today, first there is a tremendously positive appeals process. If a patient believes they have been aggrieved by their HMO, they have the right to an internal appeal and an external appeal which is set up with an independent group of physicians who will review the case and who are knowledgeable on that subject. More importantly, if a patient thinks they have been aggrieved, under certain circumstances, they will be able to sue that HMO. What they will not be able to do is have an open season on the employer.

If one looks at the proposal that has been put forward by the other side, they are suggesting we have an open season on employers. The whole exercise in the Patients' Bill of Rights is not to have open season on employers. It is to address inequities occurring to people as they deal with their insurers, specifically with health maintenance organizations.

If we allow this open season on employers, we will simply drive people out of insurance. Instead of improving insurance for individuals across the country, individuals across this country will walk into work one morning and their employers will say: I did not give you this health care policy which happens to be a very expensive event in my day in trying to make an effective workplace; I did not give it to you so lawyers could use it as a game area to bring suits against me.

Employers across this Nation are going to simply drop their health care insurance. They will give their employees a certificate to buy their own health insurance or some other type of vehicle to allow them to compete in the marketplace. Because employers are able to get a better price and are able to tailor their insurance policies more effectively to the needs of their employees in different regions of this country, the practical effect will be employees get significantly much less health care under the proposal coming from the other side because employer after employer will simply drop their employees' health insurance programs and will allow the marketplace to compete for their employees. Unfortunately, the result will be the employees will be left with the short stick.

I think that is the actual goal of the other side. I think their real goal is to drive up the number of uninsured across this country. If one looks at the pattern of activity on the other side of the aisle, it has been to annually increase the number of uninsured by raising the price of insurance in this country.

Since this administration has been in office, the number of uninsured has gone up by 8 million people because the price of insurance has gone up and up as the other side has tried to drive up the price of that insurance.

What is the ultimate goal? ''Hillary care.'' If they put enough people on the street, if they create enough uninsured, inevitably they will have to claim: I am sorry, everybody is uninsured so we have to nationalize the system.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GREGG. I think that is a good place to stop. I reserve the remainder of the time on our side.

Mr. DORGAN. Mr. President, I yield 2 minutes to Senator EDWARDS.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I will respond to the Senator from New Hampshire. He argues there is a new provision in the Republican plan that provides for liability. That provision is a sham. There are three points I want to make in response.

First is the argument that we are creating an open season on employers. It is simply false. Not true. A letter from the American Medical Association of June 23 states clearly:

> The insurance industry—

And the Republican plan in this case—

> is flat wrong, and to imply otherwise is frankly deceptive. The fact is, the bipartisan House-passed bill would actually protect employers.

Under our bill, an employer cannot be held responsible under specific language unless they actively intervene in the decision of the insurance carrier, which never occurs. There is to reason

for it to occur. It in fact never occurs. It is a false argument that employers can be held liable under our proposal. They cannot.

Second, the argument that they are providing for liability is simply not true. Under their plan, an insurance company can never be held responsible for their initial decision to deny coverage. So if somebody goes to their doctor with an emergency situation—they need care—and the insurance company says no, and, as a result, they suffer a lifelong injury, a debilitating injury, or death, the insurance company cannot be held accountable. They can only be held accountable, can only be held responsible, if they have exhausted the internal review process and the insurance company acted in bad faith or if they failed to follow the decision from the external review board.

The bottom line is, it creates an incentive for the insurance company to deny coverage in the first instance because under no circumstances can they be held responsible, and under no circumstances can they be held accountable. For those reasons, this provision for HMO insurance carrier liability is not real; it is a sham.

Our proposal provides real and meaningful accountability.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield the Senator from Tennessee—how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. NICKLES. I yield the Senator 1 minute.

Mr. FRIST. Mr. President, very quickly, a vote for the Nickles amendment is a vote for patient protection, emergency room access to obstetricians, pediatricians, specialists, and clinical trials.

A vote for the Nickles amendment is a vote for a strong internal appeals process. If the HMO rejects the appeal of the doctor, you can go internally. If it is rejected again, you go to an external appeal process. The decision made by the external appeals process is made by an independent physician not bound by how the plan may define ''medical necessity.'' If the external appeal overrules the plan, and the plan does not comply, you go to court. This new ability to go to court, which is what many people believe is so important, is a new right to sue in Federal court.

Lastly, the access provisions have not been mentioned.

In closing, all of these mandates are going to drive up the cost of health care.

Access provisions in the bill include an above-the-line deduction for health insurance expenses, a 100-percent self-employed health insurance deduction, expansion of medical savings accounts, and deductions for long-term care.

I reserve the remainder of our time.

Mr. LEAHY. Mr. President, I am please to be a cosponsor of the amendment offered by Senator DASCHLE to the FY 2001 Labor HHS Appropriations bill which will protect people from having their personal, genetic information used against them by their employers or their health insurance companies. The provision is identical to the legislation that Senator DASCHLE introduced earlier this year and which I have also cosponsored.

If adopted, the Daschle amendment will bar insurance companies from raising premiums or denying patients health care coverage based on genetic information. Employers will also be prohibited from using genetic information in hiring practices. Because a right without a remedy is not right at all, these measures also provide an individual who has suffered genetic discrimination with the right to take legal action. This is an essential protection to ensure that discrimination does not occur.

With the latest breakthrough earlier this week of the Human Genome Project in mapping human genetic make-up, protecting Americans from genetic discrimination—an issue that was already important—has become critical. We must support the advancement of science and discovery through research. But while we are embracing these new discoveries, we must also provide safeguards to ensure the protection of this new and potentially very sensitive and personal information. In order to help Americans embrace scientific discoveries we must ensure these discoveries will not cause personal harm.

This February, in recognition of the need to prevent abuse and misuse of genetic information, President Clinton signed an Executive Order that prevents federal agencies from discriminating against workers if they discover through genetic testing that they have a predisposition to a disease or some other conditions. President Clinton expressed his support for legislation to prevent genetic discrimination which will extend beyond the reach of the Executive Order. The Genetic Nondiscrimination in Health Insurance and Employment Act and today's amendment will allow Vermonters—and all Americans—to undergo genetic testing without being afraid that their employer or their insurance company will use this information to discriminate against them.

No one wants to find out they may be predisposed to a certain disease and then have to worry about losing their job. These important measures would give them the assurance and protection that their personal information will be protected and will not be used against them.

Mr. DORGAN. Are we finished? Will I close at this point? I have 5 minutes.

Mr. NICKLES. I have 1 minute.

Mr. DORGAN. I would like to close debate on my amendment, if the Senator would like to proceed.

Mr. NICKLES. I would like to close on ours. You have 5 minutes.

Mr. DORGAN. Mr. President, we are debating my amendment, I guess. I have the right to close debate on my amendment; is that correct?

The PRESIDING OFFICER. There is no right to do such.

Mr. DORGAN. All right, Mr. President. Let me take the 5 minutes at this point and close debate.

Mr. President, this has been an interesting discussion, but it has not been about what is on the floor today. We have had now a debate about the 1993 Clinton health plan. We have also had a discussion about ''Hillary care.'' If you have the interest in debating that, hire a hall, get your own audience, speak until you are exhausted, and have a good time. But those are not the subjects on the floor today. We are debating the Patients' Bill of Rights.

Some people do not want to debate that. They certainly do not want to talk about the facts, but this is what we are talking about: The Patients' Bill of Rights.

Dr. GREG GANSKE, a Republican Congressman from Iowa, was just on the floor of the Senate and he indicated that the 258-page missive that is now offered as a substitute will in fact weaken HMO laws in the following States: California, Texas, Georgia, Washington, Louisiana, Oklahoma, Arizona, and Missouri. That is not from me; it is from Dr. GANSKE, a Republican Congressman.

By the way, let me read something Dr. GANSKE said some time ago in a discussion about all of these issues. He said:

> Let me give my colleagues one example out of many of a health plan's definition of medically necessary services. This is from the contractual language of one of the HMOs that some of you probably belong to: ''Medical necessity means the shortest, least expensive or least intense level of treatment, care or service rendered or supply provided, as determined by us.''
>
> Contracts like this demonstrate that some health plans are manipulating the definition of medical necessity to deny appropriate patient care by arbitrarily linking it to saving money, not to the patients' medical needs.

Some of my colleagues say we are playing politics with this issue? Why don't you tell that to some of these kids.

Dr. GANSKE described this child I show you a picture of, a child born with a severe cleft lip. Fifty percent of the medical professionals in Dr. GANSKE's field report that they have been told that correcting this kind of condition is not a medical necessity.

So tell that to the kids. Tell it to this young child, that it is not a medical necessity to correct this condition.

Dr. GANSKE also shared with us what a young child looks like who was born with this deformity—but who has it corrected by the right kind of surgery. Let me show you another picture of this child with the condition corrected. Does anybody want to tell this child it was not worth it?

Or maybe you want to talk to Ethan Bedrick. Tell Ethan that this is just

politics. Ethan was born during a complicated delivery that resulted in severe cerebral palsy and impaired motor function in his limbs. When he was 14 months old, Ethan's insurance company abruptly curtailed his physical therapy, citing the fact that he had only a 50-percent chance of being able to walk by age 5.

So talk to Ethan about this. You think this is politics? Talk to Ethan. A 50-percent chance of being able to walk by age 5 was deemed, quote, ''insignificant,'' and therefore you don't get the medical help you need. And some people say: Well, it doesn't matter. Apparently, you don't deserve it.

That is not the way health care ought to be delivered in this country. People ought to have basic rights. That is why we call this a Patients' Bill of Rights.

The question, at the end of the day, is: With whom do you stand?

Do you stand with the managed care companies that have developed contracts such as this, that say, ''Medical necessity means the shortest, least expensive, or least intensive level of treatment, care, or service as determined by us,'' which means that this young child is told: Tough luck?

Or do you stand with the patients and decide that maybe we ought to do something, as a country, that responds to real problems and pass a real Patients' Bill of Rights?

A fellow once told me, in my little hometown: You never ought to buy something from somebody who is out of breath. There is a breathless quality to some of the discussion I have heard tonight. We raise the issue of a Patients' Bill of Rights, and instead we hear a discussion about the 1993 health care plan. Then we have a substitute that is 258 pages that kills a lot of trees for nothing. You don't need to take up 258 pages to offer an empty plan. Offer one page, and say: We don't support a Patients' Bill of Rights. Just be honest about it. But do not try to fool the American people any longer.

It is true we have had a few votes on this. It is also true that there is a conference committee that is supposed to be working. But it is also true, as Dr. Norwood and other Republican Congressmen said, that the time is up and the conference committee has not done a thing.

No one ever accuses the Congress of speeding. I understand that.

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

The Senator from Oklahoma has 1 minute.

Mr. NICKLES. I will give my colleague an additional minute.

Let me say, I know he holds up a lot of photographs. I think that is a crummy way to legislate. But I will say that every single example he mentioned would be covered by external appeal. Those decisions would be made by medical experts. We even put in language that they would not be bound by the plan's definition of ''medical necessity.'' They would be covered.

Pass the bill. If you want those kinds of examples to be covered, pass the bill. We are going to give you a chance to vote on it tonight. I might mention, my colleague from Tennessee says: We have a bill that is a Patients' Bill of Rights-plus because we provide a lot of things for people who cannot afford it. We provide an above-the-line deduction to buy health care, so more people can buy health care. The Democrats' proposal is going to uninsure millions of Americans.

We should not do anything that is going to dramatically increase the price of health care and uninsure millions of Americans, as their proposal would do. We also don't think HCFA, that glorious Federal agency they are trying to empower, should be regulating all health care in the States.

I ask unanimous consent for an additional 30 seconds.

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

Mr. NICKLES. Mr. President, my colleagues have said we are one vote short. We are not one vote short. Unless somebody changes the rules of the Senate, the Norwood-Dingell bill is going to need a lot more votes. It will never pass this session of Congress.

I yield the floor and ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The yeas and nays have been ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, on behalf of the leader, I am announcing that there will be no further votes this evening after these two votes. I will shortly ask unanimous consent that the debate and votes in relation to the following remaining amendments be postponed to occur in a stacked sequence beginning at 9:15 a.m. on tomorrow, Friday, with 2 minutes prior to each vote for explanation. Also in the request is a consent that no second-degree amendments be in order to the amendments prior to the votes just outlined.

The amendments are as follows: Wellstone No. 3674, Helms amendment regarding school facilities, and we have just added the Harkin amendment regarding IDEA.

I will also ask unanimous consent that following those votes and the disposition of the managers' amendment, the bill be advanced to third reading and passage occur, all without any intervening action and debate.

Finally, I ask unanimous consent the Senate insist on its amendments and request a conference with the House and the Chair appoint the entire subcommittee, including the chairman and the ranking member, as conferees.

I hope all of our colleagues will agree to this consent. If not, the Senate will be in session late into the day tomorrow concluding this bill and beginning the appropriations bill on Interior.

With that, I now propound the unanimous consent just outlined.

Mr. REID. Mr. President, if I could ask my friend to add one phrase, ''any amendments that may not be cleared as part of the managers' package.''

Mr. SPECTER. I make that addition.

Mr. GRAMM. Reserving the right to object, parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Texas will state his inquiry.

Mr. GRAMM. Mr. President, as I read this unanimous consent request, the phrase ''without intervening business'' suggests to me that possibly the point of order that has been set aside against the bill could not be raised. I would like to ask if that is the case.

The PRESIDING OFFICER. The Senator's interpretation is correct.

Mr. GRAMM. Mr. President, I ask unanimous consent that the request be revised to allow me to raise the point of order. I think that was always the intention, but I would like to be sure that is the case.

The PRESIDING OFFICER. Is there objection?

The unanimous consent request is as amended by the Senator from Texas.

Mr. REID. Mr. President, we just got a call in the Cloakroom. Somebody has a problem with this. We will try to take care of it as soon as we can. Should we go ahead with the vote?

Mr. SPECTER. Let us proceed with the vote, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania withdraws his unanimous consent request.

The question is on agreeing to amendment No. 3694. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE 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 51, nays 47, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—51

Abraham	Cochran	Gorton
Allard	Collins	Gramm
Ashcroft	Coverdell	Grams
Bennett	Craig	Grassley
Bond	Crapo	Gregg
Brownback	DeWine	Hagel
Bunning	Domenici	Hatch
Burns	Enzi	Helms
Campbell	Frist	Hutchinson

Hutchison	Murkowski	Smith (OR)
Inhofe	Nickles	Snowe
Jeffords	Roberts	Stevens
Kyl	Roth	Thomas
Lott	Santorum	Thompson
Lugar	Sessions	Thurmond
Mack	Shelby	Voinovich
McConnell	Smith (NH)	Warner

NAYS—47

Akaka	Edwards	Lincoln
Baucus	Feingold	McCain
Bayh	Feinstein	Mikulski
Biden	Fitzgerald	Moynihan
Bingaman	Graham	Murray
Boxer	Harkin	Reed
Breaux	Hollings	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee, L.	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Levin	Wyden
Durbin	Lieberman	

NOT VOTING—2

Inouye	Leahy

The amendment (No. 3694) was agreed to.

Mr. COVERDELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, today the Senate voted on yet another proposal for providing patient protections to Americans enrolled in HMOs. Unfortunately, this proposal did not provide the strong safeguards and protections that I believe each and every American deserves to have.

This amendment failed on the three key areas for meaningful patient protections—fair legal accountability for denied care, the right of every American to choose their doctor, and basic patient rights for every American not just a limited few.

Under this amendment only a limited number of Americans would be provided with basic patient protections including the right for a woman to go directly to an OB/GYN and a parent to take their child directly to receive care from a pediatrician. Every American should be protected from having their doctors being ''gagged'' by HMO and prevented from sharing all health care information with them.

Another disturbing provision contained in this proposal was the lack of legal redress available to an individual if they did not complete the internal review process. Under this proposal if a patient died during the internal review process—which could take up to 14 days—then their surviving family would have no legal recourse against the HMO that denied or caused harm to the deceased individual. This is simply wrong and indefensible.

While I was disappointed in this proposal there were a few provisions that were applaudable and made an important step towards providing stronger protections to patients. I appreciated the efforts that were made to make the external review process more fair, unbiased and accessible. In addition I applaud the attempts made to provide patients with the right to sue including a cap on non-economic damages and no punitive damages. Both of these are items that I have consistently fought for inclusion in a HMO reform bill. People must be provided the right to sue for damages once all means have been exhausted but it must be done in a manner that does not cause excessive lawsuits and cause health care costs to exorbitantly rise.

I am disappointed that this proposal did not go far enough but I am hopeful that a strong patient protection bill can still be passed prior to Congress adjourning in the fall. It is the least we can do for America's patients.

Congress still has an excellent opportunity to show the American people that it can and will rise above partisan politics and find the consensus that serves the national interest and puts the health care needs of patients first. This is too important an issue to allow the influence of special interests to prevent us from doing what is right for all Americans and I am confident that the leaders in both the House and Senate will continue working with the conferees to ensure that an agreement is reached.

AMENDMENT NO. 3693

The PRESIDING OFFICER (Mr. GRAMS). The question is on agreeing to the DORGAN amendment.

Mr. BREAUX. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

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

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—47

Akaka	Edwards	Lincoln
Baucus	Feingold	McCain
Bayh	Feinstein	Mikulski
Biden	Fitzgerald	Moynihan
Bingaman	Graham	Murray
Boxer	Harkin	Reed
Breaux	Hollings	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee, L.	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Levin	Wyden
Durbin	Lieberman	

NAYS—51

Abraham	Coverdell	Gregg
Allard	Craig	Hagel
Ashcroft	Crapo	Hatch
Bennett	DeWine	Helms
Bond	Domenici	Hutchinson
Brownback	Enzi	Hutchison
Bunning	Frist	Inhofe
Burns	Gorton	Jeffords
Campbell	Gramm	Kyl
Cochran	Grams	Lott
Collins	Grassley	Lugar
Mack	Santorum	Stevens
McConnell	Sessions	Thomas
Murkowski	Shelby	Thompson
Nickles	Smith (NH)	Thurmond
Roberts	Smith (OR)	Voinovich
Roth	Snowe	Warner

NOT VOTING—2

Inouye	Leahy

The amendment (No. 3693) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina wishes to be recognized to offer an amendment.

Mr. LOTT. Will the Senator from North Carolina yield so we can get an agreement on how to proceed for the remainder of the night?

The PRESIDING OFFICER. Does the Senator from North Carolina yield?

Mr. HELMS. I yield.

Mr. LOTT. Mr. President I want to take a few moments to go over the schedule for the remainder of the night and the morning and get a final agreement on a unanimous consent request.

These were the last two votes of the night. We want to complete the offering and debating of the remaining amendments that have been requested tonight, and then we will have those votes stacked beginning at 9:30 a.m., which is a little different from the time earlier mentioned. We had discussed 9:15 a.m. and there was a request we do that at 9:30 a.m.

I renew the unanimous consent request regarding the Labor-HHS bill which now includes possible votes tomorrow, Friday morning, beginning at the amended time, 9:30 a.m., relative to the following issues: a Wellstone amendment regarding drug pricing; a Helms amendment regarding school facilities; a Harkin amendment regarding IDEA; a Baucus amendment regarding impact aid; any amendment that is not cleared within the managers' package; disposition of the point of order; and final passage of the Labor-HHS appropriations bill.

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

Mr. LOTT. I thank my colleagues on both sides of the aisle for their cooperation.

Mr. WARNER. Mr. President, may I address my leader?

Mr. LOTT. I yield to Senator WARNER.

Mr. WARNER. Two things, Mr. President. The distinguished ranking member of the Armed Services Committee and I have a package of about a dozen amendments which we can clear tonight. They are agreed upon. We need to call up the bill.

Second, we want to discuss with our leadership the possibility of a UC which might help move our bill along. Can we give the general outline?

Mr. LOTT. That will be fine.

Mr. WARNER. It will take but a minute. I ask my distinguished colleague to generally outline what we

had in mind. I ask him to articulate it if he can.

Mr. LEVIN. The idea would be, after this package of cleared amendments is adopted, we would offer a unanimous consent agreement to limit the bill to relevant amendments on the list, which would include Senator BYRD's amendment on bilateral trade because that probably is relevant under any circumstances.

Mr. WARNER. We think that is relevant, Mr. President.

Mr. LEVIN. The amendments will have to be on file no later than adjournment tomorrow for the recess. Second-degree amendments that are relevant would be in order even if they are not filed. This is just preliminary. Since the Senator from Virginia asked, I offer this at least as a suggestion preliminarily. This is what we are talking about.

Mr. WARNER. May I add, Senator DODD has an amendment in there which has been cleared.

Mr. LOTT. Mr. President, if I can respond to the comments, first, I want to make very clear I feel strongly we should try to find a way to pass this very important Department of Defense authorization bill. It has a lot of provisions in it, changes in the law we have to get done. We need to do this for our national security and for our men and women who serve in our military.

Senator DASCHLE and I have talked about the fact we want to work together to move it forward. That is one of the many reasons we tried to find a way to conclude the disclosure requirements of the section 527 issue. We have achieved that. That is why I have been working with Senator BROWNBACK to find a way to deal with an issue that is very important to him, NCAA gaming. We want to get it done.

What I had in mind was for the managers to continue to work and clear as many amendments as they can, and the week we come back—again, I have not discussed the details of this with Senator DASCHLE, so I will not agree to anything without us both having a chance to check on both sides and clear it. But I was thinking in terms of asking the managers, who have done yeoman's work, to be prepared to work on Monday night, Tuesday night, or Wednesday night while we do other issues during the day. I am hoping one night will do the job but work a couple or three nights and complete this bill the week we come back. We are glad to work with them toward that goal. We want to get this bill in conference. I think Senator DASCHLE wants to help with that effort.

Mr. DASCHLE. Mr. President, if I can add my thoughts, I share the view expressed just now by the majority leader. We really want to help the managers finish their work on this bill. They have been working on it now for weeks. We have come a long way.

The majority leader has also indicated to colleagues who have concerns about nonrelevant amendments that we will have an opportunity to consider other vehicles immediately following the completion of the Defense authorization bill so we will be able to continue this procedure of a dual track to allow the consideration of other issues.

With that understanding, we want to work with the managers to rid ourselves of nonrelevant amendments, stick to those amendments which are relevant in an effort to, as the leader suggested, finish the bill in a matter of a night or two. I commend the managers for the effort they have made thus far. We will work with them to see we finish it.

Mr. WARNER. I thank our respected leaders very much. I told my leader and Senator LEVIN, we will work nights, we will go right straight through the evenings and stack such votes that we feel are necessary. We will achieve that.

Mr. LOTT. I yield to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. I yield to the majority leader.

Mr. LOTT. I thank the Senator from North Carolina for yielding further. I ask his indulgence for a moment so the Senator from Kansas can respond.

Mr. BROWNBACK. Mr. President, I appreciate the majority leader mentioning trying to work out the issue on NCAA gaming. I hope we can get that worked out and come to a resolution and move the issue forward. I want to make sure we get that one taken care of as well.

Mr. LOTT. I thank my colleagues and yield the floor.

Mr. DASCHLE. Mr. President, if I can add one other thought.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. DASCHLE. Will the Senator yield for 30 seconds?

Mr. HELMS. I yield to the Senator.

Mr. DASCHLE. Mr. President, I would be remiss if I did not bring up also the understanding the leader and I have about further confirmation of judges. Obviously, when we come back, that is going to continue to be an important matter. The leader has certainly indicated a willingness to work with us on that.

It is also with that understanding that Senator LEVIN has some very important matters, Senator REID, and others. I appreciate very much the majority leader's commitment to work with us on that as well.

Mr. LOTT. Mr. President, if Senator HELMS will yield one second more, we are going to confirm some nominations tonight. I do note it is our intent after we complete Labor-HHS and the MILCON conference report to proceed to the Interior appropriations bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 3697

(Purpose: To prohibit the expenditure of certain appropriated funds for the distribution or provision of, or the provision of a prescription for, postcoital emergency contraception)

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 3697.

Mr. HELMS. 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:

At the appropriate place, insert the following:

SEC. ___. (a) None of the funds appropriated under this Act to carry out section 330 or title X of the Public Health Service Act (42 U.S.C. 254b, 300 et seq.), title V or XIX of the Social Security Act (42 U.S.C. 701 et seq., 1396 et seq.), or any other provision of law, shall be used for the distribution or provision of postcoital emergency contraception, or the provision of a prescription for postcoital emergency contraception, to an unemancipated minor, on the premises or in the facilities of any elementary school or secondary school.

(b) This section takes effect 1 day after the date of enactment of this Act.

(c) In this section:

(1) The terms ''elementary school'' and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) The term ''unemancipated minor'' means an unmarried individual who is 17 years of age or younger and is a dependent, as defined in section 152(a) of the Internal Revenue Code of 1986.

Mr. HELMS. Mr. President, I further ask unanimous consent that it be in order for me to deliver my remarks at my seat.

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

Mr. HELMS. I thank the Chair.

Mr. President, Americans who follow international news, will recall that the French Government recently created an uproar when it authorized its public schools to distribute the post-conception ''morning-after-pill'' to girl students as young as 12 years old.

I wish parents in our country could be assured that such an initiative will never see the light of day in the United States, but no such assurance can be made under existing circumstances.

In fact, when the French Government announced that it would be distributing the ''morning-after pill'' in French schools, the Alan Guttmacher Institute—the research arm of Planned Parenthood—recommended almost immediately that the United States duplicate the Western European's approach in handing out contraceptions to teenage girls.

So, isn't it clear that attempts to distribute the ''morning-after pill'' in U.S. public schools are indeed underway in planning boards of Planned Parenthood?

Moreover, Americans will be alarmed to learn that Federal law currently gives schools the authorization to distribute these ''morning-after pills'' to schoolchildren.

In fact, the Congressional Research Service confirmed to me that Federal law does, indeed, permit the distribution of the ''morning-after pill'' at school-based health clinics receiving Federal funds designated for family planning services.

Simply put, this means that any school receiving Federal family planning money is prohibited by Federal law to place any sort of restriction on contraception. Even parental consent requirements.

In a handful of cases, the Federal courts have struck down parental consent laws, ruling that any Federal family planning program trumps a State or county parental consent statute because Federal law prohibits parental consent requirements—even though Federal law says recipients of Federal family planning money should ''encourage family participation.'' I make this point because so many who oppose placing restrictions on contraception—like parental consent requirements—run for cover under this language ''encourage family participation'' when they know good and well that it means absolutely nothing in a court of law.

Let me reiterate a warning: There is nothing in Federal law to prevent the post-conception ''morning-after pill'' from being distributed on school grounds by clinics receiving Federal funding—regardless of whether a parental consent State statute exists.

That is why I asked the Congressional Research Service to look into whether or not school clinics are distributing the ''morning-after pill.'' What CRS found is that there is some discrepancy to the response to this question.

For example, according to CRS, the National Conference of State Legislatures spokesman said there was no knowledge that any school had distributed the ''morning-after-pill.'' Yet, the National Assembly on School-Based Health Care—an organization which works closely with HHS—told Congressional Research Service that their group has recently conducted a national survey of their members, and that the resulting data reflected that out of 1,200 schools, 15 percent offer contraceptives, including the ''morning-after pill.''

So, you see, it is not clear as to exactly what is being provided to schoolchildren these days. But it is clear that we are not just talking about condoms.

Simply put, Planned Parenthood and its cronies have been given free reign to distribute to American schoolchildren whatever they so please—to the point where schoolchildren are now being provided extremely controversial forms of contraception. And, in my judgment, this has gone on far too long.

That is why I am offering an amendment today that would forbid schools from using Federal funds from the Labor, HHS, Education appropriations bill to distribute the lawfully given ''morning-after pill'' in school.

But before the guardian angels of Planned Parenthood get themselves in a tizzy, let me make clear precisely what this amendment will and will not do.

Under the proposed measure, elementary and secondary schools will be forbidden to use funds from the Labor, HHS and Education appropriations bill to distribute to school children the ''morning-after pill''—which is widely considered to be an abortifacient. In fact, many pharmacists nationwide have refused to fill prescriptions for the ''morning-after pill'' because they, too, see it as an abortifacient.

This amendment will apply only to school clinics on school property.

Clearly, Congress simply must not ignore the fact that our schoolchildren deserve to be protected.

Mr. President, I ask unanimous consent that two memoranda prepared by the Congressional Research Service be printed in the CONGRESSIONAL RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, April 26, 2000.

To: Senator Jesse Helms
From: Kenneth R. Thomas, Legislative Attorney, American Law Division
Subject: Application of Parental Consent Requirements to Distribution of Emergency Contraceptives in School-Based Clinics Receiving Federal Funds

This revised memorandum is in response to your rush request to determine whether state parental notification statutes would apply to the distribution of emergency contraceptives at a school-based clinic which receives federal funds. Specifically, you requested an evaluation of whether state parental notification statutes, regulations or policies which applied to federally funded clinics distributing contraceptives would be preempted.

In a series of cases in the mid-1980's, various federal courts reviewed the application of parental notification requirements to federally funded programs which distributed contraception. In general, the courts found that the application of parental notification statutes to federally funded programs to provide contraception resulted in the frustration of the federal purpose of the statutes, and consequently the courts invalidated such restrictions.

There is currently no federal prohibition on the distribution of emergency contraceptives at school-based clinics.

If I can be of further assistance, please contact me at 7–5863.

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, April 12, 2000.

To: Honorable Jesse Helms.
From: Technical Information Specialist, Domestic Social Policy Division.
Subject: School-Based Clinics.

Your office requested a memorandum describing policies of school-based clinics for distributing emergency contraceptives (more commonly known as the ''morning-after pill''), including the number of schools estimated to be offering emergency contraception, and any existing federal prohibitions.

We contacted three different groups for this information:

(1) The National Assembly on School-Based Health Care informed us that their group has recently conducted a national survey of their members and that data reflected that out of 1200 schools, 77% do not offer contraceptives, 15% offer contraceptives, including emergency contraceptives, and the remaining 8% offer contraceptives, but not emergency contraceptives. The schools offering contraceptives are middle schools and high schools. The information is not yet available for publication.

(2) The National Conference of State Legislatures informed us that they currently have no knowledge of any schools distributing emergency contraceptives through school-based health clinics.

(3) The Healthy Schools/Healthy Communities (HSHC) Program, Health Resources and Services Administration, Department of Health and Human Services informed us that HSHC does not provide direct dollars for specialized services, such as emergency contraceptives, but does support school-based programs that provide full and comprehensive health services. HSHC is administered as a discretionary program under the Health Centers program, Section 330 of the Public Health Service Act. Section 330 allows the provision of voluntary family planning services at health centers.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I say to my colleague from North Carolina, is he finished with his prepared remarks on his amendment?

Mr. HELMS. Yes, I am.

Has the Chair ruled on the yeas and nays?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HELMS. They have been ordered.

Mr. President, I am advised I should ask unanimous consent that this amendment of mine be laid aside and the vote be put in regular order tomorrow morning. I ask unanimous consent that that be the case.

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

Mr. HELMS. I thank the Chair and yield the floor.

AMENDMENT NO. 3698

(Purpose: To provide for a limitation on the use of funds for certain agreements involving the conveyance or licensing of a drug)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. JOHNSON, proposes an amendment numbered 3698.

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

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

The amendment is as follows:

On page 92, between lines 4 and 5, insert the following:

SEC. ___. (a) LIMITATION ON USE OF FUNDS FOR CERTAIN AGREEMENTS.—Except as provided in subsection (b), none of the funds made available under this Act may be used by the Secretary of Health and Human Services to enter into—

(1) an agreement on the conveyance or licensing of a patent for a drug, or on another exclusive right to a drug;

(2) an agreement on the use of information derived from animal tests or human clinical trials that are conducted by the Department of Health and Human Services with respect to a drug, including an agreement under which such information is provided by the Department to another Federal agency on an exclusive basis; or

(3) a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) pertaining to a drug, excluding cooperative research and development agreements between the Department of Health and Human Services and a college or university.

(b) EXCEPTIONS.—Subsection (a) shall not apply to an agreement where—

(1) the sale of the drug involved is subject to a price agreement that is reasonable (as defined by the Secretary of Health and Human Services); or

(2) a reasonable price agreement with respect to the sale of the drug involved is not required by the public interest (as defined by such Secretary).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to any agreement entered into by a college or university and any entity other than the Secretary of Health and Human Services or an entity within the Department of Health and Human Services.

Mr. WELLSTONE. Mr. President, I offer this amendment on behalf of myself and Senator JOHNSON from South Dakota.

I am just going to take 1 minute to summarize this amendment, I say to my colleagues, and then Senator JOHNSON will proceed, and then I will come back to the amendment.

Mr. President, if you just look right here at this chart, it is very interesting. Tamoxifen and Prozac are two widely used drugs. Look at the difference between what the United States citizens pay for a vial versus what people in Canada pay.

In our country, a United States citizen pays $241 for tamoxifen; $34 in Canada. For Prozac, in this country it is $105; in Canada, it is $43.

What this amendment says—and I want to go back to Bernadette Healy's leadership at NIH. What this amendment says is that what Ms. Healy did is the right thing to do, which is to say to the pharmaceutical companies, when the NIH does the research, and then the patent is handed over to a pharmaceutical company, that pharmaceutical company—since we put the taxpayer dollars into the research—should at least agree to provide citizens in this country with a decent, affordable charge; that the pharmaceutical company should agree to an affordable price or a reasonable price which is defined specifically by the Secretary of Health and Human Services.

Again, this amendment says that pharmaceutical companies that negotiate an agreement with NIH—NIH is doing the research, helping out, the drug is then developed, the pharmaceutical company now has the patent—must sign an agreement to sell the drug at a reasonable price.

I do not think it is unreasonable from the point of view of your constituents and my constituents, people in this country who pay the taxes and support our Government, who feel just a little bit ripped off by the prices today, that if we are going to put our taxpayer dollars into the research and into the support and then the pharmaceutical companies are going to get a patent, at the very minimum they ought to be willing to sell the drug to people in our country at a reasonable price defined by the Secretary of Health and Human Services.

This amendment is all about corporate welfare at its worst. It is about being there for consumers. It is about assuring people that their taxpayer dollars are contributing toward some research that will in turn contribute toward affordable drugs for themselves and their children.

I yield the floor to my colleague, Senator JOHNSON of South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I am pleased to join my colleague from Minnesota, extending strong support for his amendment.

Very simply, this amendment would require that when companies receive federally funded drug research or a federally owned drug, the benefits of that research or drug be made available to the public on reasonable terms through what is called a ''reasonable pricing clause.''

This issue first surfaced during the Bush administration, in fact, when the NIH insisted that cooperative research agreements contain a reasonable pricing clause that would protect consumers from exorbitant prices of products developed from federally funded research.

Two weeks ago, during floor debate in the other body on the Labor, Health and Human Services, and Education appropriations bill, a very similar amendment to this one was offered and overwhelmingly accepted by nearly three-quarters of the House of Representatives in a bipartisan vote.

The circumstances we face today are extraordinary. As an example, between 1955 and 1992, 92 percent of drugs approved by the FDA to treat cancer were researched and developed by the taxpayers through the NIH. Today many of the most widely used drugs in this country dealing with a variety of critical illnesses such as AIDS, breast cancer, and depression were developed through the use of taxpayer-funded NIH research. The Federal Government funds about 36 percent of all medical research.

The unfortunate scenario for American taxpayers is that oftentimes this drug research, done at their expense, is frequently used then by the pharmaceutical industry with no assurance that American consumers will not be charged outrageously high prescription drug prices.

Take the drug Taxol, for instance. The NIH spent 15 years and $32 million of our money, taxpayer money, to develop Taxol, which is a popular cancer drug used for breast, lung, and ovarian cancers. Following the development of Taxol, the drug manufacturer was awarded exclusive marketing rights on the drug, and Taxol is now priced at roughly 20 times what Taxol costs the manufacturer to produce. So a cancer patient on Taxol will pay $10,000 a year while it only costs the drug company $500.

As reported by Fortune 500 magazine earlier this year, the pharmaceutical companies once again represent the most profitable sector of the American economy. On top of that, we are seeing drug prices soaring at unimaginable rates year after year. In the United States, drug spending is growing at more than twice the rate of all other health care expenditures. Furthermore, Americans are paying far more for prescription drugs than do the people in any other Western industrialized Nation—many of these drugs manufactured in the United States and the research having been conducted through American taxpayer dollars.

As an example, tamoxifen, a widely prescribed drug for breast cancer, recently received federally funded research and numerous NIH-sponsored clinical trials. Yet today the pharmaceutical industry charges women in this Nation 10 times more than they charge women in Canada for a drug widely developed with U.S. taxpayer support.

The evidence has shown that the pharmaceutical companies are charging enormously high rates for drugs developed with the help of taxpayer money. Americans then are forced to pay twice for lifesaving drugs: first as taxpayers to develop the drug, and then as a consumer to bolster pharmaceutical profits. Once again, who is hurt most by this? As one would expect, these costs fall hardest on those most vulnerable and least able to bear the burden, such as cancer patients, AIDS patients, and the elderly.

We have to put an end to the giveaway of billions of taxpayer dollars to finance drug research that goes on without any assurance whatsoever that the American taxpayers will not see a reasonable return on their investment in terms of affordable prescription drug prices.

I appreciate that this amendment may not be the silver bullet that solves all of the problems of assuring the American public they are receiving the return on their investment that they deserve. But it does serve as an important message that this Congress is here to protect the millions of American consumers who have invested their

money in research to develop drugs that they now cannot afford to buy. Furthermore, it shows we are here to fight for affordable prescription drugs for every American in this Nation.

This is one part of an overall strategy that this Congress needs to enact to assure that we have equity, to assure that we have tax fairness, and to assure that we maximize the number of people in America who can afford their prescriptions.

I urge my colleagues to vote for passage of this critically important amendment tomorrow when the vote is taken on this amendment. I commend and applaud my colleague from Minnesota for his work in crafting this amendment and bringing it before the body.

Mr. WELLSTONE. Mr. President, I thank the Senator from South Dakota. Again, the amendment says that when the pharmaceutical companies negotiate an agreement with the NIH to develop and market a drug based on taxpayer-financed research, there must be an agreement signed by the pharmaceutical companies that they will sell the drug at a reasonable price.

This is an eminently reasonable amendment. This amendment does not cover extramural NIH research grants, such as grants to universities. It does not cover grants to universities. It does not establish a health care price control scheme.

This amendment will reinstate the Bush administration's reasonable pricing clause which was in effect from 1989 to 1995. This amendment directs the Secretary of Health and Human Services to determine what is a reasonable price. This amendment gives the Secretary flexibility to waive the pricing clause if it is in the public interest to do so.

As my colleague from South Dakota pointed out, a similar amendment, which was introduced by Congressmen SANDERS, ROHRABACHER, DEFAZIO, and others passed the House of Representatives by a 3-to-1 margin, 313 to 109. It is because people in the country feel ripped off by this industry. People in the country believe that the prices should be more reasonable. Certainly our constituents believe that if we are going to be funding some of the research and these companies are going to benefit from our taxpayer dollars, then there ought to be an agreement that these companies are going to be willing to charge us a reasonable price. That is not too much to ask.

This amendment is supported by Families U.S.A., the National Council of Senior Citizens, and the Committee to Preserve Social Security and Medicare.

I ask unanimous consent that their letters be printed in the RECORD.

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

FAMILIES USA,
Washington, DC.

Senator PAUL WELLSTONE,
Washington, DC.

DEAR SENATOR WELLSTONE: We applaud your amendment that would require that a price agreement be part of agreements between NIH and companies who do research on new drugs.

Currently, once NIH has successfully developed a new drug it signs over the commercial rights to pharmaceutical companies that charge American consumers as much as they want. Americans are forced to pay twice for lifesaving drugs, first as taxpayers to develop the drug and then as consumers to the drug companies for the product. These costs fall hardest on those least able to bear the burden such as seniors and the uninsured, although all consumers wind up paying more than they should have to.

Your amendment would help correct this burdensome situation. Please let us know how we can help make this amendment in law.

Sincerely,

RONALD F. POLLACK,
Executive Director.

NATIONAL COUNCIL
OF SENIOR CITIZENS,
Silver Spring, Maryland, June 29, 2000.

Senator PAUL WELLSTONE,
Washington, DC.

DEAR SENATOR WELLSTONE: The National Council of Senior Citizens fully supports your amendment to the FY 2001 Labor HHS appropriations bill to require that the Federal government negotiate a reasonable and fairer price for all drugs developed with public funds. The Federal government has for too long sold its most precious research findings for a mess of pottage to the pharmaceutical cartels. The drug companies, in turn, sell these findings back to the American people at unconscionably high retail prices. Pharmaceutical retail price reform must start at the source—where public drug research and development investment has borne fruit.

Your bill defines the public interest as requiring hard bargaining by the N.I.H. in behalf of the public when selling patents to drug companies. We also note that your amendment only covers intramural N.I.H. research. We call on your colleagues to support this needed amendment.

Sincerely,

DAN SCHULDER,
Director, Legislation & Public Affairs.

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, June 29, 2000.

Hon. PAUL WELLSTONE,
U.S. Senate, Washington, DC.

DEAR SENATOR WELLSTONE: It has come to our attention that the Senate is likely to consider H.R. 4577, an amendment to the Labor, Health and Human Services, and Education appropriations bill. The amendment would require drug companies to sell drugs at a reasonable price if the drugs were developed based on intramural research done by the National Institute of Health. On behalf of the members and supporters of the National Committee to Preserve Social Security and Medicare, I strongly support your proposed amendment.

When pharmaceutical companies build on NIH research they are using taxpayer money. A Congressional Joint Economic Committee report revealed that seven out of the top 21 most important drugs introduced between 1965 and 1992 were developed with federally funded research. Taxpayers deserve some return on their investment in terms of lower prices. This amendment will help to ensure that.

We appreciate your leadership on this important issue.

Sincerely,

MARTHA A. MCSTEEN,
President.

Mr. WELLSTONE. I will quote from Ron Pollack, executive director of Families U.S.A.:

Currently, once NIH has successfully developed a new drug it signs over the commercial rights to pharmaceutical companies that charge American consumers as much as they want. Americans are forced to pay twice for lifesaving drugs, first as taxpayers to develop the drug and then as consumers to the drug companies for the product. These costs fall hardest on those least able to bear the burden such as senior citizens and the uninsured, although all consumers wind up paying more than they should have to.

I want to simply quote from a piece in the New York Times from April 23, which challenged the drug industry's contention that R&D cost justify the prices they charge the American consumer. That is what we keep hearing, that it is the R&D cost. That is why they have to charge so much. I quote from the New York Times piece of April 23:

The industry's reliance on taxpayer-supported research—characterized as a ''subsidy'' by the very same economists whose work the industry relies on—is commonplace, the examination also found. So commonplace, in fact, that one industry expert is now raising questions about the companies' arguments.

The expert, Dr. Nelson Levy, a former head of research and development at Abbott Laboratories, who now works as a consultant for industry and the Federal Government on drug development, bluntly challenged the industry's oft-repeated cost of developing the drug. ''That it costs $500 million to develop a drug,'' Dr. Levy said in a recent interview, ''is a lot of bull.''

Finally, the examination found that Federal officials have abandoned or ignored policies that could have led to lower prices for medicines developed with taxpayer dollars. That is partly because the Government has lost track of what drugs have been invented with its money, and partly, officials say, because the industry has resisted any Government effort to insist that they charge people—our constituents—a reasonable price. As Dr. Bernadine Healy, a former Director of the NIH, said in a recent interview, ''We sold away Government research so cheap.''

Again, it is not a new issue. During the Bush administration, the NIH, from 1989 to 1995, insisted there be some reasonable pricing clause. There was heavy pressure from the pharmaceutical industry. They abandoned this practice. We are saying that we ought to be going back to it.

There are multiple factors contributing to the prescription drug cost crisis in our country today. I realize that this reasonable pricing clause is not a panacea for these egregiously high drug costs for America's seniors—and, for that matter, for families in our country—but this amendment makes it clear the Congress will not allow taxpayers to spend all of the money for this kind of research and then not get any kind of break in return.

For the most part, most of the drugs that are developed with taxpayer money are then given over to the pharmaceutical industry with no assurance whatsoever that Americans will not be charged outrageously high prices—in fact, no assurance that they won't be charged the highest prices in the world. Tamoxifen is a very important drug to women struggling with breast cancer. This is what a prescription costs that is getting filled. In Canada, it is $34. In the United States, it is $241. Prozac is $43 in Canada, and in the U.S. it is $105.

Here is the next chart. This amendment will ensure that we get some fair return on our investment and that we don't get the highest prices for medications in the world. Let me restate that. I don't think it ensures that, but it can only help. I have given some examples up here. Let me simply point out to colleagues that the cost of prescription drugs has skyrocketed. Our people in this country this past year paid 17 percent more.

Let me also point out that we are paying the highest costs for pharmaceutical drugs of any people anywhere in the world— exorbitant prices. I have this chart—The Fleecing of America—just to look at some of the profits of companies. Let me give some examples: entertainment companies, $4.2 billion; airline companies, $4.7 billion; oil companies are doing pretty well right now at $13.6 billion; auto companies, $15.4 billion; the drug companies, $20 billion.

As the Fortune 500 magazine said, this past year has been a ''Viagra'' kind of year for these drug companies. But do you know what. It is the consumers who paid the price. We are charged the highest prices of any country in the world, and I think it is time to say to the pharmaceutical companies that enough is enough.

This industry has opposed every measure that has been introduced in this Congress to try to lower prices and to provide a decent prescription drug benefit to senior citizens. Frankly, I hate talking about it in terms of senior citizens because there are a lot of working families being hurt by this.

I think the amendment we have introduced tonight is a small step, but I think it is a step in the right direction. It is not unreasonable to say to these companies that if we are going to finance the research, if NIH is going to do the research, if you are going to get valuable data and information from NIH to use to develop your drugs, and you are going to get the patent, at the very least you have to agree to charge a reasonable price.

That is all this amendment says. This is what we did under Dr. Healy's leadership. The pharmaceutical companies hated it. They were able to knock it out sometime around 1995. But do you know what. A lot has changed, I say to Democrats and Republicans alike, since 1995. People in our States are absolutely furious about the prices they are being charged by the pharmaceutical industry. This industry has basically become a cartel. I wish there were a lot of free enterprise. I wish there were a lot of competition. But that is not so. They basically have administered prices; they basically have price gouged; and they have made an immense amount of profit—an exorbitant amount of profit—based upon the sickness and misery and illness of people. That, in and of itself, is an obscene proposition.

This amendment goes after the worst of corporate welfare. This amendment is eminently reasonable, and I hope that my colleagues will support it.

Again, I point out the support of Families U.S.A. I think I will read from the letter of the National Council of Senior Citizens:

> The National Council of Senior Citizens fully supports your amendment to the FY2001 Labor HHS appropriations bill to require that the Federal government negotiate a reasonable and fairer price for all drugs developed with public funds.

Ask the people back home. Do any of our constituents think it is unreasonable for us to ask these companies that benefit from our taxpayer dollars and benefit from Government research to charge our citizens, our constituents, a reasonable price?

They go on to say:

> The Federal Government has for too long sold its most precious research findings for a mess of pottage to the pharmaceutical cartels. The drug companies, in turn, sell the findings back to the American people at unconscionably high retail prices. Pharmaceutical retail price reform must start at the source—where public drug research and development investment has borne fruit.

Finally, from the National Committee to Preserve Social Security and Medicare:

> On behalf of the members and supporters of the National Committee to Preserve Social Security and Medicare, I strongly support your proposed amendment.
>
> When pharmaceutical companies build on NIH research they are using taxpayer money. A Congressional Joint Economic Committee report revealed that seven out of the top 21 most important drugs introduced between 1965 and 1992 were developed with federally funded research. Taxpayers deserve some return on their investment in terms of lower prices. This amendment would help to ensure that.

This amendment would help to ensure that, and I don't know why the Senate tomorrow morning cannot go on record saying that when we, a Government agency supported by taxpayer dollars, by our constituents, do the research, provide the data, provide the information to these companies, which in turn get a patent for the drug, those companies will sign an agreement that they will charge the citizens in this country a reasonable price.

They make all the arguments about how they need all of these exorbitant profits for their research. But there is not a shred of evidence to support that. Their profits are so exorbitant that it goes way beyond any cost of research. We all know that. That is what is behind the record profits they make.

They make these arguments that I cannot believe—that if NIH is going to force us to sign an agreement, since we benefit from your research and the taxpayer money, we will charge people a reasonable price, then we may not even be willing to do this research. That is blackmail, or white mail, or whatever you want to call it. It is outrageous. These companies dare to say to the NIH—or dare to say to the Government, or to our constituents—if the Government says to the pharmaceutical companies that get the research dollars, do the work and research and get the patent, that they should charge a reasonable price, we might not do the research at all, enough is enough.

My final point: I think this is a reform issue as well. I think Senators vote their own way. But, honest to God, I think, at least speaking as a Senator from Minnesota, I am just tired of the way in which—if Fanny Lou Hammer were on the floor she would say ''sick and tired''—this industry pours the dollars in, makes these huge contributions, has all of these lobbyists, has all of this political power, and is so well represented to the point where they believe they run the Congress. They do not.

This amendment with very similar language passed the House of Representatives by a huge margin. Very similar language, the same proposition, and the same subject matter passed the House of Representatives by a huge margin.

I hope tomorrow on the floor of the Senate there will be a strong vote for this amendment that I bring to the floor with Senator JOHNSON of South Dakota.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, it is just simply wrong that Americans are forced to pay extraordinarily high prices for prescription drugs and then have to cross the border to Canada and Mexico to buy those drugs manufactured in the United States at far lower prices. It is simply wrong. But it is doubly wrong when the U.S. taxpayers have paid for part of the research that produced those very same prescription drugs.

Many of us have constituents who go to Canada just for this purpose; they are unable to afford prescription drugs here in the United States. Sometimes they go great distances to cross the border to Canada or to Mexico in order to buy prescription drugs at prices they can afford.

We did a survey of a number of prescription drugs. These are seven of the most popular prescription drugs. We took a look at those seven drugs and then did a survey of the cost of those prescription drugs in Michigan and in Ontario across the border. Premarin, $23.24 in Michigan, $10.04 in Ontario; Synthroid, $13 compared to $8; Prozac, $82 compared to $43; Prilosec, $111 compared to $48; Zithromax, $48 compared

to $28; Lipitor, $63 compared to $42; Norvasc, $76 compared to $41.

When particularly seniors—sometimes by the busload—gather together, drive to a border point, and cross the border to get a 30- or 60-day supply of prescriptions, and then come back into Michigan or other States with prescription drugs that they cannot afford to buy in their own hometown, something is fundamentally wrong with that system.

These are the percentages of those top seven drugs. The U.S. prices are above the Canadian prices based on that survey. That was a survey of prices in Detroit compared to Ontario across the border.

For the first one, Premarin, the U.S. price is 131 percent higher than the Canadian price; Synthroid is 63 percent higher than for Ontario purchasers; Prozac is 878 percent higher for Americans than for Canadians; Prilosec is 132 percent higher; for Zithromax, Americans are paying 674 percent more than Canadians; Lipitor is 51 percent more than for Canadians; and Norvasc is 783 percent more than for Canadians.

That is unconscionable. It is wrong. It is infuriating. It is costly. We have to do something to change the system that allows this to happen. But it is doubly wrong when U.S. taxpayers have paid for part of the research that produced those very same prescription drugs.

I don't know which of these particular prescription drugs were produced with U.S. taxpayer dollars or partly with U.S. taxpayer dollars. I don't have that data. But that is not the point of the amendment of the Senator from Minnesota. For the drugs produced with U.S. taxpayer dollars, there should be an agreement that the manufacturer will charge a fair price as determined by the Department of Health and Human Services.

That is a very reasonable approach, it seems to me. There are other approaches which have been suggested to address this issue. I think there are other approaches also worthy of consideration. But the approach before us today is an approach which I believe is eminently fair, which simply says if you want to use taxpayer dollars in your research, that you make sure your pricing system is fair to Americans who helped to fund that very research.

I hope we will adopt the amendment of the Senator from Minnesota. I think it is a fair approach. It is based on the contribution Americans have made to the creation of the very prescription drugs which too many Americans find they cannot afford.

We want pharmaceutical companies to be profitable. We want pharmaceutical companies to engage in robust research and development. But we do not and should not, as Americans, pay the share of research and development that consumers in other countries should be shouldering. We can't afford to subsidize other countries, and it is particularly wrong where we have originally done some of the subsidy of the very research and development which produced the drug which is now sold for so much less in those other countries.

I commend the Senator from Minnesota. I support his amendment. I hope we will adopt it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Senator from Michigan for his remarks. I am very proud to have his support.

AMENDMENT NO. 3699

(Purpose: To fully fund IDEA)

Mr. HARKIN. Mr. President, I send my amendment to the desk on the Individuals With Disabilities Education Act.

The PRESIDING OFFICER. The pending amendment is laid aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, and Mr. WELLSTONE, proposes an amendment numbered 3699.

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

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

The amendment is as follows:

On page 60, line 16, strike ''$7,357,341,000'' and insert ''$15,800,000,000''.

On page 60, line 19, strike ''$4,624,000,000'' and insert ''$13,071,659,000''.

Mr. HARKIN. Mr. President, this is a very simple amendment. It is very straightforward. It does not include a lot of pages of text. All it does is fully fund the Individuals With Disabilities Education Act. By passing this amendment, we meet our goal of paying 40 percent of the average per pupil expenditure.

For years, many on both sides of the aisle have agreed that the Federal Government should increase our support for States' efforts to provide children with disabilities a free and appropriate public education. With this amendment we can do just that.

Congress enacted the Education for All Handicapped Children Act, which is now known as IDEA, for two reasons. To establish a consistent policy of what constitutes compliance with the equal protection clause of the 14th amendment with respect to the education of kids with disabilities, and to help States meet their constitutional obligations.

Mr. President, I ask unanimous consent to add Senator WELLSTONE as a cosponsor.

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

Mr. HARKIN. Mr. President, there has been a lot of misperception about IDEA. That misperception is amplified in statement after statement until it almost becomes a state of fact that IDEA is a Federal mandate on the States. I hear it all the time: a Federal mandate that is not fully funded.

IDEA is not a mandate of the Federal Government on the States. The fact that the Federal courts have said if a State provides a free and appropriate public education to its children—and States don't have to do that—but if a State provides a free and appropriate public education for all of its kids, it cannot discriminate on the basis of race, it cannot discriminate on the basis of sex, or national origin, and in two court cases the court said it cannot discriminate on the basis of disability.

Simply because a child has a disability doesn't relieve the State of its obligation under the equal protection clause to provide that child a free and appropriate public education.

In 1975, the Congress said because this would be such a burden on the States, we will pass national legislation to help the States meet their constitutional obligation to educate kids with disabilities. That is what IDEA is. The Federal Government said, OK, if you meet these certain requirements, you will be eligible for IDEA for this money. If we had no legislation at all, if there were no Individuals With Disabilities Education Act, the States would still have to fund the education of kids with disabilities—not because the Federal Government says so, but because the Constitution of the United States says so. As long as a State is providing a free public education to other kids, they have to provide it to kids with disabilities. It is not a Federal mandate. It is a constitutional mandate.

We have said in the Federal Government, when we passed IDEA, we will help. Furthermore, we said in the authorizing legislation, that it would be a goal of the Federal Government to provide for 40 percent of the cost of the average per pupil expenditure for all other kids. We have never reached that 40 percent. It was a goal then. It is still a goal. Senators on both sides of the aisle talked about meeting this goal. Now we have the opportunity to do so.

My amendment is a win-win situation for everyone. We are able to fully fund both the IDEA and our general education priorities so that all kids, with and without disabilities, get the education they deserve and they are guaranteed by the Constitution of the United States.

Over the past 5 years, I have worked hard with my colleagues on the Appropriations Committee to more than double the appropriation for Part B of IDEA. This year we have included an additional $1.3 billion. Senator SPECTER and I, in a bipartisan fashion, worked very hard to get this increase. Because of the amendment offered by Senator JEFFORDS yesterday and the statements made on the floor, it became clear to me that there is a strong will on both sides of the aisle to fully fund IDEA to meet that 40-percent obligation.

Now we can step up to the plate and do it. This week the OMB informed us

that the non-Social Security surplus will reach up to $1.9 trillion over the next 10 years. I believe we ought to use these good economic times to prepare for the future.

So, Mr. President, as I said, OMB has informed us we are going to have $1.9 trillion over the next 10 years in non-Social Security surplus. That means we can use some of this for a lot of different things: Pay down the national debt, shore up Social Security, Medicare, and make appropriate investments in education. One of the most appropriate investments we can make is to fully fund the Individuals with Disabilities Education Act. But there are a lot of other ways we can help pay for this. For example, we could save dollars by cracking down on Medicare waste fraud and abuse. The HHS Inspector General said last year, Medicare made $13.5 billion in inappropriate payments. Eliminating that waste alone would more than pay for the entire IDEA expenditure. Yet the House-passed Labor-HHS bill actually cuts the funding for detecting waste, fraud and abuse. I hope we can take care of that in conference. My point is we have a lot of waste, fraud, and abuse in Medicare we can cut out to help pay for this.

We have a lot of other things we can do also: Cutting out Radio Marti, and TV Marti; spending by Government agencies on travel, printing and supplies and other items could be frozen. This could save $2.8 billion this year, about $12 billion over 5 years. Pentagon spending could be tied to the rate of inflation. This would force the Pentagon to reduce duplication and other inefficiencies. This change would save taxpayers $9.2 billion this year alone; $69 billion over 5 years. Enhancing the Government's ability to collect student loan defaults would be $1 billion over 5 years.

The reason I cite these examples is to show there is a lot of waste and a lot of spending we can tighten down on to help pay for IDEA. We have the surplus, however. All this money that we found out there—as we go through this year, you wait and see, transportation will take a little bit of that money; housing will take a little bit of that money; defense will take a big chunk of that; the Finance Committee will have tax provisions—they want to do away with all the estate taxes now. That will take away a big chunk. I hope we don't pass it but I assume something will come through.

There is a big surplus out there and bit by bit special interests are going to come and take some of it away. Now is our time to get in there and say we are going to take enough to fully fund the Individuals with Disabilities Education Act. We can do it. We have the money to do it. And, if I listened correctly to my friends on both sides of the aisle, we seem to have the will to do it.

I just point out a range of organizations fully support full funding. It is one of the National Governors' Association top priorities. The Education Task Force of the Consortium for Citizens With Disabilities advocates full funding. The National School Boards Association just sent me a letter last week requesting an increase in funding for IDEA.

In January of 1997 the majority leader, Senator LOTT, announced that fully funding IDEA was a major component of the Republican agenda. Later, Senator GORTON said that failure to fully fund IDEA is fundamentally wrong—CONGRESSIONAL RECORD, May 13, 1997.

In January of 1998 the majority leader and other Republican Senators held a major press conference to announce they were going to introduce a bill, S. 1590, that would, among other things, fully fund IDEA.

Senator COVERDELL said the resolution of the issues in that bill were:

> As important a battle as the country has ever dealt with.

On his Web site, Senator GREGG from New Hampshire, who has always been a proponent of fully funding IDEA said that:

> He will continue to lead the fight to have the Federal Government meet its commitment to fund 40 percent of the special education costs.

On his Web site, Senator SANTORUM of Pennsylvania supports full funding for IDEA.

Last night, Senator VOINOVICH of Ohio said it is about time we paid for 40 percent of IDEA. That was last night.

And last night Senator JEFFORDS, with whom I have worked many years on this issue, said:

> This body has gone on record in vote after vote that we should fully fund IDEA.

Senator JEFFORDS also said:

> If we can't fully fund IDEA now with budget surpluses and the economy we have, when will we do it? I do not believe that anyone can rationally argue that this is not the time to fulfill that promise.

The reason I opposed the JEFFORDS amendment last night, and I said so openly last night in debate, is because his amendment would have taken money out of class-size reduction and out of funding for school modernization and construction to fund IDEA. I said we should not be robbing Peter to pay Paul. We need to reduce class sizes. We need school construction money.

In fact, some of the biggest beneficiaries of school construction and modernization are kids with disabilities.

Now we have an opportunity to fully fund IDEA because we have these big surpluses, as I said, $1.5 trillion on-budget surpluses over the next 10 years, not counting Social Security. To fully fund IDEA would amount to less than 6 percent of that over the next 10 years. And, like I said before, we wouldn't have to touch the surplus if we just implemented one of my proposals to close up special interest tax loopholes, eliminate wasteful government spending, including Pentagon waste, or deal with Medicare waste, fraud and abuse. If you want to give a gift to the States this year, if you really want to help our local school districts, this is the amendment with which to do it, to fully fund IDEA once and for all.

I yield for any comments or suggestions my colleague from Minnesota might have.

Mr. WELLSTONE. Mr. President, I am going to be very brief. Staff is here, and it is late. It has been a long week. I can do this in a couple of minutes. I wanted to stay with Senator HARKIN because I think this amendment goes right to the heart of what we are about. It is a win-win-win-win amendment. I do not know how many times I said ''win.'' It is a win for us because we should match our budgets and our votes with the words we speak. Just about everybody on the floor of the Senate said they are for the Federal Government meeting this commitment of 40 percent funding of IDEA. It is also a win for children with special needs. It is about children. We ought to do well for all of our children.

Maybe it is because I am getting a little older and have six grandchildren, but I think all children are beautiful and all children have potential and all children can make contributions. We should do everything we can to nurture and support them. That is what this program has been about.

The Senator from Iowa has been, if not the leader, one of the great few leaders from early time on for kids with special needs. It is also a win because I do think our States and school districts, if we can do better by way of our investments, I say to Senator HARKIN, will not only be able to live up to this commitment but will have more resources to invest in other priority areas. One of the things that has troubled me is, the Senator talked about the surplus. What is it over 10 years, $1.9 trillion?

Mr. HARKIN. Mr. President, $1.5 trillion, non-Social Security.

Mr. WELLSTONE. It is $1.5 trillion non-Social Security over the next 10 years. Some of what has been discussed is a zero-sum gain, whether we are faced with the choice of do you support low-income kids with title I or do you support IDEA or do you support a lower class size or do you support trying to get more teachers into our schools, or do you support rebuilding crumbling schools. I believe we have a chance right now with the surplus, with these additional resources, to make these decisive investments. I cannot think of anything more important than making this investment in children and education.

My last point is, all of us—and I will even make this bipartisan, seeing Senator CHAFEE presiding, whom I think cares deeply about children and education, just like his dad did, and I mean that sincerely—we are all going to have to make some decisions about consistency.

It is like the old Yiddish proverb: You can't dance at two weddings at the

same time. We cannot do everything. Some people want to put yet more into tax cuts, including Democrats, more here and more there. Ultimately, we have to decide what is most important. We have this surplus and we have the opportunity. We have had all the debate and discussion, and now we have an opportunity, with this amendment—of which I am proud to be a cosponsor—to match our votes with our rhetoric. We should do that. I hope there is a strong vote for this from Democrats and Republicans. I am proud to be a cosponsor. I yield the floor.

Mr. HARKIN. Mr. President, I thank my colleague for his words of support, not only tonight but for all the time I have known him and all the years he has been in the Senate for making kids and education, especially special needs kids, one of his top priorities.

I could not help but think when I was listening to the Senator speak, this vote on this amendment—I do not mean to puff it up bigger than it is. We are going to be faced the remainder of this year with vote after vote on what to do with that surplus. We may disagree on whether it is the estate tax cut or marriage penalty—whatever it might be. There might be other things coming down the pike, and we will have our debates and disagreement, but it seems to me that before we get into all that, we ought to do something for our kids with disabilities and we ought to do something that is right and is supported broadly, in a bipartisan way, and supported by our States.

I can honestly say to my friend from Minnesota, if every Senator voted for this amendment, they would not get one letter, one phone call taking them to task for their vote in support of this amendment. I believe I can say that without any fear that I would ever be wrong; that no Senator, whoever votes for this amendment, would ever get one letter or one phone call from anyone saying they voted wrong. I believe that because it is so widely supported.

Then we can go on with our other debates on tax cuts and other issues with the surplus and how we will deal with it.

At this point in time, let us say we are going to take this little bit and invest it in the Individuals With Disabilities Education Act and, once and for all, meet that 40-percent goal, and we will not have to be talking about it anymore.

As I said, this is a very simple and very straightforward amendment, but I will admit, for the record, it is going to take 60 votes. I understand that. It will take 60 votes, but I believe if Senators will just think about what they have said about IDEA and fully funding it and think about that big surplus we have and all of the demands that will be made on that surplus in the future, they just might think: Yes, we ought to carve out a little bit right now and put it into IDEA. It would help our States and our schools and, most of all, help our families who have special needs children who may not have all of the economic wherewithal to give their kids the best education.

As I understand it, this is the first vote up or down vote on fully funding IDEA ever. Let's make it our last.

I thank the Senator from Minnesota for his support. I yield the floor.

Mr. JEFFORDS. Mr. President, I rise to commend Chairman STEVENS, Chairman ROTH, and Chairman SPECTER for their commitment to working in conference to restore funding to the Social Services Block Grant (Title XX), the Temporary Assistance for Needy Families (TANF) program and for the State Children's Health Insurance Program (S–CHIP). These programs provide a vital safety net for our most vulnerable citizens.

The Social Services Block Grant program provides critical services for abused children, low-income seniors, and other families in need of assistance. For example, my own State of Vermont uses 80 percent of its Title XX funds to help abused and neglected children. Much of this money goes to assist the roughly 300 children in foster care in our State. This block grant was created under the Reagan Administration to provide States with a source of flexible funding to meet a variety of human service needs. It was the success of the Social Services Block Grant that paved the way for welfare reform.

When welfare reform was passed, Congress made several agreements with the states. One such agreement was that funds for the Social Services Block Grant would be reduced to $2.38 billion with States permitted to transfer up to 10 percent of allocated TANF funds into the block grant to ''make up the difference.''

Since making that agreement in 1996, Congress and the Administration have repeatedly cut the funds appropriated for the Block Grant to its current year funding level of $1.775 billion. I am grateful that there is a strong commitment to maintain this year's funding level in conference. However, the reduction of the amount of TANF funds that States can transfer also must be addressed. Vermont is one of several States which transfer the entire 10 percent that is allowable under TANF. Unfortunately, even with full use of the transferability, many states are no longer able to make up for the repeated reductions in Social Service Block Grant funds.

I believe that the amount of TANF funds that States are permitted to transfer should not be cut in half, as current law requires, but should be increased to help mitigate the loss of Title XX funds that States have experienced since the 1996 agreement. The commitment to restore Social Services Block Grant funds to the current level is a good first step, but we should keep in mind that it is just a first step.

In creating the TANF program, the Federal Government limited the amount of welfare funds that would be provided to States in exchange for giving States more flexibility in the use of those funds. The booming economy combined with successful State efforts to move more people from welfare to work have allowed States to reduce the costs of welfare. Congress urged States to save a portion of their TANF grants for the inevitable ''rainy day'' when additional funds would be needed. Many States did save part of their TANF allocation, and Congress has threatened to reduce the TANF allocations promised to the States, because the funds have not been fully expended. I thank Senators STEVENS, ROTH, and SPECTER for their commitment to uphold the promises we made in 1996 during conference negotiations on the Labor-HHS appropriations bill.

My home State of Vermont has an unparalleled track record in extending health insurance coverage to children and families, and the S–CHIP has played a key part in contributing to this success. While Vermont has achieved its enrollment goals for this program to date, it continues to reach out to enroll eligible children. Restoration of the S–CHIP funding is essential for Vermont and other States in order for them to continue enrolling children in this program. It is essential for Congress to keep its commitment to the S–CHIP program, otherwise States are not likely to continue their aggressive outreach and enrollment efforts and children may be left without health care.

I believe strongly that it is important for Congress to keep its agreements with the States—-particularly regarding the Social Services Block Grant, TANF, and S–CHIP. The success of States in implementing these programs and the extent to which Congress and the administration maintain promised funding levels for these critical programs will help determine the future of State block grants.

How can we expect States and advocates to agree to flexible block grant initiatives, if Congress cannot fulfill its promise to maintain adequate funding?

Mr. ALLARD. Mr. President, I would like to make a statement concerning the Federally funded research that is conducted at the various Centers for Disease Control (CDC) around the country.

February of this year I met with the Director of the CDC, Jeffrey Koplan. CDC was highlighted in newspaper articles concerning the misuse of research funds targeted for hantavirus disease. Because of the presence of this disease in our state, as with other neighboring states, I am very concerned at the lack of accountability from the CDC.

I expressed my concern for the correct utilization of funding for the disease research programs that are mandated by Congress. I stressed the importance of CDC's accountability and obligation to carry out the letter of our laws. Mr. Koplan assured me that they have taken measures to complete a full audit of the misdirected funds

and that they will follow the intent of Congress in the future.

Being a member of Congress, I for one can fully understand that the process of appropriating funds for research is complicated at best. Although Congress designates specific funds for certain diseases, there are several levels of bureaucracy through which the dollars must pass before they are received by the appropriate agency. This still does not account for an agency's lack of dedication in meeting congressional direction that is law. Part of my responsibility as a U.S. Senator is the oversight of various agencies and their accountability to Congress to carry out the language of our laws.

Hantavirus outbreaks have rapidly affected the U.S., reaching as far as Vermont. Most recently, a 12-year-old girl who lives in Loveland—my hometown—was diagnosed with the disease. Doctor's believe she may have contracted the disease while visiting a ranch in Arizona last April. Once hantavirus is contracted it can be anywhere from one week to as little as one day before symptoms appear. Once symptoms are prevalent, it rapidly progresses to respiratory distress as the lungs fill with fluid.

Colorado has had 23 cases of hantavirus since 1998—with three cases already this year. It is time to act with no further delay by the CDC laboratory.

I hope that the CDC has worked out it's problems and will carry out what Congress expects of an agency.

Mr. FEINGOLD. Mr. President, I rise today to describe why I opposed the amendment offered by the senior Senator from Arizona, Mr. MCCAIN, to this legislation on the issue of schools and libraries blocking children's access to certain materials on the Internet, and supported the alternative amendment on this topic offered by Senator SANTORUM.

The McCain amendment prohibits schools and libraries from receiving federal funds under the E-Rate program if they do not install software to block children's access to two specific kinds of information: materials that are obscene and materials that constitute child pornography. The Santorum amendment contains a similar prohibition on funding, but gives the local community the flexibility to decide what materials are inappropriate for children's viewing and to implement a comprehensive policy on minors' Internet use if they want to continue to receive the E-Rate. I feel that local communities, not the federal government, should decide what materials are suitable for children's viewing. Wisconsin communities may want to address or restrict whether children have access to adult chat rooms even though the chat may not be about child pornography or may not contain technically obscene topics of conversation. They also may want to restrict whether they post identifying information or photographs of students on school sponsored web sites. I simply feel that these decisions are best made locally.

Second, I am concerned that the McCain amendment imposes an additional cost to obtain filtering software upon schools and libraries without adequate input from those institutions. The McCain amendment relies upon the technical fix of filtering and imposes filtering software on all computers in a facility. The Santorum amendment allows a school or library to determine which computers are available for student access and then install blocking software upon those computers. Software licensing costs are not inexpensive, and requiring that software be installed on every machine may be financially difficult for small communities.

Finally, though I am concerned about protecting children on the Internet, I am also concerned about the constitutionality of blocking material on the Internet for adult computer users. The Santorum amendment allows communities to develop common sense solutions to protect the rights of adults to access information over the Internet in a place like a public library. A Wisconsin community could decide, under the Santorum amendment, for example, that it wanted to have a locked room in its public library with computers in it that only adults could use to access the Internet and not install blocking software on those machines. There are ways to block children's access to computers that are structural, Mr. President, like a locked door, that would still protect the First Amendment right of adults. These options are not available under the McCain amendment.

I appreciate the Senate's interest in protecting children from inappropriate material on the Internet, but I feel that the McCain amendment does not go far enough to ensure that local governments, libraries, schools, and individuals rights are protected.

Mr. WELLSTONE. Mr. President, I thank Chairman SPECTER and ranking member, Senator HARKIN, for working with me to see that funding is increased for the Perkins Loan Cancellation Program. I filed an amendment that would have increased the level of the Perkins Loan Cancellation Program by $30 million to $90 million. I am very appreciative that the committee increased funds for this valuable program by $30 million—especially given the terrible budget constraints on this bill. I am especially thankful that the Managers of this bill have agreed to raise the appropriation by another $15 million. This will get the government half way to where it needs to be to reimburse Perkins Revolving Funds for what they have lost to the Loan Cancellation Program. It is an important step.

The reason I asked for more is simple. If we give the extra $30 million, the federal government can pay back what it owes to the universities and colleges for the loans that have been canceled. This amendment would simply fulfill its IOUs to the Perkins program. Mr. President, we have a $1.9 trillion surplus, it is ironic and probably an oversight that we are still in debt to America's colleges and universities that provide loans to low income students, but it is a debt that I think we can and should repay. That is why I am thankful for the Managers' efforts, and that is why I will continue to push for the full $90 million in the future.

Both the cancellation program and the Perkins Loan Program are seriously undermined if the government does not fulfill its debt obligations to the universities and colleges that choose to administer it.

The Perkins Loan Program (formerly called the National Defense Student Loan Program) provides long-term, low-interest (5% per year) loans to the poorest undergraduate and graduate students. 25 percent of the loans go to students with family incomes of $18,000 or less, and 83% of the loans go to students with family incomes of $30,000 or less. Since its inception, 11 million students received $15 billion in loans through the Federal Perkins Loan Program. In the academic year 1997/98, 698,000 students received Perkins loans.

Perkins is exceptional because it is a public/private partnership that leverages taxpayers' dollars with private sector funding. The yearly Federal contribution to Perkins Loans revolving funds leverages more than $1 billion in student loans. This is because Perkins Loans are made from revolving funds, so the largest source of funding for Perkins Loans is from the repayment of prior-year loans.

The Perkins Loan Cancellation Program entitles any student who has received a Perkins loan who enters teaching, nursing and other medical services, law enforcement or volunteering to cancel their loans. This past year, more than 45,000 low income students who chose to enter these important professions were able to have their loans canceled. Last year, 26,000 teachers, 10,500 nurses and medical technicians, 4,000 people who work with high-risk children and families, 4,000 law enforcement and 700 volunteers had their loans canceled under this program.

This year, thanks to the efforts of Senator DURBIN and others, it looks like we may be able to expand the professions eligible for cancellation to include public defenders.

The value of Perkins loans is enormous. Since 1980 to 1998, the cost of higher education has almost tripled, leading to a decline in the purchasing power of federal grant programs. The maximum Pell grant this year is worth only 86% of what it was worth in 1980, making the Perkins program, and all loan programs, a more important part of low income students' financial aid packages.

The value of the cancellation program is also enormous. It provides the lowest income people who want to

enter public service a small break from the crushing debts they incur attending higher education. Offering loan cancellation also highlights the need for well-trained people to enter public service and honors those who choose to enter public service. This is the kind of incentive and reward we should be doing more of and I thank the Senate for accepting my amendment earlier that would provide Stafford loan forgiveness for child care workers.

Mr. President, I am here today because the future of both of these programs is in great jeopardy because we are unable to repay the universities' revolving funds what they are owed for the cancellation program. There are colleges that receive only 47% of what they are owed by the government. They are given the rest on an IOU.

Because Perkins loans are funded through revolving loans, the people who end up paying the price for this IOU are low income students who are eligible for Perkins loans in the future. As loans are canceled, and the government is unable to reimburse the revolving funds, there is less and less money available in the funds to generate new loans. It is estimated that 40,000 fewer students will be eligible for Perkins loans because of the declining money available in the revolving fund.

When you combine the pressure from the unfulfilled government obligations with recent cuts to the Perkins program in general, I believe that both these key programs are at risk. Congress has cut the yearly Federal contributions to the Perkins Loans revolving funds by $58 million since fiscal year 1997. Since 1980, the Federal Government's contributions have declined by almost 80%. 900 colleges and universities around the country have cut their Perkins programs at least in part because they were not economically viable. In MN, colleges such as Metro State University have ended this valuable program in large part because they cannot afford to keep it going.

This means one thing and one thing only. There are less and less loans available for the lowest income students. The $15 million the manager's package will provide will go far to reverse this situation.

Reducing the number of loans available is not the direction we want to be going given what we know about the rising importance of college education and the increasing need for financial aid.

A study from Minnesota indicates that for every $1 that is invested in higher education, $5.75 is returned to Minnesota's economy. A 1999 Department of Education study indicates that the real rate of return on investment in higher education is 12% based on earnings alone. This does not include savings on health care and other factors. Further, a recent poll found that 91% of the American Public agree that financial aid is an investment in America's future (Student Aid Alliance, 1999).

The numbers indicate that this is true. In 1998, men who had earned a bachelors degree earned 150% more than men who had received only a high school diploma. Women earned twice as much. (NCES, ''Condition of Education, 2000,'' 2000). College graduates earn on average $600,000 more in their lifetime than people with only a high school diploma. (US Department of Commerce, Bureau of the Census, 1994.

Despite the obvious benefits of investments in higher education, funding is declining. Since 1980 to 1998, the cost of higher education has almost tripled, leading to a decline in the purchasing power of federal grant programs. The maximum Pell grant this year is worth only 86% of what it was worth in 1980, making the Perkins program a more important part of low income students' financial aid package. Yet, the numbers of institutes of higher education offering the Perkins Loan Program has declined by 80% over the past 20 years. During the last decade, student aid funding has lagged behind inflation, yet in the next ten years, more than 14 million undergraduate students will be enrolled in the nation's colleges and universities, an increase of 11 percent. One-fifth of these students are from families below the poverty line. Many of them are the first in their families to go to college.

The effect of the decline in funding has a disproportionate impact on low income students—the very students that Perkins is designed to help. Studies show that an increase in tuition of $100 lowers the enrollment of low income students by 1%. (McPherson and Shapiro, 1998). In Minnesota, students from families that make $50,000 per year or more are three times as likely to attend a four year college as students from families who make $30,000 per year or less (and I remind my colleagues that 83% of Perkins loans would go directly to these students with incomes less than $30,000.) Further, more than 1/3 of students who enter college drop out. Often this is because they cannot afford to continue.

The Perkins Loan Program is vital to helping these low income students enter and stay in college. It would be a shame if the program failed because the government failed to pay universities back the money it owes this valuable program. By increasing the appropriation for the cancellation program, the managers have taken a strong step toward getting the government out of debt. I am also committed to seeing that this program is fully funded in the future. We have on-budget surpluses of $1.9 trillion. We should use this appropriation to ensure that we are not in debt to the 40,000 fewer students who will not receive the Perkins loans they once could have because the federal government did not meet its obligation to pay for its own cancellation program.

These are America's poorest students who are simply trying to afford a college education. With a $1.9 trillion surplus, we owe it to them to pay it back.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business and return to the pending business when I complete these remarks.

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

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask unanimous consent to speak in morning business for 10 minutes.

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

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APPROPRIATIONS

Mr. KENNEDY. Mr. President, before the Senate are the appropriations bills which provide the funding for education, health, and training programs. As I have mentioned over the past few days, I respect the work by Senator SPECTER and Senator HARKIN in trying to shape that proposal. We have some differences, even within the limited budget figures that were allocated, in areas we feel were shortchanged. We tried to bring some of those matters to the floor yesterday.

On the issues of making sure we will reach out in the areas of recruiting teachers, providing professional development for teachers, and mentoring for teachers, we received a majority of the Members of the Senate. I believe it was 51 votes. A majority of the Members felt that should be a higher priority than designated. Even in the majority party, there is a clear indication, particularly against the backdrop of the announcements made in the past 2 days with these enormous surpluses, that one of the priorities of the American people is investing the surpluses in the children of this country.

I think that is something that needs to be done. We are going to proceed during the course of this day on amendments which I think are very important. The next one, which will be offered by Senator DASCHLE to deal with issues of genetic discrimination and employment discrimination, is very important. We will go on, as has been agreed to by the leaders.

But as we are going through this debate, I cannot remain silent on the allocating of resources. We are hopeful, as a result of the action of the President of the United States, there will be a different form and shape of this appropriations bill by the time it comes back from the conference, or by the time it is actually enacted in the fall. We are not giving the priorities in the areas of education, and I must say even in the health area, that I think the American people want and deserve. The principal reason for that is there is an assumption within the Republican leadership that there will be a tax break of some $792 billion. So if you are going to write that into the budget, or parts of that into the budget, you are

going to squeeze other programs. That is really what has happened.

I daresay that at a time when we are gaining increased awareness and understanding about what actually helps children expand their academic achievement and their accomplishments, as a result of some dramatic reports, which I find compelling—and actually self-evident—we find we are really not taking the benefits of those reports and using them in ways that can benefit the greatest number of children in this country.

I think again of the excellent presentations of the Senator from Washington, Mrs. MURRAY, when she spoke time and time again about the importance of smaller class sizes. She referred again and again to the excellent studies done in Tennessee with thousands of children, going back to 1985, that resulted in smaller class sizes, and we find that children have made very significant progress.

I remember Senator MURRAY mentioning the SAGE Program in Wisconsin, which has been enacted in recent years. I myself met these past weeks with members of the school board, parents and teachers out in Warsaw, WI, who participated in that program and commented about the importance of investing in children with smaller class sizes. So we know this is something that works. If we are going to have scarce resources, we ought to give focus and attention to something that works, as Senator MURRAY has pointed out. I think she brings credibility to this issue because she is a former school board member and a former first grade teacher herself. She has been in the classroom and knows what works. We have been very fortunate to have her presentation on this issue and her enthusiasm for it.

We also know, looking over the recent history, that we have actually had bipartisan support for smaller class sizes. We saw yesterday her amendment was not successful, but it was very closely fought in a divided Senate, and I am hopeful, with the strong support of the Senate, we can finally persuade Congress, as we have in the past, to move ahead in that direction.

We have to understand this legislation is going to go to the House of Representatives, which has seen a very sizable reduction in its commitment to the funding of these various programs. Whatever we do here is going to be knocked back significantly. That is why many of us were very hopeful we could go ahead and add some additional resources so at least coming out of the conference we would have something worthy of the children of this country. But we have been unable to do that. We have to look back over the years and see what has happened, ultimately, in allocating funding resources in the area of education when have had Republican leadership. We hear a great deal about the importance of investing in children, but the tragic fact is that it is not reflected in the requests by the Republicans either in the House or the Senate in recent years.

I remember very clearly the 1995 rescission because I remember the debate in 1994, when we had a rather significant enhancement in our investment in children. The ink was hardly dry, the results were in, and the results of 1994 and 1995 were that we had a very vigorous debate on rescinding money that had already been appropriated and signed by the President. After the extraordinary efforts made by the Republican leadership to actually rescind those funds, we had those rescissions in 1995.

Then the House bill in 1996 was $3.9 billion below what was actually enacted in 1995. Then in 1997, the Senate bill was $3.1 billion below the President's request; the House and Senate bill in 1998 was also below the President's request. This was a time when the Republicans were trying to abolish the Department of Education.

I think most parents feel it is important to have a Cabinet Member sitting in the Cabinet room so that every time the President of the United States meets with the Cabinet to make decisions on priorities, there will be someone in there to say, ''What are we going to do on education, and particularly education that is going to affect the elementary and secondary schoolchildren of this country, particularly at a time when we have exploding numbers of children who are going into our classrooms?''

Nonetheless, what we continue to see, in 1999, is the House was $2 billion below the President's request; in 2000, $2.8 billion below the President's request; and in 2001, $2.9 billion below the President's request. This is what has happened.

Members ask: ''Why do the Democrats try to force these issues? Why don't we just go ahead and accept what these appropriations committees have done?'' They try to defend their positions with all these facts about what is really happening out there in education, but when you add them all up, this is what you are finding: The Federal share of education funding has declined. If you look at higher education, from 1980 to 1999, the federal share declined from 15.4 percent to 10.7 percent.

If you look at elementary-secondary education, from 1980 to 1999, we see a decline from 11.9 percent to 7.7 percent. Only 7.7 percent of every dollar spent locally is Federal money, and this is perhaps the lowest figure we have had in elementary-secondary education. In terms of the amount of our budget, which is $1.8 trillion, this is less than one percent. It is less than one penny per dollar. If you combine the elementary and higher education, you may be getting close to two pennies. That, I think, is what concerns many of us, particularly at a time when we are finding out the total number of children is increasing.

We recognize there should be a partnership among the Federal, State, and local governments in enhancing academic achievement. We have learned important lessons: Smaller class sizes work and better trained teachers work. Take the two States that have invested in teachers: North Carolina and Connecticut. They are seeing dramatic results in academic achievement.

We have been fighting to provide the resources to do that. That is what the debate is about. We have, I think, demonstrated to this body and, hopefully, the American people the seriousness of our purpose in allocating resources to what the American families want, and they want to invest in children and education. We believe that is quite preferable to the large tax breaks which have been included in the overall budget. We will continue this battle.

I yield the floor.

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THE RURAL RECOVERY ACT OF 2000

Mr. DASCHLE. Mr. President, yesterday I introduced the Rural Recovery Act of 2000 to help address the economic malaise that has gripped certain rural areas of our country. The legislation will authorize the Department of Agriculture to provide grants to rural communities suffering from out-migration and low per-capita income.

Rural areas of our nation continue to experience an erosion in their economic well-being. Statistics bear out the decline in rural economic activity, but they fail to fully capture the human suffering that lies just beyond the numbers. Economic downturns lead to the migration away from farm-dependent, rural communities, further stifling economic opportunities for those left behind. The 1990 Census highlighted these migratory trends, and I anticipate that similar trends will be captured by the 2000 Census, as well.

In short, the prosperity from which many Americans have benefited from during the past decade has left many rural areas standing by the wayside. If this trend continues, more and more young people will be forced to leave the towns they grew up in for opportunities in urban areas. In towns like Webster, Eureka, and Martin, South Dakota, we are seeing farm families broken up, populations decline, and main street businesses close their doors. While there is no doubt that economic growth in our urban areas has benefited our nation, the disparity of economic development between our rural and urban areas cannot be ignored. If nothing is done to address the economic challenges facing these areas, we will jeopardize the future of rural America.

That is why I have introduced legislation to provide the nation's rural areas with the resources necessary to make critical investments in their future and, by doing so, to create economic opportunities that will help them sustain a valuable and important way of life. It also will help rural areas provide basic services at times when they are losing a significant part of

their tax base. While federal agencies, such as the United States Department of Agriculture's Office of Rural Development and the Economic Development Administration, provide assistance for rural development purposes, there are no federal programs that provide a steady source of funding for rural areas most affected by severe out-migration and low per-capita income. For these areas, the process of economic development is often most arduous. This legislation will provide the basic, long-term assistance necessary to aid the coordination efforts of local community leaders as they begin economic recovery efforts and struggle to provide basic public services.

County and tribal governments will be able to use this federal funding to improve their industrial parks, purchase land for development, build affordable housing and create economic recovery strategies according to their needs. All of these important steps will help rural communities address their economic problems and plan for long-term growth and development.

Mr. President, I believe this legislation holds great potential for revitalizing many of our nation's most neglected and vulnerable areas. I urge my colleagues to support its enactment.

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COMMEMORATING SENATOR DANIEL INOUYE: RECIPIENT OF THE CONGRESSIONAL MEDAL OF HONOR

Mr. DOMENICI. Mr. President, I rise today to join my fellow Senators in honoring Senator DANIEL INOUYE with the Congressional Medal of Honor. This man is a representative of our nation who has persevered through war, debate, and many had fought campaigns. I have had the pleasure of working with Senator INOUYE and applaud my colleagues for bestowing this great honor upon him.

Senator DANIEL INOUYE is a Veteran of World War II and was a captain in the Army with a Distinguished Service Cross (the second highest award for military valor), a Bronze Star, a Purple Heart with cluster, and several other medals and citations. Serving in the Senate almost 40 years, Senator INOUYE is also the first Congressman from the state of Hawaii. His courage in combat is a testament to the Senator's true commitment to his country and to freedom. Serving on the Defense Appropriations Committee, I know how much Senator INOUYE cares about the protection of our country and his professionalism and dedication to finding a balance for defensive spending. His diligence and dedication speak for themselves and I am proud to serve our Armed Forces with a man of this caliber near the helm.

I have also had the pleasure of working with Senator INOUYE on the Indian Affairs Committee for over 20 years and know first hand that his bravery did not cease on the battlefield, but still continues today. When he was chairman of the Senate Committee on Indian Affairs, Senator INOUYE was highly regarded among tribal leaders for his efforts to re-establish their sovereignty over their own people and their own affairs. Tribal leaders consider Senator INOUYE to be a true leader and friend to the Indian people to this day. I thank Senator INOUYE for his leadership and dedication to service to our country, and I thank him for his friendship and example.

Mr. President, inscribed on the medal is the word ''Valor.'' Senator INOUYE is one of the most valiant men I know. I praise the Members of Congress for honoring him and hope that our young people may see that it takes courage, bravery, and valor to enjoy the freedom which so many men like Senator INOUYE fought to protect. Thank you, once again, to Senator INOUYE for your example, and thank you to all of the veterans who have served to protect liberty and justice.

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VICTIMS OF GUN VIOLENCE

Mr. MOYNIHAN. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read some of the names of those who lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

June 29, 1999: Rokisha Denard, 18, Trenton, NJ; Herman Eastorly, 79, St. Louis, MO; Scott M. Echoles, 27, Chicago, IL; William Hunter, 33, Nashville, TN; Elton James, 28, New Orleans, LA; Craig Jones, 28, New Orleans, LA; Bernard Lathan, San Francisco, CA; Jackie Lee Nabor, 39, Detroit, MI; Billy J. Phillips, 43, Chicago, IL; Richard Rogers, 16, Fort Wayne, IN; Sidney Wilson, 14, Fort Wayne, IN; Tonya Tyler, 24, Nashville, TN; Unidentified male, 16, Chicago, IL.

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POSITION ON VOTES

Mr. JOHNSON. Mr. President, I was absent from the Senate last Thursday afternoon to attend the high school graduation of my daughter. Kelsey. I missed two different votes, and I would like to state for the RECORD, how I would have voted in each instance.

I would have voted ''yes'' on rollcall vote number 141, the third reading of the Foreign Operations, Export Financing, and Related Programs Appropriations Act for the fiscal year 2001.

I would have voted ''yes'' on rollcall vote number 142, the motion to instruct the Sergeant at Arms during the consideration of HR 4577, the Labor–HHS–Education Appropriations Act for fiscal year 2001.

I also was unavoidably detained due to a family commitment on the evening of June 27, and I missed one vote during that time. I would have voted ''yes'' on rollcall vote number 149, Senate amendment number 3610, a McCain amendment as amended to HR 4577, the Labor–HHS–Education Appropriations Act for fiscal year 2001.

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SEPARATING THE FACTS FROM THE PARTISAN RHETORIC

Mr. LEAHY. Mr. President, this statement is part of my continuing effort to bring clarity to the facts underlying the oversight investigations on campaign finance being pursued by Senator SPECTER within the Subcommittee on Administrative Oversight and the Courts. Staying focused on the facts becomes even more important as the volume of the political rhetoric continues to increase.

Although oversight is an important function, there are obvious dangers of conducting oversight of pending matters. Applying, or seeming to apply, political pressure to pending matters has real consequences, which we are now seeing first-hand. Recently, the Judiciary Committee received requests for information from the defense attorney for Wen Ho Lee, a criminal defendant facing charges of improperly downloading classified information from computers at Los Alamos Nuclear Laboratory. Mr. Lee's defense attorney wants the Republican report on this matter, as well as other documents gathered during oversight, presumably to aid his defense or at least to get potential impeachment materials for prospective government witnesses.

Just today we learned that the Committee has now also been dragged into the pending case of Maria Hsia, a criminal defendant who was recently convicted of campaign finance violations and is awaiting sentencing. Ms. Hsia's attorney apparently found the questioning of the Justice Department prosecutor in charge of her case at last week's hearing so offensive that it is now the basis for a claim that Ms. Hsia's sentencing should be delayed because to set a sentencing date now would only serve political purposes.

Indeed, at a hearing of the Specter investigation on June 21, 2000, a Republican member of the Judiciary Committee queried Robert Conrad, the current head of the Justice Department Campaign Financing Task Force about the Hsia sentencing, despite Conrad's statements that he could not properly discuss pending matters. The Republican member stated that he expected Conrad to pursue Hsia's sentencing vigorously, and asked whether the government had filed a sentencing memorandum. After Conrad explained that the sentencing submissions had not yet been made, the Republican member stated: ''I would expect that you would pursue vigorously the sentencing phase

of that case and that you personally would oversee it . . . I have seen some cases previously involving these very matters in which I believe the Department of Justice was not sufficiently aggressive toward sentencing.'' He then expounded his view that the ''only way'' a person convicted at trial could get a downward departure at sentencing is to cooperate fully and stated ''I would expect that you would treat this like any other case, that unless the defendant was prepared to testify fully and completely and provide information that you can verify, that you would not accept a recommendation of any downward departure.'' These comments clearly conveyed the Republican member's view that Maria Hsia should be treated harshly at sentencing,

The Specter investigation has broken long-standing precedent and routinely demanded documents and testimony involving ongoing criminal matters. I have warned repeatedly that such interference risks that prosecutions may be compromised, more work will be generated for prosecutors, and political agendas will appear to take precedence over effective and fair law enforcement. Nevertheless, at Senator SPECTER's request, the majority on the Judiciary Committee has approved subpoenas in a number of ongoing criminal cases, including Wen Ho Lee, Peter Lee, who remains on probation and under court supervision, multiple campaign finance cases and investigations, and the Loral/Hughes matter.

With respect to the Loral/Hughes matter, the Judiciary Committee approved issuance of a subpoena on May 11, 2000, to the Justice Department for ''any and all'' Loral and Hughes documents, over the objection of Wilma Lewis, the United States Attorney in D.C., which is conducting the investigation. Ms. Lewis explained that the United States Attorney's Office has ''an open active investigation'' into allegations of the unlicensed export of defense services and that thousands of documents in the possession of her office could be responsive to the pending requests from this Committee. Ms. Lewis explained that her office is at an ''important point'' in the investigation and will be making ''critical prosecutorial decisions and recommendations'' in the near future. She noted that if this Committee were to subpoena responsive documents from her office, not only would we adversely affect the investigation from a litigation standpoint, we also would be diverting the attention of the key prosecutors in that case. Instead of working diligently to conclude their investigation, these prosecutors would now be required to sift through thousands of documents and to redact those documents to protect grand jury material. The majority on the Senate Judiciary Committee refused to honor the U.S. Attorney's request and approved the subpoena.

The subject of the Vice President's attendance at coffees was the focus of inquiry at the Judiciary Committee's recent hearing with the Attorney General this week. In summary, the Vice President indicated in response to general questions during an interview with Justice Department prosecutors on April 18, 2000, that he had no concrete recollection of attending the coffees though may have attended one briefly. He fully acknowledged the fact that coffees took place and explained his understanding of their purpose.

Two days after the interview, on April 20th, the Vice President's attorney, James Neal, sent a letter to Conrad clarifying the Vice President's recollection since he had not been advised before the interview that this subject matter would come up. Neal explained that the Vice President ''understood your questions about Coffees to concern the Coffees hosted by the President in the White House.'' Based upon a record review, the Vice President ''was designated to attend four White House Coffees. The Vice President hosted approximately twenty-one Coffees in the Old Executive Office Building. He did not understand your questions to include the OEOB Coffees.'' Indeed, Conrad refers repeatedly in his questions on this subject to ''White House coffees'' or ''White House hosted . . . coffees''.

There is absolutely nothing unusual about witnesses in depositions or even in testimony at Congressional hearings supplementing or clarifying the record after the completion of their testimony. In fact, this common practice is embodied in Rule 30 of the Federal Rules of Civil Procedure, which grants deponent thirty days after the transcript is available to review the transcript and recite any changes in the testimony given. The same rules apply to depositions taken in criminal matters, under Rule 15(d) of the Federal Rules of Criminal Procedure.

At the June 27th Judiciary Committee hearing, one Republican member asserted that ''there is a question of the coffees,'' without identifying the question. To the extent this implies that there is something wrong with clarifying a record with a letter shortly after providing testimony, this can be summed up as just more partisan haze.

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GUN TRAFFICKING REPORT

Mr. LEVIN. Mr. President, last week the Bureau of Alcohol, Tobacco and Firearms (ATF) released a new report about the illegal firearms market. The ATF's report documents 1,530 criminal investigations involving firearms traffickers for the time period between July 1996 and December 1998. These trafficking investigations led to the recovery of more than 84,000 illegal firearms and the prosecution of more than 1,700 defendants.

The ATF report provides significant insight in to the gun trafficking trade. The investigation reveals that too many loopholes in our national framework for firearms distribution permits traffickers to divert legal guns to the illegal marketplace. The vulnerabilities in our law, identified by the ATF, are a result of corrupt federal firearms licensees, who were associated with only 10 percent of the investigations in the report but accounted for nearly half of the firearms involved, a staggering 40,000 guns; gun shows, which supplied channels for 26,000 guns, the second highest number of illegally trafficked firearms in the investigation; straw purchasers, who bought and transferred firearms to unlicensed sellers or prohibited users; unlicensed sellers, who were not required to conduct Brady background checks or maintain records of their sales; and firearms theft.

Mr. President, we can no longer afford to ignore the deficiencies in our federal firearm laws. Gun trafficking gives criminal users and young people access to tens of thousands of illegal guns. If Congress wants to reduce firearm trafficking, then first and foremost, we must close the gun show loophole. Secretary Lawrence Summers, who oversees the ATF explained ''This report . . . shows that we must do more to close every trafficking channel, starting with closing the gun show loophole . . .'' Furthermore, we must increase criminal penalties for traffickers and crack down on corrupt federal firearms licensees, straw purchasers, and unlicensed sellers. I urge Congress to pay attention to this report and pass sensible gun measures that will end the deadly flow of firearms to the illegal marketplace.

I request an article be printed in the RECORD entitled ''The Biography of a Gun,'' which explains how a single gun makes the transition from legal to illegal commerce.

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

[From the New York Times, Apr. 9, 2000]

THE NATION—THE BIOGRAPHY OF A GUN

(By Jayson Blair and Sarah Weissman)

In America, more than 200,000 guns are traced by law enforcement each year. This is the story of one of those weapons—named after its serial number—No. 997126, a 12-shot, 9 millimeter Jennings semi-automatic.

The gun, made mostly of plastic, was manufactured in 1995, at a factory near John Wayne International Airport in Costa Mesa, Calif. It is now wrapped in plastic, locked in a police property clerk's office near the New York State Supreme Court building in downtown Brooklyn. In between, the gun is believed to have been used in at least 13 crimes—including the murder of 2 people and the wounding of at least 3 others in the Brownsville section of Brooklyn.

The dead were a 16-year-old boy who was sitting on top of a mailbox and a 48-year-old shopkeeper who was the father of 4 children. The injured were a man who got in the way during a robbery, a Jehovah's Witness from Chicago who had moved to Brooklyn to do volunteer work, and a rookie New York City police officer.

In New York, about 6 in 10 murder victims are killed with firearms.

No. 997126 is 6 inches long and weighs 16 ounces. It was made at the Bryco Arms plant, where more than 200,000 inexpensive handguns are manufactured each year.

Byrco is owned by Janice Jennings, the former daughter-in-law of George Jennings, who founded the first in what became a cluster of Southern California gun manufacturers known collectively as the Ring of Fire.

From Byrco, the gun was shipped to B.L. Jennings, Inc., a Carson City, Nev., distributor owned by George Jennings's son and Janice's ex-husband, Bruce. No. 997126 was bought by Acua Sport Corporation, a federally licensed wholesaler in Bellefontaine, Ohio. Acua sold it, for about $90, to Classic Pawn and Jewelry, Inc. in Chickamauga, Ga.

In August 1998, Classic resold the gun to a Georgia woman for about $150. Investigators believe that the woman was buying the 9 millimeter gun as a straw purchaser on behalf of Charles Chapman. He was prohibited by federal law, because of a previous felony conviction, from purchasing firearms. Investigators say they believe Mr. Chapman drove the firearm to New York, where it was sold to a member of the Bloods gang. And that is how, investigators say, the gun got to Demeris Tolbert.

The police say No. 997126 was recovered when Mr. Tolbert was arrested on the roof of the Howard Houses after the shooting of a New York police officer, Tanagiot Benekos, who was looking for suspects in the killing of a pawnbroker earlier that afternoon.

Mr. Tolbert had been paroled the previous January after serving three years of a nine year sentence for drug possession. Prosecutors say that after the New York City Police Department's ballistics laboratory linked the gun to slugs recovered from the earlier shootings, Mr. Tolbert, 32, of Brownville confessed.

Investigators say he also took responsibility for a 1990 shooting of a clerk at an East New York bodega, the 1991 killing of a Crown Heights security guard, four other shootings and an attempted murder.

The Brooklyn District Attorney's office has charged him with murder, attempted murder and attempted murder of a police officer.

The ballistic information and serial number were matched against a Bureau of Alcohol, Tobacco and Firearms database, which prompted a federal gun-smuggling investigation. Special Agent Edgar A. Domenech, who oversees the bureau's New York and New Jersey division, said the A.T.F. traced the weapon and 30 others to Charles Chapman. He is being held, along with alleged accomplices, on charges of gun trafficking and conspiracy to illegally purchase firearms and transport them for sale to criminals in New York, where more stringent laws bar the sort of wholesale purchases permitted in Georgia.

Howard Safir, the New York City police commissioner, has proposed tighter, uniform national licensing regulations, and the annual registration of firearms to hold owners accountable for the illegal sales of weapons they purchase.

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SOCIAL SECURITY ADMINISTRATIVE EXPENSES

Mr. CONRAD. Mr. President, I wanted to draw the attention of the Senate to an important funding issue that is pending in the Senate version of the Labor/HHS Appropriations bill. The funding level for Social Security administrative expenses doesn't receive much attention, but it is critical to the effective delivery of Social Security benefits to those who are entitled to them.

Social Security administrative expenses are actually partially funded from the Social Security trust funds, and they ensure that the programs administered by the Social Security Administration are delivered to the American public in an efficient, timely, and professional manner. In addition, SSA maintains records of the yearly earnings of over 140 million U.S. workers and provides them with annual estimates of their future benefits. The agency will also administer the Ticket to Work Program, and the administrative workload associated with the Retirement Earnings Test.

I am concerned that the level of funding contained in the Labor/HHS Appropriations bill is not sufficient, and does not recognize the administrative challenges Social Security will be facing in the near future. Last year the Social Security Administration provided service to 48 million people. In 2010 SSA will be providing services to 62 million people, due to the retirement of many baby boomers. During this same period, the SSA will lose nearly half of its staff to retirement, including many individuals who staff the offices located in our states and who work directly with the public.

In North Dakota, there have been large staff reductions in some of my state's main SSA offices. These shortages have affected timely completion of continuing disability reviews, and service delivery has been difficult to maintain for those who live in rural areas.

The Social Security Advisory Board—a bipartisan Congressionally mandated Board—recently issued a report on ''How the Social Security Administration Can Improve Its Service to the Public,'' which stated that ''there is a serious administrative deficit now in that there is a significant gap between the level of services the public needs and that which the agency is providing. Moreover, this gap could grow to far larger proportions in the long term if it is not adequately addressed.''

The Senate Labor/HHS bill includes a funding level that is $123 million below the President's request. I hope that as the appropriations process moves forward, the Congress will work to ensure an adequate level of funding for SSA administrative expenses.

Mr. FEINGOLD. Mr. President, I rise today to celebrate National Dairy Month, and the wonderful history of our nation's dairy industry. During June Dairy Month we in Wisconsin take a special opportunity to celebrate Wisconsin dairy's proud tradition and heritage of quality. This month provides an opportunity for all Wisconsinites—both those on and off the farm—a special time to reflect on the historical importance, and future of America's dairy industry.

This month is especially important to my home state of Wisconsin, America's Dairyland. What many of my colleagues may not know is that Wisconsin became a leader in the dairy industry well before the 1930's when it was officially nicknamed America's Dairyland. It was soon after the first dairy cow came to Wisconsin in the 1800's that we began to take the dairy industry by storm.

In fact, before Wisconsin was even a state, Ms. Anne Pickett established Wisconsin's first cheese factory when she combined milk from her cows with milk from her neighbor's cows and made it into cheese.

Over the past month, Wisconsinites have recognized this proud tradition by holding over 100 dairy celebrations across our state, including dairy breakfasts, ice cream socials, cooking demonstrations, festivals and other events.

These functions help to reinforce the consumer's awareness of the quality variety and great taste of Wisconsin's dairy products and to honor the producers who make it possible.

Unfortunately, the picture for producers has not been that bright. Dairy prices for this year's National Dairy Month, along with most of the first half of this year, have reached all times lows.

Low milk prices—the lowest since 1978—are wreaking havoc on Wisconsin's rural communities. In addition to these low prices, dairy farmers are also facing month to month price fluctuations of up to 40 percent.

What is so troublesome is that farmers are experiencing these low prices while the retail price continues to increase. In fact, thanks to a 20 percent jump last year in the retail price, the farm retail price spread for dairy products has more than doubled since the early 1980s.

Because of this concern, earlier this year, Senator LEAHY and I asked the General Accounting Office to conduct a thorough investigation into the increasing disparity between the prices dairy farmers receive for their milk, and the price retail stores charge for milk.

In the study, GAO will focus its attention on the impact of market concentration in the retail, milk processing, procurement and handling industries and describe the potential risks of any such concentration for dairy farmers and federal nutrition programs.

Specifically, we asked the GAO to identify the factors that are depressing the price farmers receive for their milk, and why this trend has persisted while retail prices continue to rise. After all, this trend defies economic expectations, and frustrates the aspirations of hardworking farmers, with no apparent benefit to consumers.

During June Dairy Month, the dairy industry also called for mandatory price reporting for manufactured products. In early June, the sudden discovery of 24 million pounds of butter shined the spotlight on the need for an effective reporting system for storable dairy products .

The Chicago Mercantile Exchange (CME), which tracks domestic butter stocks, discovered a new warehouse

that hadn't been reporting its butter inventory. When this huge quantity of butter was finally reported, prices went down sharply, and so did the dairy industry's faith in the reporting system for storable dairy products.

Wall Street would never put up with this kind of reporting errors in its markets, and neither should the agriculture industry.

Regardless of where the dairy industry chooses to get its information, through the National Agricultural Statistics Service or the Chicago Mercantile Exchange, that information must be accurate. These costly mistakes happen because the current reporting system is voluntary, leaving room for serious errors.

To address this growing concern, Senator CRAIG and I introduced the Dairy Market Enhancement Act of 2000, which takes the next step toward fair and accurate reporting. It would mandate reporting by dairy product manufacturing plants, would subject that reporting to independent verification, and would require the USDA to ensure compliance with the mandatory reporting and verification requirements.

Our bill also would direct the Commodities Futures Trading Commission to conduct a study on the reporting practices at the CME and report its findings to Congress.

We must also ensure that America's dairy farmers are put on a level playing field in the world economy. As I travel to each county in Wisconsin, I hear a growing concern over efforts to change the natural cheese standard to allow dry ultra-filtered milk in natural cheese.

Our dairy farmers have invested heavily in processes that make the best quality cheese ingredients, and I am concerned about recent efforts to change the law that would penalize them for those efforts by allowing lower quality ingredients to flood the U.S. market.

Senator JEFFORDS and I introduced the Quality Cheese Act of 2000 to respond to the call of our nation's dairy farmers.

Our legislation would disallow the use of so called ''dry'' ultra-filtered milk—milk protein concentrate and casein—in natural cheese products, and require USDA to consider the impact on the producer before any other changes may be made to the natural cheese standard.

I recognize that these efforts are only a step in the right direction.

In addition to addressing the increased market concentration, enacting mandatary price reporting, and protecting the natural cheese standard, Congress must also provide America's dairy farmers with a fair and truly national dairy policy and one that puts them all on a level playing field, from coast to coast.

TESTIMONY BY THE SECRETARY OF THE SMITHSONIAN INSTITUTION

Mr. DODD. Mr. President, this week the Committee on Rules and Administration held an oversight hearing on the Smithsonian Institution and received testimony from the new Secretary, Lawrence M. Small. Although he has only served in this capacity for a short 6 months, it is already clear that Secretary Small's vision for the Smithsonian will have a lasting impact on this uniquely American institution.

Secretary Small envisions the Smithsonian as ''. . . the most extensive provider, anywhere in the world, of authoritative experiences that connect the American people to their history and to their cultural and scientific heritage.'' In other words, the Smithsonian documents who and what we are as Americans. And not surprisingly, over 90 percent of all visitors to the Smithsonian come from the United States.

Who are these visitors and what makes the Smithsonian such a draw? They are families who come to see the relics of our history, such as the Wright brothers' flyer or the Star Spangled Banner which moved Francis Scott Key to pen our national anthem. They are school children who are learning about the ancient inhabitants of this land, whether dinosaurs or insects. They are young parents retracing the pilgrimage to our nation's Capitol that they made as children. They are new immigrants and Americans of all ages who come to see the treasures that are housed in America's attic.

There are nearly 141 million objects in the Smithsonian's collections, fewer than 2 million of which can be displayed at any given time in the 16 museums that make up the Smithsonian. On average, there are nearly 39 million visitors a year to the Smithsonian's museums and the national zoo. The fact is, 3 of the most visited museums in the world are right here on the mall.

They are the Smithsonian's Air and Space Museum, the Natural History Museum and the Museum of American History. And yet even with those amazing numbers, Secretary Small advised the Rules Committee this week that he believes the Smithsonian can do even better in making the Smithsonian accessible to the public, both in terms of the quality and quantity of the exhibits and the condition of the physical space.

But all of this popularity comes at a price, and that price is the physical wear and tear on the Smithsonian's buildings and exhibits. The buildings of the Smithsonian are in and of themselves historic monuments and landmarks within our nation's capital. The Smithsonian Castle, a fixture on the mall since the cornerstone was laid in 1847, receives nearly 2 million visitors a year, even though it houses no museum.

The oldest building, the Patent Office Building, houses the National Portrait Gallery and the National Museum of American Art. Construction of this Washington landmark was begun in 1836 and was the third great public building constructed in Washington, following the Capitol and The White House.

The National Museum of Natural History, home to the Hope Diamond and the Smithsonian elephant, opened its doors in 1910. This year, nearly 1.3 million visitors toured this museum in the month of April alone. The popularity of these grand and historic buildings is taking its toll, and they are quite simply in need of significant renovation and repair.

Secretary Small is committed to preserving not only the aging buildings of the Smithsonian, but to upgrading the exhibits as well to ensure that they provide a continuing educational experience. He is in the process of developing a 10-year plan to facilitate the necessary restorations and renovation.

These buildings are part of the historic fabric of this capital city, and it would be very short-sighted of Congress not to provide for their adequate maintenance and repair. I commend Secretary Small for his vision in this regard and believe that Congress should act on his recommendations when they are received. An op-ed piece by Secretary Small appeared in Monday's Washington Post in which he described his vision of the Smithsonian and the need to preserve these historic landmarks.

I urge my colleagues to acquaint themselves with the needs of this great American institution as it faces the opportunities and challenges of the 21st century.

I ask unanimous consent that the article by Secretary Small be included in the RECORD following my remarks.

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

[From the Washington Post, June 26, 2000]

AMERICA'S ICONS DESERVE A GOOD HOME

(By Lawrence M. Small)

A recent report from the General Accounting Office identified 903 federal buildings around the country that are in need of some $4 billion in repairs and renovations. The buildings are feeling the effects of age. It's a feeling we know all too well at the Smithsonian.

Construction on the Patent Office Building, the Smithsonian's oldest, began in 1836. The cornerstone of the original Smithsonian Castle on the National Mall was laid in 1847; the National Museum building adjacent to it was completed in 1881, and the National Museum of Natural History opened in 1910.

The age of these four buildings would be reason enough for concern, but there's a significant additional stress on them. The Smithsonian's museum buildings are open to the world. They exist to be visited and to be used—and they've been spectacularly successful at attracting the public.

Attendance in recent months at the Natural History Museum has made it the most-visited museum in the world, a title held previously by our National Air and Space Museum. In the years ahead, the Smithsonian will be working to open its doors wider still

and to attract even more visitors. So, what time doesn't do to our buildings, popularity will—and thank goodness for that.

More than 90 percent of Smithsonian visitors are Americans, many traveling great distances on a pilgrimage to the nation's secular shrines—the Capitol, the White House, the Library of Congress, the many memorials to brave Americans. The history of the nation is built into such structures. They're the physical manifestation of our shared sense of national identity.

Smithsonian Institution buildings belong in the company of those other monuments, because the Smithsonian is the center of our cultural heritage—the repository of the creativity, the courage, the aspirations and the ingenuity of the American people. Its collections hold a vast portion of the material record of democratic America.

The most sophisticated virtual representation on a screen cannot match the experience of standing just a few feet from the star-spangled banner, or the lap-top desk on which Thomas Jefferson wrote the Declaration of Independence, or the hat Lincoln wore the night he was shot, or the Wright brothers' Flyer and the Spirit of St. Louis. All those icons of America's history, and countless others of comparable significance, are at the Smithsonian.

And yet the experience of viewing them is compromised by the physical deterioration of the Smithsonian's buildings, which are becoming unworthy of the treasures they contain. The family on a once-in-a-lifetime trip to Washington and the Smithsonian should not have to make allowances—to overlook peeling paint, leak-stained ceilings and ill-lit exhibition spaces.

We can try to hide the problems behind curtains and plastic sheeting. But the reality cannot be concealed: The buildings are too shabby. In the nation's museum—to which Americans have contributed more than 12 billion of their tax dollars over the years—this embarrassment is not acceptable. It's no way to represent America.

The Smithsonian has hesitated in the past to put before Congress the full scale of its repair and renovation needs. It has tried instead to make do. But it will be undone by making do, and the American people will be the losers.

So we intend to face the problem and to transform the physical environment of the Smithsonian during the coming decade. The United States is in a period of immense public and private prosperity, and we should take every opportunity to turn that wealth to the long-term well-being and enhancement of the nation. Restoring the museums of the Smithsonian to a condition that befits the high place of our nation in the world will be a splendid legacy from this generation to future generations of Americans.

In January the nation will swear in the new century's first Congress and inaugurate its first president. They must be committed to preserving the nation's heritage. At the same time, we as private citizens must do our part to meet this critical need.

Americans should not have to wonder why their treasures are housed in buildings that seem to be falling apart. Instead they should marvel at the grandeur of the spaces and at the objects that are the icons of our history.

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CHINA PERMANENT NORMAL TRADE RELATIONS LEGISLATION

Mr. BAUCUS. Mr. President, I would like to spend a few moments talking about the issue of PNTR, Permanent Normal Trade Relations, with China. Last month, the House passed H.R. 4444. That bill authorizes PNTR for China once the multilateral protocol negotiations are completed and the WTO General Council approves China's accession. The bill includes a solid package of provisions that establishes a framework for monitoring progress and developments in China in the human rights area. It also provides for enhanced monitoring of China's compliance with its trade commitments.

Now, it is our turn in the Senate to act. We have two challenges. First, we need to debate the bill now, not later. And, second, we need to pass the bill without amendment. I call on the Majority Leader to set a date certain in July to start this process.

Extending permanent normal trade relations status to China. Regularizing our economic and trade relationship with China. Bringing China into the global trade community. Helping the development of a middle class in China. Developing an environment between our two countries where we can productively engage China in significant security, regional, and global discussions. These are not Democratic issues. These are not Republican issues. These are national issues. Passage of PNTR is a first step, and it is critical to America's national economic and security interests.

Support in the Senate is strong. I believe there will be an overwhelming vote in favor of final passage. Republicans and Democrats. Small states and large. East and West. North and South. Conservative and liberal. Most of us recognize how important this is to our country, to the region, and to the world.

That is why I will continue to urge the Majority Leader to set a firm date to bring the PNTR bill to the floor so we can move this legislation. I ask my colleagues, Republican, as well as Democrat, to join me in delivering that message to the Majority Leader.

Once it comes to the floor, there will likely be a plethora of amendments, some germane and others non-germane. The Senate has its own rights and prerogatives. I will always defend the right of Senators to offer amendments to a bill. But, I am concerned that amendments in the Senate, which would force the bill into a conference with the House, would lead to delaying, and perhaps jeopardizing, final passage of this landmark legislation. We cannot afford such a development.

H.R. 4444 is a very balanced bill. It deals with the major concerns relative to China's entry into the global trading system. Therefore, along with many of my colleagues, I have made a commitment to oppose any amendment to H.R. 4444, no matter how meritorious the amendment might be on its own terms. Prompt passage and enactment of this bill should be a top bipartisan priority. I urge all my colleagues to join me in making the commitment to oppose any attempt to amend this legislation.

H.R. 4444 ensures that future U.S. administrations will closely monitor China's compliance with its WTO obligations and with other trade agreements made with the United States. It will make the administration in the future act promptly in the case of damaging import surges. It provides for a vigorous monitoring of human rights, worker rights, and the import of goods produced by forced or prison labor. H.R. 4444 also provides for technical assistance to help develop the rule of law in China. It enhances the ability of U.S. government radios to broadcast into China. And it states the sense of Congress regarding Taiwan's prompt admission to the WTO.

To repeat, extending PNTR to China is vitally important to America's economic and strategic interests. Our top priority should be a bill approved by the Senate identical to H.R. 4444 so that it can immediately be sent to the President for signature. I hope we complete action rapidly in July.

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THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 28, 2000, the Federal debt stood at $5,649,147,080,050.00 (Five trillion, six hundred forty-nine billion, one hundred forty-seven million, eighty thousand, fifty dollars and no cents).

One year ago, June 28, 1999, the Federal debt stood at $5,640,294,000,000 (Five trillion, six hundred forty billion, two hundred ninety-four million).

Five years ago, June 28, 1995, the Federal debt stood at $4,948,205,000,000 (Four trillion, nine hundred forty-eight billion, two hundred five million).

Twenty-five years ago, June 28, 1975, the Federal debt stood at $535,337,000,000 (Five hundred thirty-five billion, three hundred thirty-seven million) which reflects a debt increase of more than $5 trillion—$5,113,810,080,050.00 (Five trillion, one hundred thirteen billion, eight hundred ten million, eighty thousand, fifty dollars and no cents) during the past 25 years.

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ADDITIONAL STATEMENTS

HOW NOT TO SQUANDER OUR SUPERPOWER STATUS

• Mr. BIDEN. I rise today to comment briefly on an extremely thought-provoking opinion piece by Josef Joffe in the June 20th edition of the New York Times. The article was entitled ''A Warning from Putin and Schroeder.'' It describes how the current global predominance of the United States is being countered by constellations of countries, which include allies and less-friendly powers alike, and how American behavior is aiding and abetting this development.

Mr. Joffe is the co-editor of the prestigious German weekly Die Zeit. He received his university education in the United States and is well known and respected in American foreign policy

circles. In short, his thoughts are advice from a friend, not hostile criticism from an embittered or jealous antagonist.

The take-off point of the article, from which its headline is derived, was the recent summit meeting in Berlin between German Chancellor Gerhard Schroeder and Russian President Vladimir Putin during which Putin employed the classic Muscovite tactic of wooing Europe's key country in an effort to have it join Russia as a counterweight to us.

Fair enough, Joffe says. Whenever the international system has been dominated by one power, a natural movement to restore the balance has arisen. With regard to the United States, this is nothing new—the Chinese, as well as the Russians, have been decrying a ''unipolar world'' and ''hegemonism'' for years.

But Germany—the country the United States practically reinvented from the ashes of World War II, ushered back into the civilized family of nations, and then stood out as the only champion of re-unification only a decade ago? No matter how gushy a host he wished to be, how could the Chancellor of this Germany suddenly be calling for a ''strategic partnership'' with Russia?

One answer, according to Joffe, is the obvious and passionate hostility to the U.S. national missile defense project, known popularly as NMD, which the Russians and our German allies—for that matter, all of our European allies—share.

A second reason can be traced to the obvious shock at the overwhelming American military superiority shown in last year's Yugoslav air campaign. The manifest European military impotence impelled the European Union to launch its own security and defense policy, which NATO is now struggling to integrate into the alliance.

To some extent, then, the very fact of our current power—military, economic, and cultural—makes attempts at creating a countervailing force nearly inevitable.

But there is more. It is not only the policy that spawned NMD that irritates our European allies. What also irks them is the cavalier way in which we neglected to consult with them in our rush to formulate that policy. As Joffe trenchantly puts it, ''America is so far ahead of the crowd that it has forgotten to look back.''

In this, the second half of his explanation, I fear that Joffe is on to something: a new kind of American hubris. Again, his use of English is enviable. He describes the behavior of Congress these days as ''obliviousness with a dollop of yahooism'' (I assume he isn't talking about the search engine).

Mr. President, no one loves and respects this body more than I do. I believe that the American people is exceedingly well served by the one hundred Senators, all of whom are intelligent and hard-working.

Nevertheless, I note with dismay an increasing tendency in this chamber—I will leave judgments of the House of Representatives to others—for Members to advocate aspects of foreign policy with a conscious disregard, occasionally even disdain, for the opinions of our allies and the impact our policies have on them.

This kind of unilateralism was exhibited in the floor debate last fall on ratification of the Comprehensive Test Ban Treaty by one of my colleagues who, in responding to an article jointly authored by British Prime Minister Tony Blair, French President Jacques Chirac, and German Chancellor Schroeder, declared: ''I don't care about our allies. I care about our enemies.''

No one, Mr. President, is advocating abandoning or compromising the national interest of the United States simply because our allies oppose this or that aspect of our foreign and security policy.

But power—in the current context, our unparalleled power—must be accompanied by a sense of responsibility.

Mr. Joffe alludes to this power-and-responsibility duality in recalling the golden age of bipartisan American foreign policy in the years immediately following the Second World War, when Republican Senator Arthur Vandenberg and Democratic President Harry S. Truman collaborated on halting the spread of communism and on helping create the international institutions that remain the cornerstones of our world more than half a century later. As he puts it ''responsibility must defy short-term self-interest or the domestic fixation of the day.''

Mr. President, one does not have to agree with all of Joffe's arguments to admit that his assertions at least merit our serious consideration. For if we do not begin to realize that even the United States of America needs to factor in the opinions of its friends when formulating foreign policy, it may not have many friends to worry about in the future.

And if that development occurs, we will almost certainly no longer retain the sole superpower status that we now enjoy.●

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TRIBUTE ON THE 100TH ANNIVERSARY OF MANCHESTER, VERMONT

● Mr. JEFFORDS. Mr. President, I rise today to note the 100th anniversary of the Charter of Manchester Village.

Manchester Village lies in the valley of the Battenkill River nestled between the Green Mountains to the east and the Taconic Mountains to the west. Due to its geography and topography, Manchester Village has been at the crossroads of the earliest trails and roads in Vermont. The slopes of Mount Equinox, which rise 3,800 feet above the village, provide numerous fresh water streams and natural springs for the enjoyment of the resident and visiting populations.

From its earliest days to the period of the Civil War, Manchester was very much frontier country with numerous inns and taverns at its crossroads. In 1781, according to the town history detailed in the 1998 Village Plan, ''there were no churches, but there were four taverns, a jail, a pillory and a whipping post.'' But by 1840, Vermont was the slowest growing state in the Union, as much of the natural resources of the state had been depleted, and wool imports from Australia had brought an end to a brief boom of sheep raising in Manchester and other parts of the state.

Beginning just prior to the Civil War, however, tourists began to discover Manchester. In 1853, the Equinox Hotel was opened by Franklin Orvis, who converted an inn that had begun in 1770. In 1863, when Mrs. Abraham Lincoln and her son, Robert Todd, stepped off the ten o'clock train, Manchester's reputation was made. Later, Presidents Ulysses S. Grant, William Howard Taft, Benjamin Harrison, Theodore Roosevelt, and Vice-President James S. Sherman would follow as visitors to Manchester Village.

Today, the Equinox remains as one of Vermont's grandest establishments. The Village is also home to Hildene, the summer home of Robert Todd Lincoln and now operated as a house museum. The Southern Vermont Art Center, the Mark Skinner Library, Burr and Burton Academy, and two world class golf courses can be found in Manchester Village, along with numerous delightful inns and hotels, charming churches, exquisite restaurants, engaging museums, enchanting galleries and unique shops.

Manchester Village thrives today in large part due to careful planning and the guardianship of an impressive streetscape characterized by marble sidewalks, deep front lawns, large, historic buildings, and an absence of fences. Village residents have faced the challenge of responsible and active stewardship since the tourist boom of the second half of the 19th century, and the Village Charter is an important part of that history.

For some details of the genesis of the incorporation of Manchester Village 100 years ago, I turn to ''The Manchester Village Charter,'' written by Mary Hard Bort and reprinted here by permission of the Manchester Journal. Congratulations to the Village of Manchester on the event of its 100th birthday. I ask that that be printed in the RECORD.

The material follows.

THE MANCHESTER VILLAGE CHARTER

(By Mary Hard Bart)

By 1900 a building boom was flourishing in Manchester Village,. It was nearly impossible to hire a carpenter and the ''summer people'' who intended to build ''cottages'' that year often found it necessary to hire labor from out of town.

Some twenty years earlier in 1880 Village boundaries had been laid out by the town's selectmen and approved by the Vermont Legislature for the purpose of providing fire protection in Fire District #2 (the Village).

In 1894 John Marsden came to Manchester from Utica, NY and contracted to purchase the springs on Equinox Mountain from the Fire District and rights of way for a water system. Prior to this time water for fighting fires was stored in huge barrels strategically placed throughout the Village and individual households were supplied by wells, or springs, or cisterns.

Pipes were laid, a reservoir built and The Manchester Water Company was formed in October 1894. The company had purchased all the water contracts, springs, rights of way and conduits from the Marsden family. Officers of the corporation included Mr. Marsden, Mason Colburn of Manchester Center, J.W. Fowler of Manchester Depot and E.C. Orvis of the Village. The Marsden family continued to manage the water company until it was purchased by the Town of Manchester in 1980.

With a water system in place, the need for a sewage system was pressing. The inadequacy of the open trench installed by Franklin Orvis in 1882 was apparent and, in the spring of 1900, public spirited Village residents borrowed enough capital to build proper sewer lines through District #2. Many householders put in bathrooms at this time and eschewed the outhouses that had served their modest needs up til then. These sewer lines emptied directly into the Bauerkill and it was not until 1935 that a modern sewage treatment plant was built with federal funds, appropriated Village funds and private contributions.

Back in 1858 citizens of the Village had petitioned the Legislature for authority to create a charter and had received permission to do so but no action had ever been taken. Now, at the end of the century, an entity with the authority to purchase and construct a sewer, to provide street lights, to regulate the width and grade of roads and sidewalks, to prohibit certain activities, regulate others and to protect property was clearly in order.

The desire on the part of Village leaders to develop Manchester as a fine summer resort with all the amenities city people expected proved to be a strong incentive for action. These men whose vision of a thriving summer resort led to the building of elegant summer cottages, a golf course and the opening of new streets were not satisfied with the progress being made by the town in providing services they deemed essential.

Village voters were called to a series of meetings at the Courthouse where the need for a charter was explained and by October a bill was presented by Edward C. Orvis. He was the son of Franklin Orvis and the current operator of the Equinox House, a selectman for eight years and a representative and, later, senator in the Vermont Legislature. Also on the committee were William B. Edgerton, well-known realtor and creator of several spacious summer estates, and Charles F. Orvis, now elderly but with a wisdom greatly valued and respected in the village. He was the proprietor of the Orvis Inn as well as the manufacturer of fishing equipment.

On November 11, 1900 the Bill of Incorporation for the Village of Manchester, Vermont passed in the House of Representatives and was signed by the governor.

On December 3, 1900 the voters of Fire District #2 met at the Courthouse and following an explanation of the provisions of the charter, adopted the Village Charter, unanimously. The Charter compels the Village to assume the obligations and duties of Fire District #2, which ceased to exist with the adoption of the charter. Also incumbent upon it is care of its highways, bridges and sidewalks. Permitted are improvements to public grounds, sidewalks and parks and ordinances compelling property owners to remove ice, snow and garbage from their property. Also allowed are street lights provided by the Village and the purchase or construction of sewers as well as the regulation of the width and grade of streets and sidewalks.

Elected to serve this new Village of Manchester were: Edward C. Orvis, as president, D.K. Simonds, clerk, George Towsley, treasurer and Trustee; C.F. Orvis, Hiram Eggleston, M.J. Covey and Charles H. Hawley. Promptly on January 10, 1901, according to provisions in the Charter, the Village of Manchester purchased from private investors, the sewer that served it.

Quickly following on the heels of incorporation, the Manchester Development Association was formed in 1901 to promote tourism in the area. This group, made up of full-time and summer residents, underwrote the printing of 15,000 promotional booklets extolling the virtues of Manchester-in-the-Mountains as a summer resort. Its newly opened golf course (the Ekwanok), its pure spring water, its ''salubious'' climate were sure to bring people here.

In 1912 the Village hired a special police officer for the summer to control the traffic. The mix of automobiles and horses had created some dangerous situations and some automobile drivers were accused of driving too fast for conditions.

In 1921, the year after women secured the vote, Mrs. George Orvis, who had taken over the Equinox Hotel after her husband's death, was elected president of the Village.

Assaults on the integrity of the Village as a separate entity have been vigorously repelled. In 1956 a measure to consolidate the Village with the Town was soundly defeated and, though fire protection and police protection are provided by the Town of Manchester, the Village retains its own planning and zoning boards and its own road department and the privilege of hiring additional police officers if it deems that necessary.

Numerous amendments had been made to the charter over time. As estates bloomed land was added to the Village, other amendments brought the charter up to date as time went on. A new document was written to bring the charter up to date in language and in provision and it was approved by the Town of Manchester and by Village voters and by the Legislature in 1943.

For one hundred years Manchester Village has existed as a recognized legal entity with the rights, privileges and obligations that follow. Its officers today guard its integrity with as much vigor as did their predecessors.

July 2000.●

TRIBUTE TO JIM DUNBAR

● Mrs. BOXER. Mr. President, on July 14, Jim Dunbar will rise well before dawn, drive to San Francisco, and broadcast his morning show on KGO radio. As he has done each weekday for the past quarter century, Jim will read and comment on the news, tell a few stories, and take listeners' calls. He will help his audience start their day in a good mood, armed with good information about the world.

For 37 years, Jim Dunbar has served KGO and the people of the Bay Area with dignity, intelligence, and good humor. He blends solid reporting with amiable companionship without compromising either his journalist's integrity or his personal charm. He gives his listeners a good morning and his profession a good name.

Speaking as one of his many listeners, I must add the one piece of sad news in this story: Although Jim Dunbar will still contribute radio essays and special reports for KGO, July 14 will be his last morning show. Like thousands of others, I will miss Jim Dunbar in the morning, and I wish him all the best in his future endeavors.●

FAIRFAX COUNTY URBAN SEARCH AND RESCUE TEAM

● Mr. WARNER. Mr. President, I rise today to honor a fine group of Americans who have performed a remarkable service to this country and to our global community. The Fairfax County Urban Search and Rescue Team were honored on June 27, 2000 in a ceremony held at The Pentagon for their extraordinary efforts over the past 14 years. The following remarks were delivered on this occasion by Secretary of Defense William Cohen:

Senators Warner and Robb, Congressmen Moran and Davis, thank you all for joining us here today and for your tireless efforts on behalf of our men and women in uniform. Deputy Secretary DeLeon; Assistant Chief of Fairfax County Urban Fire and Rescue Team, Mark Wheatly; members of the Fairfax County Urban Search and Rescue Team and your families and friends; distinguished guests—including our canine friends; ladies and gentlemen. It is a pleasure to welcome all of our guests, whether they arrived on two legs or on four.

Two years ago, I received a call in the middle of the night. It was the tragic news of the embassy bombings in Kenya and Tanzania. And I think all Americans—indeed, people the world over—were simply stunned by the unspeakable cruelty and inhumanity of that act, the lives of 267 innocent men and women snuffed out in a single instant of indiscriminate violence.

Such moments force us to pause and reflect on the thinness of the membrane that separates this life from the next, on how quickly our hearts can be stopped and our voices can be silenced. And there is the futile wish that we all experience in grief: the wish to turn back the hand of time, to reverse what fate has just dictated. Of course, we cannot. But what we can do is renew our appreciation of the precarious and precious nature of our lives, resolve to use our time and energy to preserve and protect the sanctity of life and freedom, and rededicate ourselves to those principles of humaneness and generosity.

Today, we are here to honor and express our thanks to a group of men and women who have taken that ideal to its highest expression, who have made that ideal both a career and a calling. Time after time over the past 14 years, those of you in the Fairfax County Urban Search and Rescue Team have responded to some of the worst disasters of our time: Mexico City, Armenia, Oklahoma City, Turkey, the Philippines, and Taiwan. You have gone into cities whose devastation could vie with Dante's vision of hell. And upon your arrival, there has been no food, no water, no electricity. On every block, horrific scenes of carnage. On every face, confusion, fatigue, and grief. But in every case, you have used your energy, innovation, and skill to make a tangible difference in the lives of disaster victims.

Sometimes it has been risky and harrowing, such as in the Philippines, where your team worked more than 9 hours in a collapsed hotel to free a trapped man while ground tremors from the earthquake continued.

Sometimes it has been a combination of thoughtful planning and sheer luck, such as when a special camera was able to locate an 8-year-old boy, who had practically been buried alive when his bunk bed collapsed under the weight of a crushed building in Turkey.

Sometimes it has been grim and bittersweet, such as when you were able to save an elderly woman in Armenia who was the sole survivor from her building.

The rest of us can only imagine the physical and psychological toll that these types of missions take on each of you: day upon day of work without sleep, the chaos of the circumstances, the calls for help and relief that far outnumber your resources and manpower.

So we wanted, on behalf of the Department of Defense, to pay tribute to your efforts and say thank you; in particular, for the aid that you provided during our response to the tragedy in Kenya and Tanzania; but more broadly, for your sacrifices and those of your families and friends, who have provided so much support during your deployments.

We want to commend you for the message of friendship that you have sent to the people of other nations on behalf of the United States. When you go to a foreign country and raise your tents, with those American flags sewn on top, and use your skill, patience, courage, and compassion to help other people, that sends a powerful message of goodwill to other nations.

That is precisely the type of positive example that we in the Department of Defense encourage in our soldiers, sailors, airmen, Marines, and Coast Guardsmen when they are abroad. Because it is a very eloquent and enduring statement about what America stands for.

I cannot tell you how many times my counterparts abroad have expressed to me their gratitude—to the United States and the American people—for some type of assistance or aid. That type of relationship—including the trust, respect, and appreciation that you earn—is indispensable to diplomacy, stability, and peace. And so we thank you.

Finally, I want to congratulate you for the example that you have set for cooperation between the military community and the civilian community. Several of you have already participated in our Domestic Preparedness Program, and your efforts are going to be even more important in the future as terrorism and weapons of mass destruction become greater threats here in the United States. Every time we work with you to get your gear and trucks onto an air transport or fly you to a distant location, our partnership becomes more valuable for you and for us. Ultimately, when the sirens sound the next time, that experience will allow even more lives to be saved.

Just across the hall from my office here in the Pentagon there is a painting of a soldier in prayer. It is graced with an inscription taken from the Book of Isaiah. In the passage, God asks: ''Whom shall I send? And who will go for us?'' And Isaiah answers: ''Here I am. Send me.''

Today it is my pleasure to honor an extraordinary group of Americans who, in the dark and decisive hours after tragedies, have always been willing to say, ''Here I am. Send me.'' You proudly represent not only Fairfax County and the state of Virginia, you represent the best of America and the better angels of our nature.

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TRIBUTE TO LUCY CALAUTTI

• Mr. REID. Mr. President, I rise today to pay tribute to a woman who has dedicated her career to public service and is a good friend, Lucy Calautti.

I have known Lucy Calautti for twenty years, since she was the Chief of Staff for then Congressman DORGAN, even before becoming his chief of staff in the U.S. Senate. Throughout the years I have been inspired by her intelligence and political skills in the service of the United States Congress.

Many people on the Hill know about Lucy's professional accomplishments, but few of them know about the incredible service she has rendered our nation before she can to Washington. Lucy Calautti's extensive and varied career in the interest of the public, includes service in the United States Navy as an aerial photographer during the Vietnam War. After that her inspiration to serve the American people never faded—in fact it was enhanced—as she photographed protesters outside the 1968 Democratic convention. Her experience in Chicago at the convention of the social turmoil in our country at that them were some of the experiences that has made Lucy the dynamic and sensitive person she is.

Lucy headed west to North Dakota from her birthplace in Queens, New York. She fell in love with the people and land of North Dakota as much as the people and land of North Dakota fell in love with her. She admired North Dakotans' independence, their hard work, and their idealism. It wasn't long after Lucy arrived in North Dakota that she began working with now Senator DORGAN when he became the elected State Tax Commissioner. Theirs was a unique working partnership—one that has lasted more than a quarter of a century.

In her lifetime, Lucy has also been a champion for the rights of women, children, and working families. Some may not know how tirelessly Lucy Calautti has fought for women's rights throughout her career. Lucy began her dedication to the rights of women when she participated in landmark anti-discrimination litigation. As a female GI, she was a courageous pioneer who realized first-hand that the benefits extended to women paled in comparison to the benefits extended to her male colleagues. Lucy took up the cause, and made sure that, for the first time, full GI benefits were provided to women serving in the military. Lucy continued her career in grassroots organizing on behalf of the Women's Democratic Caucus in North Dakota. In fact, The Hill newspaper would later anoint Lucy the ''best political organizer the state of North Dakota has ever seen.'' And while so many people would have stopped with just these accomplishments, Lucy continued to establish the first public child care center in North Dakota, extending the most necessary service to women who juggle work, family, and far too often, poverty.

Lucy's career in public service has also included one of the most important positions in American society today—teaching. Lucy shaped the minds of our future leaders through her years as a high school and college-level teacher. To this day, Lucy continues her commitment to our nation's children, reading to DC-area children every week. Truly, an inspiration.

Lucy has, literally, shifted the political landscape in North Dakota and the U.S. Senate. As campaign manager Lucy Calautti engineered a come-from-behind victory for KENT CONRAD in the 1986 U.S. Senate race against a seated Republican, marking the first time since 1944 that an incumbent North Dakota Senator lost a reelection bid. Her knowledge of the people of North Dakota coupled with her superior grassroots organizing skills and her media savvy resulted in a campaign that is so respected, it was the subject of a book entitled ''When Incumbency Fails.''

Contemporaries know Lucy most for her leadership in the office of Senator DORGAN, as she has served as Chief of Staff to Senator DORGAN for more than twenty years. During this time, Lucy performed a key role in shepherding key legislation through the United States Senate. It wasn't too long ago that Lucy played an instrumental role with the Democratic party, staving off the Republican push for a Balanced Budget Amendment, and worked to push an amendment that would not harm Social Security. In those tense days, Lucy was the calm inside the storm, as she quickly worked for a common-sense approach to the issue at the same time she helped bring the state of North Dakota into the limelight. For her skills in politics and legislation, Lucy has been praised universally by her peers. A former aide to the late Senator Quentin Burdick lauded Lucy Calautti as ''incredibly astute about politics and human nature, and absolutely brilliant at running a campaign.'' Former coworkers reserve the highest accolades for Lucy, including one, who praised Lucy as ''smart, analytical, meticulous, loyal, and a hard worker.'' The Hill newspaper even crowned Lucy Calautti with the title of ''most powerful woman in the nation's capital.''

Now, we are losing Lucy to one of her lifetime loves—baseball. I suppose it is only natural that Lucy return to one of her first and most ardent interests. Growing up in Queens, Lucy lived not too far from Shea Stadium where she began her love of our nation's favorite pastime. Last week, her father passed away. He instilled in her a love of the game of baseball, among so many other attributes. She walks in her father's footsteps, and I'm sure he's the proudest Dad in the world. It is with a great deal of respect that I pay tribute to Lucy Calautti today. Soon, Lucy will join the Major League Baseball Organization as Director of Government Relations. She'll still be playing ball with us, and it's be fun.

Thank you, Lucy, for the time we have been able to enjoy your magnificent intellect and skills in the United States Senate. I thank you for your hard work, your dedication, your idealism, and your service to our country

and most of all for you and KENT being the good friends you have been to Landra and to me.●

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TRIBUTE TO R. GENE SMITH

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to my good friend and philanthropist, R. Gene Smith.

I have had the privilege of knowing Gene for many years, and have always been able to witness his compassion for others on numerous occasions. Gene has a kind heart and a giving spirit, and constantly thinks of ways to help those less fortunate than himself. Eight years ago, he offered another of his generous gifts to a fourth grade class in Louisville. In a spectacular show of kindness, Gene promised an all-expense paid college education to 58 students at Jefferson County's poorest school, Engelhard Elementary. The students' part of the deal entailed completing high school and gaining acceptance to a post-secondary college or university. As fourth graders, these children probably couldn't grasp the incredible opportunity they were offered then, but they certainly understand it now.

As Gene often does, he went the extra mile on his promise and committed to helping each of the 58 students graduate from high school. He created the R. Gene Smith Foundation to meet the academic, social, and emotional needs of each child. Over the students' eight-year journey to graduation, the Foundation served as a haven for the children and facilitated learning and personal growth opportunities. In spite of numerous obstacles, Gene and his students exceeded expectations and recently celebrated the graduation of 31 of the original 58 students.

Gene gave an amazing gift. Not only did Gene provided a free college education, but he provided each of the students and their parents with compassion, motivation, and peace of mind over the last eight years. He prevented 31 sets of parents from having to worry about whether they would have the money to pay for their child's education. He provided 31 students with hope for a bright and successful future.

Although this latest act of compassion is extraordinary, it is only one example of Gene's generosity. Gene chaired fund-raising efforts for Neighborhood House, a community center in a poverty-stricken area of Portland, Kentucky. He supports a preschool program for underprivileged children in Kentucky, called Jump Start. Additionally, he donated $1 million towards redevelopment of the Louisville waterfront. Gene also lends his support to such civic groups as the Speed Art Museum, the Cathedral Heritage Foundation, the University of Louisville Hospital Foundation, and Greater Louisville, Inc.

On behalf of myself and my colleagues in the United States Senate, I offer heartfelt thanks to Gene for his continuing commitment to helping others and a hearty congratulations to the 31 hardworking high school graduates.●

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MARIA'S CHILDREN AND RUSSIAN ORPHANS

● Mr. DODD. Mr. President, I want to advise our colleagues and their staff, and their constituents visiting Washington, of an educational exhibit in the Russell Rotunda next week. The exhibit will include examples of colorful murals used by the volunteer group, Maria's Children, a Moscow-based arts rehabilitation center, as arts therapy and training for Russian orphans with learning difficulties. This therapy has produced encouraging results.

Maria's Children is a Moscow-based foundation, with U.S.-based Board members and volunteers, established to help children in Russian orphanages recognize their creative potential, thereby developing their talents and self-esteem so as to improve their chances of successful integration into Russian society. Created in 1993 by Maria Yeliseyeva, a local Moscow artist, and her friends, the project quickly found that through art, these orphans could come to express themselves in ways they had not known before, improving both their social and psychological development. Through a combination of arts therapy and exposure to normal family life, Maria's Children have literally given these children a second chance. The program has expanded over time and has started a summer art camp for orphans and is associated with Dr. Patch Adams annual clown tours of Moscow. The art work of the children has been featured in several Moscow exhibits and is helping to change Russian attitudes and views of what orphans are capable of achieving.

The exhibit will show in the Russell Rotunda from July 3–7. From there, it will move to the Russian Cultural Centre, here in Washington, and will be on display from July 8–21. The exhibit will also show across the United States throughout the summer, appearing in New York City at the National Art Club from July 28–August 6; at the Edina Southdale Court in Minneapolis from August 11–19; and at the Bumbershoot Festival in Seattle from September 1–4.

I invite our colleagues and their staff to visit this exhibit and learn about the important work that is being done by Maria and her colleagues to improve the opportunities for orphans in Russia.●

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IN MEMORY OF MR. ARTHUR SALTZMAN

● Mr. ABRAHAM. Mr. President, I rise today in honor and in memory of a dear friend of mine, Mr. Arthur Saltzman, of Franklin, Michigan, who passed away on June 18, 2000, at the age of 79. Mr. Saltzman was not only a friend, but an inspiration—a man who dedicated much of his life to improving the State of Michigan.

Born in New York City in 1920, Mr. Saltzman came to Michigan to work for Ford Motor Company, where he was in charge of training/management programs for salaried employees.

After Mr. Saltzman retired from Ford, he worked for the Greater Detroit Chamber of Commerce, was a consultant with the U.S. Department of Energy in Washington, DC, and was Director of the Michigan State University Advanced Management Program in Troy, Michigan. He also was Director of the Michigan Economic Opportunity Office and a member of the Oakland University Charter Board of Trustees.

Mr. Saltzman earned his Bachelor's, Master's and Doctoral degrees from New York University. During World War II, he was with the Army Specialized Training Program, serving in both the Philippines and Tokyo.

Surviving Mr. Saltzman are his wife, Florence, with whom he celebrated his 50th Anniversary on January 30, 1999; daughters Amie R. Saltzman and Sarah Saltzman; his sister, Doris Chartow of Syracuse, New York; grandchildren, Joshua and Joanna; five nephews and four nieces.

Mr. President, Arthur Saltzman was a leader in the Michigan Republican Party at both the State and County level. I had the privilege to work with him on many occasions, and I found it to be a wonderful experience each and every time. Arthur was a man who truly enjoyed life, and his love for living was infectious. I am sure that he will be deeply missed by everyone who knew him.●

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CHILD HANDGUN INJURY PREVENTION ACT

● Mr. KERRY. Mr. President, yesterday I introduced legislation, along with my good friend from Ohio Senator DEWINE, that will set minimum standards for gun safety locks. There has been a lot of discussion swirling around the U.S. Congress and in State legislatures throughout the country about the use of handgun safety locks to prevent children from gaining access to dangerous weapons. In fact, just last week New York became the latest State to require that safety locks be sold with firearms. Seventeen states have Child Access Protection, or CAP laws in place, which permit prosecution of adults if their firearm is left unsecured and a child uses that firearm to harm themselves or others.

An important element that is largely missing from the debate over the voluntary or required use of gun safety locks is the quality and performance of these locks. Mr. President, a gun lock will only keep a gun out of a child's hands if the lock works. There are many cheap, flimsy locks on the market that are easily overcome by a child. In fact just last week in Dale City, VA there was an absolutely heart-wrenching accidental shooting of

a 10-year-old boy by his 13-year-old brother. The parents of these young boys purchased both a lock box and a trigger lock and I'm sure they assumed that they were safely storing their weapon.

But, as was reported in Saturday's Washington Post, the boys easily got past the flimsy lock box and then got around the lock. This incident ended in unspeakable, but all too common tragedy with the death of a 10-year-old boy at the hands of his brother.

Mr. President, the legislation Senator DEWINE and I introduced yesterday might have prevented the accidental shooting of that young boy last week. Our legislation gives authority to the Consumer Product Safety Commission to set minimum regulations for safety locks and to remove unsafe locks from the market. Our legislation empowers consumers by ensuring that they will only purchase high-quality lock boxes and trigger locks.

Storing firearms safely is an effective and inexpensive way to prevent the needless tragedies associated with unintentional firearm-related death and injury. And I am pleased that several states, including my home state of Massachusetts, have required the use of gun safety locks. Last July here in the U.S. Senate we passed an amendment that would require the use of gun safety locks.

So, while I am encouraged by this trend of increasing the use of gun safety locks, I am genuinely concerned that with the hundreds of different types of gun locks on the market today it is difficult—probably impossible—for consumers to be assured that the lock they are purchasing will be effective.

The latest data released by the Centers for Disease Control in 1999 revealed that accidental shootings accounted for 7 percent of child deaths and that more than 300 children died in gun accidents, almost one child every day. A study in the Archives of Pediatric and Adolescent Medicine found that 25 percent of 3- to 4-year-olds and 70 percent of 5- to 6-year-olds had sufficient finger strength to fire 59 (or 92 percent) of the 64 commonly available handguns examined in the study. Accidental shootings can be prevented by simple safety measures, one of which is the use of an effective gun safety lock.

As I have already mentioned, Mr. President, the use of gun safety locks is increasing in the United States. Despite the growing use of gun safety locks, such products are not subject to any minimal safety standards. Many currently available trigger locks, safety locks, lock boxes, and other similar devices are inadequate to prevent the accidental discharge of the firearms to which they are attached or to prevent access and accidental use by young children. Consumers do not have any objective criteria with which to judge the quality of gun safety locks.

My colleagues on both sides of the aisle should be able to support this amendment. The legislation does not require the use of gun safety locks. It only requires that gun safety locks meet minimum standards. The legislation does not regulate handguns. It applies only to after-market, external gun locks.

The Senate has been gridlocked since last July over the issue of gun control. And you can be sure that young lives have been needlessly lost due to our inaction. This legislation—which I truly believe every Senator can support—would make storing a gun in the home safer by ensuring safety devices are effective. It would empower consumers. And most importantly it would protect children and decrease the numbers of accidental shooting in this country.

We simply cannot stand by any longer and watch our young children fall victim to accidental shootings. We cannot hear about tragedies like the one last week in Dale City, VA without responding. This legislation is a step in the right direction, one I believe every Senator should support.●

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CAREY FAMILY REUNION

● Mr. BURNS. Mr. President, I rise today to acknowledge the achievement of the Carey Cattle Operation in Boulder, Montana.

In the late 1800's Bart Carey settled in the Boulder Valley. Two of his sons worked the mines and mills in Montana and Idaho hoping to stake their own ranches in the Valley.

Frank, the patriarch of the operation, followed the gold rush north to Alaska, enduring shipwreck and a winter living with an Eskimo family. After returning to the Valley he established a ranching legacy that endures to this day. Frank and his wife Mary Ellen have 12 children and 45 grandchildren.

Their legacy of cussed independence, integrity, and determination instilled in their children the qualities of hard work, responsibility and most importantly a deep abiding faith in God.

This attitude of responsibility fostered a deep sense of patriotism and resulted in their son, Martin B., answering his nation's call during World War II. He was joined by four sisters—Lillian, Agnes, Eleanor, and Josephine—who served as Navy nurses.

Service to our country, in spite of the demands of managing a thriving cattle operation, and the concessions that were available under such conditions saw their youngest son Tom, the current patriarch, answering the call during the Korean conflict.

As the only remaining son, Tom and his extraordinary wife Helen, carry on the tradition. Operating out of the main ranch they have endeavored to instill these same values in their children and grandchildren. In spite of the current condition of American agriculture they are making every effort to ensure that their children and the children of Tom's siblings have every opportunity to continue their ranching legacy.

As the Carey family gathers for a reunion this Fourth of July they will find a base of operation being restored to its original state. They understand the importance of preserving history and their role in this dwindling aspect of the great American west.

I would like to extend my congratulations and sincere best wishes to the Carey family for high grass, plentiful water, and most importantly a fair market price for the fruits of their labor.●

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RECOGNITION OF LOYAL CLARK AS NATIONAL FOREST SERVICE EMPLOYEE OF THE DECADE

● Mr. BENNETT. Mr. President, I rise today to recognize the accomplishments of Ms. Loyal Clark, Public Affairs Specialist and administrator of the Senior, Youth, and Volunteer Program in the Uinta National Forest located in my home state of Utah.

Ms. Clark has been instrumental in developing a model volunteer program that is clearly the largest in the nation, averaging 10,000 volunteers a year for the past decade. Ms. Clark has worked to ensure that the Uinta National Forest can accommodate and provide quality experiences for the numerous volunteer groups and individuals. When there have been more volunteers than available work, she has not turned them away, but has been able to direct their enthusiasm to adjacent forests and other state, county, and community projects. She is a key contact with the community, ensuring that volunteers know about opportunities and that they are matched with jobs they want to do.

Ms. Clark developed and presented a proposal to the forest supervisor to establish volunteer coordinators on each of the ranger districts in the forest. These coordinator positions have helped to provide the necessary staff for the Uinta to manage its huge volunteer program and to complete millions of dollars worth of vital project work, increasing the effectiveness of the Forest's budget by as much as twenty to thirty percent.

Ms. Clark has taken an active role to ensure various volunteers are recognized and rewarded. She has organized volunteer award ceremonies in the forest and actively ensures the nominations of volunteers for forest, regional, and national recognition. She is currently the team leader for the Uinta National Forest partnership team, which is active in pursing new partnerships with the forest while also maintaining its current relationships.

She has not only made a difference in the Uinta National Forest, but has also visited many of the forest management teams throughout the Intermountain Region and shared her wealth of knowledge and experience in the management of effective volunteer programs.

Because of Ms. Clark's career-long commitment to working with volunteers, the United States Forest Service recently presented her with an award for being the National Forest Service

Employee of the Nineties. I congratulate Ms. Clark on her well-deserved award from the Forest Service.

In closing, I am pleased to recognize and thank Ms. Loyal Clark today for her sustained efforts to enlist and encourage citizens to take ownership in their national forests and communities through volunteering.●

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TRIBUTE TO GARFIELD AND SUNNYSIDE ELEMENTARY SCHOOLS

● Mr. CRAPO. Mr. President, I rise today to commend two Idaho schools, Garfield Elementary School in Boise and Sunnyside Elementary School in Kellogg for their high standards and excellent teaching records.

Last month, these two schools were recognized by the U.S. Department of Education and the National Association of Title I Directors as Distinguished Title I Schools. These two elementary schools were among the ninety schools nationwide to be recognized for their efforts toward student achievement in schools that teach students from low-income households. Garfield Elementary and Sunnyside Elementary exemplify Idaho's high education standards and I am honored to congratulate these two schools for receiving this national award.

This national honor is especially impressive when one recognizes that more than fifty thousand schools across the country use Title I funds to boost the achievement levels of students from low-income households. The distinction of 2000 Distinguished Title I School is awarded to schools whose programs offer children from educationally disadvantaged communities access to effective academic lessons. Education is crucial to the well-being of these future adults because it is often their means of upward mobility. Improved education opportunities allows these children to become better citizens and achieve their education and career goals, including higher paying jobs, and a better quality of life.

Much of Sunnyside Elementary's success can be attributed to an active parent volunteer program. For example, while the school has only 300 students, approximately 124 parents volunteer their time at least once a year and forty-nine parents volunteer at the school on a regular basis. A web page, maintained by Principal Steve Shepperd and monthly school newsletters inform parents of school activities and highlight ways parents can get involved. The suggested tasks are often as simple as helping children with homework assignments.

Principal Shepperd says, ''Just because sixty percent of the students we teach come from households that are at or near the poverty level, it doesn't mean that they cannot learn. We concentrate on setting high standards and we help the kids meet them by offering encouragement and extra assistance with their lessons.'' Principal Shepperd credits the dedicated teachers of Sunnyside Elementary for putting in extra time and for bringing so much of their energy into the classroom.

Garfield Elementary is noted for its tremendous community involvement. Student volunteers from Boise State University, most of them studying to be teachers, regularly tutor students after school. Garfield hosts an annual Career Day in which professionals from the community describe their careers and how they pursued them. The school also has a fifteen-member mentor program. Although none of the tutors have children of their own who attend Garfield, they come to the school frequently during lunchtime to read with children. This extensive community involvement is one of the reasons why the Iowa Test of Basic Skills for students at Garfield Elementary have risen as much as thirty points on a 100-point scale for some grades.

In addition to volunteering, parents at Garfield Elementary are encouraged by Principal Elaine Eichelberg to join one of the school's many committees. At the beginning of the year, each household receives a questionnaire that lists specific ways to help and asks parents to indicate their interest and availability. Principal Eichelberg says, ''One of the best things parents can do to improve their child's education is to keep close tabs on their child's progress themselves and work with teachers when problems at school arise.''

The national recognition that Sunnyside Elementary and Garfield Elementary have received reaffirms my belief that Idaho has some of the best teachers and administrators in the nation. Backed by strong involvement from parents and encouragement from the community, these elementary schools have demonstrated success in teacher training, utilized community resources, and established partnerships with parents.

There has been much debate about the success of the Title I program in the Elementary and Secondary Education Act. Schools like Garfield and Sunnyside show us that the programs implemented with the use of Title I funds do work. When we invest in quality education programs that focus on basic skills, such as reading and mathematics, our low-performing students will improve. The methods employed in Idaho serve as a reminder that community and parental support often make the biggest difference in elementary education.

I am very proud of the accomplishments of these two schools. Their steady focus on hard work has put their students on a path of continued academic success.●

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IN MEMORY OF MRS. JACQUELYN STEWART

● Mr. ABRAHAM. Mr. President, I rise today in honor and in memory of a dear friend of mine, Mrs. Jacquelyn Stewart, who passed away on June 19 at the age of 59. Mrs. Stewart was not only a friend, but a truly special woman. She believed deeply in the ideals of the Republican Party, and worked extremely hard to fight for these ideals.

Mrs. Stewart was born in Detroit, Michigan. After attending Henry Ford Community College in Dearborn, Michigan, she attended the Oakland County Police Academy. She spent 15 years as an investigator with the Oakland County Prosecutor's Office.

On May 8, 1989, Mrs. Stewart was appointed to the Michigan Liquor Control Commission as an Administrative Commissioner. In 1997, Governor John Engler elevated her to position of Chairwoman of the Commission. For her work in that position, Mrs. Stewart is credited with restoring credibility to an agency that had fallen under controversy.

Mrs. Stewart also served the Oakland County Republican Party in many ways, most prominently as one of the top aides to former prosecutor and current County Executive, L. Brooks Patterson. In the mid-1980's, she led a petition drive that fell just short of placing a proposed restoration of the death penalty on the Michigan ballot.

Mrs. Stewart is survived by her husband, Mr. James Stewart, former longtime Huntington Woods Police Chief, as well as her sons, Chris and Timothy Boelter; daughter Elizabeth Rose; stepson James Stewart, and two brothers.

Mr. President, I consider it a privilege to have been able to know and work with Jackie Stewart. She was a woman of complete integrity, who fought for what she believed regardless of the odds against her. Her energy and boundless efforts were an inspiration to men and women throughout the State of Michigan, and I am sure she will be dearly missed by everyone who knew her.●

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THE CHALLENGER LEARNING CENTER OF ALASKA

● Mr. MURKOWSKI. Mr. President, I rise to offer my congratulations to the Challenger Learning Center of Alaska, its Board of Directors, and staffers, on their Official Launch Ceremony on July 7, 2000.

The Challenger Learning Center of Alaska will be part of the national network of 50 Learning Centers operating in the United States, Canada, and England established in memory of the 1986 Challenger Space Shuttle crew. Located in Kenai, Alaska, the Challenger Learning Center of Alaska simulates space missions to give students the opportunity to explore the endless possibilities available in science and technology fields.

Mr. President, currently 40 percent of America's 4th graders read below the basic level on national reading tests. On international tests, the nation's twelfth graders rank last in Advanced Physics compared with students in 18 other countries. And one-third of all

incoming college freshmen must enroll in a remedial reading, writing, or mathematics class before taking regular courses. If we are going to turn these dismal statistics around this country needs an innovative approach to teaching. The Challenger Learning Center of Alaska is working towards ensuring that our elementary and secondary students of today are the best-educated and motivated college graduates of tomorrow.

The Challenger Learning Center programs will not only create an environment conductive to pursuing the sciences, they will also assist students in developing skills vital to every field. In the Alaska workplace of the 21st century, survival will depend on teamwork, problem solving, communication and decision-making. Like no other educational program, the Challenger Learning Center of Alaska will help all of Alaska's students develop these critical skills while providing the solid educational content that promotes science literacy.

Mr. President, educators continue to site education as the number one determinate in an individual's success. I believe that the Challenger Learning Center of Alaska will profoundly affect the future of Alaska. I commend the Challenger Learning Center staff, Board of Directors, NASA and statewide communities for their tireless efforts and dedication to our young Alaskans.●

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MESSAGES FROM THE HOUSE

At 12:24 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following bills, in which it requests the concurrence of the Senate:

H.R. 4680. An act to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, and for other purposes.

H.R. 3240. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify certain responsibilities of the Food and Drug Administration with respect to the importation of drugs into the United States.

ENROLLED BILLS SIGNED

At 8:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1515. An act to amend the Radiation Exposure Compensation Act, and for other purposes.

H.R. 3051. An act to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on the Jicarilla Apache Reservation in the State of New Mexico, and for other purposes.

H.R. 4762. An act to amend the Internal Revenue Code of 1986 to require 527 organizations to disclose their political activities.

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At 9:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4425) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

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MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3240. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify certain responsibilities of the Food and Drug Administration with respect to the importation of drugs into the United States; to the Committee on Health, Education, Labor, and Pensions.

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ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on June 28, 2000, he had presented to the President of the United States the following enrolled bill:

S. 1309. An act to amend title I of the Employee Retirement Income Security Act of 1974 to provide for the preemption of State law in certain cases relating to certain church plans.

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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–9482. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F.28 Mark 0070 Series Airplanes; request for comments; docket No. 99–NM–253 [5–12/5–22]'' (RIN2120–AA64 (2000–0268)) received on May 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9483. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Maule Aerospace Technology, Inc. M4, M5, M6, M7, MX7 and MXT7 Series Airplanes & Models MT7235 and M8235 Airplanes; request for comments; docket No. 2000–CE–04 [5–9/5–22]'' (RIN2120–AA64 (2000–0269)) received on May 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9484. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Unalaska, AK; docket No. 99–AAL–18 [4–24/5–22]'' (RIN2120–AA66 (2000–0111)) received on May 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9485. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Albion, NE, direct final rule, request for comments; docket No. 99–ACE–30 [5–5/5–22]'' (RIN2120–AA66 (2000–0112)) received on May 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9486. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishing of Class E Airspace; Salem, MO; docket No. 00–ACE–6 [5–5/5–22]'' (RIN2120–AA66 (2000–0113)) received on May 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9487. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Cuba, MO; direct final rule, confirmation of effective date; docket no. 00–ACE–3 [5–2/5–22]'' (RIN2120–AA66 (2000–0114)) received on May 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9488. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Marquette, MI; revocation of Class E Airspace; Sayer, MI and K.I. Sawyer, MI; new effective date; docket No. 99–AGL–42 [5–2/5–22]'' (RIN2120–AA66 (2000–0116)) received on May 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9489. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Visual Flight Rules; direct final rule; confirmation of effective date [5–19/5–22]'' (RIN2120–AG94 (2000–0002)) received on May 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9490. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Mitsubishi Heavy Industries, Ltd. MU–2B Series Airplanes; docket No. 97–CE–21 [5–15/5–18]'' (RIN2120–AA64 (2000–0244)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9491. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc RB211–535 Series; docket No. 2000–NE–04 [5–12/5–18]'' (RIN2120–AA64 (2000–0245)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9492. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–200 Series Airplanes equipped with GE CF6–80C2 Series Engines; request for comments; docket No. 2000–NM–93 [5–4/5–18]'' (RIN2120–AA64 (2000–0246)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9493. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767 Series Airplanes equipped with GE CF6–80C2 Series Engines; request for comments; docket No. 2000–NM–94 [5–4/5–18]'' (RIN2120–AA64 (2000–0247)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9494. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: GE Company CF6–6, CF6–45, and CF6–50 Series Turbofan Engines; docket No. 98–ANE–41 [4–24/5–

18]'' (RIN2120–AA64 (2000–0256)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9495. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: GE CF6–80A, CF6–80C2, and CF6–80E1 Series Turbofan Engines; docket No. 98–ANE–49 [4–24/5–18]'' (RIN2120–AA64 (2000–0257)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9496. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: GE GE90 Series Turbofan Engines; docket No. 98–ANE–39 [4–24/5–18]'' (RIN2120–AA64 (2000–0258)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9497. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes; docket No. 99–NM–231 [5–1/5–18]'' (RIN2120–AA64 (2000–0259)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9498. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 and 727C Series Airplanes; docket No. 98–NM–293 [5–1/5–18]'' (RIN2120–AA64 (2000–0260)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9499. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: MD Helicopters, INC, Model 369D, 369E, 500N, and 600N Helicopters; request for comments; docket No. 2000–SW–02 [5–5/5–18]'' (RIN2120–AA64 (2000–0263)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9500. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Allison Engine Company AE3007 Series Turbofan Engines; docket No. 99–NE–46 [5–5/5–18]'' (RIN2120–AA64 (2000–0264)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9501. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Andres-Murphy, NC; correction; docket No. 00–ASO–4 [5–12/5–18]'' (RIN2120–AA66 (2000–0110)) received on May 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9502. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–100, –200, –300, 747SR, and 747 SP Series Airplanes; docket No. 97–NM–88 [5–26/6–1]'' (RIN2120–AA64 (2000–0291)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9503. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: New Piper Aircraft, Inc., Models PA46310P and PA46350P Airplanes; docket No. 99–CE–112 [5–25/6–1]'' (RIN2120–AA64 (2000–0292)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9504. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737 Series Airplanes; docket No. 2000–NM–111 [5–26/6–1]'' (RIN2120–AA64 (2000–0293)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9505. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes Equipped with P & W JT9D–70 Series Engines docket No. 99–NM–65 [5–26/6–1]'' (RIN2120–AA64 (2000–0294)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9506. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Israel Aircraft Industries, LTD, model 1125 Westwind Astra and Astra SPX Series Airplanes; docket No. 99–NM–360 [5–26/6–1]'' (RIN2120–AA64 (2000–0295)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9507. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes; docket No. 99–NM–28 [5–26/6–1]'' (RIN2120–AA64 (2000–0296)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9508. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A320 Series Airplanes; docket No. 98–NM–99 [5–26/6–1]'' (RIN2120–AA64 (2000–0297)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9509. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Industrie Model A300, A300–600, and A310 Series Airplanes; docket No. 99–NM–251 [5–26/6–1]'' (RIN2120–AA64 (2000–0298)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9510. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model SE3160, SA316B, SA316C, SA319B, SA330F, SA330G, SA330J, SA341G, and SA342J Helicopters; docket No. 99–SW–04 [5–25/6–1]'' (RIN2120–AA64 (2000–0299)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9511. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Salisbury, MD; docket No. 99–AEA–07 [5–25/6–1]'' (RIN2120–AA66 (2000–0125)) received on June 1, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9512. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class D Airspace; Alexandria England AFB, LA; Revocation of Class D Airspace; Alexandria Esler Reg Airport, LA; and Revision of Class E Airspace, Alexandria, LA; docket No. 2000–ASW–10 [5–26/6–1]'' (RIN2120–AA66 (2000–0126)) received on June 1, 2000 ; to the Committee on Commerce, Science, and Transportation.

EC–9513. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E; Waco, TX; docket No. 2000–ASW–08 [5–25/6–1]'' (RIN2120–AA66 (2000–0127)) received on June 8, 2000 ; to the Committee on Commerce, Science, and Transportation.

EC–9514. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Fort Stockton, TX; docket No. 2000–ASW–09 [5–25/6–1]'' (RIN2120–AA66 (2000–0128)) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9515. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Englewood, CO; docket No. 00–ANM–01 [5–25/6–1]'' (RIN2120–AA66 (2000–0129)) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9516. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Changes to the International Aviational Safety Assessment (IASA); Policy Statement; 14 CFR Part 129 [5–25/6–1]'' (RIN2120–ZZ26) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9517. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''National Parks Air Tour Management; Notice of Statutory Requirement 14 CFR Part 91 [5–26/6–1]'' (RIN2120–ZZ27) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9518. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Commander Aircraft Company Model 114TC Airplanes; docket no. 99–CE–81 [6–1/6–8]'' (RIN2120–AA64 (2000–0301)) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9519. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (60); No. 1991; [5–19/6–8]'' (RIN2120–AA65 (2000–0029)) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9520. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Willits, CA; docket no. 00–AWP–1 [5–26/8–10]'' (RIN2120–AA66 (2000–0131)) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9521. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''Type of Certification Procedures for Changed Products; request for comments; docket no. 28903 [6/7–6/8]'' (RIN2120–AF68) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9522. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Fees for FAA Services for Certain Flights; interim final rule with request for comments; notice of public meeting; docket no. FAA–00–7018;'' (RIN2120–AG17 (2000–0001)) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9523. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Prohibition of Smoking on Scheduled Passenger Flights; Docket No. FAA–2000–7467 [6/9–6/8]'' (RIN2120–AH04) received on June 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9524. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS332L2 Helicopters; docket no. 99–SW82 [6–14/6–15]'' (RIN2120–AA64 (2000–0320)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9525. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: GE CF6–45/50 Series Turbofan Engines; docket no. 98–ANE–32 [6–13/6–15]'' (RIN2120–AA64 (2000–0321)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9526. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: CFM International CFM56–2, 2A, 2B, 3, 3B, 3, 3C, 5, 5B, 5C, and 7B Series Turbofan Engines; docket no. 98–ANE–38 [6–13/6–15]'' (RIN2120–AA64 (2000–0322)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9527. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: British Aerospace Bae Model ATP Airplanes; docket no. 99–NM–230 [6–13/6–15]'' (RIN2120–AA64 (2000–0323)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9528. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: bombardier Model DHC–8–100 and 300 Series Airplanes; docket no. 98–NM–380 [6–13/6–15]'' (RIN2120–AA64 (2000–0324)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9529. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–400 and 747–200 and 300 Series Airplanes powered by P & W Model PW4000 Series Engines; docket no. 99–NM–208 [6–13/6–15]'' (RIN2120–AA64 (2000–0325)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9530. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–200 and 300 Series Airplanes; docket no. 98–NM–313 [6–13/6–15]'' (RIN2120–AA64 (2000–0326)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9531. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767 Series Airplanes; docket no. 2000–NM–138 [6–13/6–15]'' (RIN2120–AA64 (2000–0327)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9532. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A320–232 and 233 Series Airplanes; docket no. 2000–NM–22 [6–13/6–15]'' (RIN2120–AA64 (2000–0328)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9533. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300, A310 and A300–600 Series Airplanes; docket no. 99–NM–128 [6–13/6–15]'' (RIN2120–AA64 (2000–0329)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9534. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319, A320 and A321 Series Airplanes; docket no. 2000–NM–139'' (RIN2120–AA64 (2000–0330)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9535. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A330 and A340 Series Airplanes; docket no. 2000–NM–53 [6–13/6–15]'' (RIN2120–AA64 (2000–0331)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9536. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes; docket No. 99–NM–331 [6–13/6–15]'' (RIN2120–AA64 (2000–0332)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9537. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: International Aero Engines AG V2500–A1/–A5/–D5 series Turbofan Engines; docket No. 99–ANE–45 [6–12/6–15]'' (RIN2120–AA64 (2000–0333)) received on June 15, 2000 ; to the Committee on Commerce, Science, and Transportation.

EC–9538. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (43); Amdt. No. 1996 [6–14/6–15]'' (RIN2120–AA65 (2000–0033)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9539. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (30); Amdt. No. 1995 [6–14/6–15]'' (RIN2120–AA65 (2000–0034)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9540. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Jackson, WY, Establishment of effective date; docket no. 99–ANM–11 [5–22/6/15]]'' (RIN2120–AA66 (2000–0123)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9541. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification and Revocation of VOR and Colored Federal Airways and Jet Routes; AK; docket No. 98–AAL–26 [6–6/6–15]'' (RIN2120–AA66 (2000–0135)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9542. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Orange City, IA; Correction; docket No. 00–ACE–9 [6–9/6–15]'' (RIN2120–AA66 (2000–0136)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9543. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Yukon-Kuskokwim Delta, Alaska; docket No. 99–AAL–24 [6–13/6–15]'' (RIN2120–AA66 (2000–0137)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9544. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Time of Designation for Restricted Area R–7104, Vieques Island, PR; docket No. 00–ASO–8 [6–13/6–15]'' (RIN2120–AA66 (2000–0138)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9545. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Correction to Class E Airspace; Unalaska, AK; docket No. 99–AAL–18 [6–14/6–15]'' (RIN2120–AA66 (2000–0139)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9546. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Realignment of Jet Route; TX; docket No. 99–ASW–33 [6–14/6–15]'' (RIN2120–AA66 (2000–0140)) received on June 15, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9547. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd. Models PC–12 and PC12/45; docket No. 99–CE–36 [6–2/6–12]'' (RIN2120–AA64 (2000–0302)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9548. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''Airworthiness Directives: Air Tractor Incorporated Model AT–301, AT–401, and AT–501 Airplanes; docket No. 2000–CE–21 [6–2/6–12]'' (RIN2120–AA64 (2000–0303)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9549. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Honeywell International Inc. ALF502R and LF507; docket No. 99–NE–36 [6–5/6–12]'' (RIN2120–AA64 (2000–0304)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9550. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 Series Airplanes; docket No. 99–NM–307 [6–5/6–12]'' (RIN2120–AA64 (2000–0305)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9551. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model SA 365N1, AS 365N2, and SA 366G1 Helicopters; docket No. 99–SW–45 [6–7/6–12]'' (RIN2120–AA64 (2000–0306)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9552. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Ayres Corp S2R Series and Model 600 S2D Airplanes; docket No. 98–CE–56 [6–7/6–12]'' (RIN2120–AA64 (2000–0308)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9553. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Lockheed Model L 1011 385 Series Airplanes; docket no. 98–NM–311 [6–7/6–12]'' (RIN2120–AA64 (2000–0309)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9554. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Allison Engine Company AE3007A and AE 3007C Series Turbofan Engines; docket no. 99–NE–07 [6–8/6–12]'' (RIN2120–AA64 (2000–0310)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9555. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes; docket no. 99–NM–343 [6–1/6–12]'' (RIN2120–AA64 (2000–0311)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9556. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 and 767 Series Airplanes Powered by GE Model CF6 80C2 Series Engines; docket no. 99–NM–228 [6–1/6–12]'' (RIN2120–AA64 (2000–0312)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9557. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 200, 300, and 400 Series Airplanes; docket no. 99–NM–30 [6–1/6–12]'' (RIN2120–AA64 (2000–0313)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9558. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767 Series Airplanes; docket no. 98–NM–316 [6–1/6–12]'' (RIN2120–AA64 (2000–0314)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9559. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Falson 2000, Mystere–Falcon 900, Falcon 900EX, Fan Jet Falcon, Mystere–Falcon 50, Mystere–Falcon 20, and Mystere–Falcon 200 Series Airplanes–docket no. 2000–NM–109 [6–1/6–12]'' (RIN2120–AA64 (2000–0315)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9560. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model SA–365C, C1, C2, N, and N1; AS 365N2 and N3; and SA366G1 Helicopters; Docket no. 99–SW–62 [6–1/6–12]'' (RIN2120–AA64 (2000–0316)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9561. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F28, Mark 1000, 2000, 3000, and 4000 Series Airplanes docket no. 99–NM–358 [6–6/6–12]'' (RIN2120–AA64 (2000–0317)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9562. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc Rb211 Series Turbofan Engines; docket n. 94–ANE–16 [6–6/6–12]'' (RIN2120–AA64 (2000–0318)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9563. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (49); Amdt. 1994 [6–2/6–12]'' (RIN2120–AA65 (2000–0030)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9564. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (72); Amdt. 1993 [6–2/6–12]'' (RIN2120–AA65 (2000–0031)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9565. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Changing Using Agency for Restricted Area R2602 Colorado Springs, CO; docket no. 99–ANM–06 [6–2/6–12]'' (RIN2120–AA65 (2000–0132)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9566. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Realignment and Establishment of VOR Federal Airways, KY and TN; Docket no. 97–ASO–18 [6–2/6–12]'' (RIN2120–AA65 (2000–0133)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9567. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of the San Francisco Class B Airspace Area; CA; docket no. 97–AWA–1 [6–7/6–12]'' (RIN2120–AA66 (2000–0134)) received on June 12, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9568. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (34); Amdt. no. 422 [5–9/5–25]'' (RIN2120–AA63 (2000–0003)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9569. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–400 Series Airplanes; docket no. 2000–NM–75 [5–24/5–25]]'' (RIN2120–AA64 (2000–0270)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9570. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300, B2, A300B2K, A300 B4–2C, A300 Br–100, and A300 B4–200 Series Airplanes; docket no. 98–NM–56 [5–24/5–25]]'' (RIN2120–AA64 (2000–0271)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9571. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model As350B, BA, B1, B2, and D and Model AS355E, F, F1, F2, and N Helicopters; Docket no. 99–SW–39 [5–22/5–25]]'' (RIN2120–AA64 (2000–0273)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9572. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS350B, BA, B1, B2, B3, and AS355E, F, F1, F2, and N Helicopters; docket no. 99–SW–36 [5–22/5–25]]'' (RIN2120–AA64 (2000–0274)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9573. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron Canda Model 222, 222B, 222U, and 230 Helicopters; docket no. 99–SW–43 [5–22/5–25]]'' (RIN2120–AA64 (2000–0275)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9574. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''Airworthiness Directives: Israel Aircraft Industries Ltd Model 1124 and 1124A Westwind Airplanes; docket no. 2000–NM–42 [5–22/5–25]]'' (RIN2120–AA64 (2000–0276)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9575. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Model G–159 Series Airplanes; docket no. 99–NM–138 [5–22/5–25]]'' (RIN2120–AA64 (2000–0277)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9576. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: MD Helicopters Inc Model MD900 Helicopters; docket no. 2000–SW–04 [5–17/5–25]]'' (RIN2120–AA64 (2000–0278)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9577. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC–10 Series Airplanes; docket no. 99–NM–213 [5–17/5–25]]'' (RIN2120–AA64 (2000–0279)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9578. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model SA365N1, AS365N2, and SA366G1 Helicopters; docket no. 99–SW–34 [5–17/5–25]]'' (RIN2120–AA64 (2000–0280)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9579. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter Deutschland CmbH Model EC 135 Helicopters; docket no. 99–SW–05 [5–17/5–25]]'' (RIN2120–AA64 (2000–0281)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9580. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Lockheed Model L–1011 385 Airplanes; docket no. 99–NM–221 [5–12/5–25]]'' (RIN2120–AA64 (2000–0282)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9581. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300–600 Series Airplanes; docket no. 99–NM–362 [5–12/5–25]]'' (RIN2120–AA64 (2000–0283)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9582. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–100, –200, 747Sp, & 747SR Series Airplanes Equipped with Pratt & Whitney JT9D–7, –7A, –7F, and –7J Series Engines; docket no. 99–NM–242 [5–12/5–25]]'' (RIN2120–AA64 (2000–0284)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9583. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: EMBRAER Model EMB–145 Series Airplanes; docket no. 99–NM–305 [5–12/5–25]]'' (RIN2120–AA64 (2000–0285)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9584. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC–10–10, –15, –30, –30F, and –40 Series Airplanes and KC–10A Airplanes; docket no. 99–NM–212 [5–12/5–25]]'' (RIN2120–AA64 (2000–0286)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9585. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon (Beech) Model 400A and 400T Series Airplanes; docket no. 99–NM–372 [5–12/5–25]]'' (RIN2120–AA64 (2000–0287)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9586. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319, A320, A321, A330, and A340 Series Airplanes; docket no. 99–NM–103 [5–15/5–25]]'' (RIN2120–AA64 (2000–0288)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9587. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: British Aerospace Jetstream Model 3201 Airplanes; docket no. 99–CE–72 [5–15/5–25]]'' (RIN2120–AA64 (2000–0289)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9588. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace for Rapid City, SD; Rapid City Ellsworth AFB, SD; and Modification of Class E Airspace; Rapid City, SD; docket no. 00–AGL–03 [5–15/5–25]'' (RIN2120–AA66 (2000–0118)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9589. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Yankton, SD; docket No. 98–AGL–78 [5–15/5–25]'' (RIN2120–AA66 (2000–0119)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9590. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Ely, MN; docket No. 00–AGL–04 [5–25/5–15]'' (RIN2120–AA66 (2000–0120)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9591. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification and Establishment of Class D & E Airspace; Belleville, IL; docket No. 00–AGL–01 [5–15/5–25]'' (RIN2120–AA66 (2000–0121) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9592. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Hampton, IA, direct final rule, request for comments; docket No. 00–ACE–7 [5–23/5–15]'' (RIN2120–AA66 (2000–0122)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9593. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Jackson WY, delay of effective date; docket No. 99–ANM–11 [5–22/5–25]'' (RIN2120–AA66 (2000–0123)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9594. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Passenger Facility Charges; Docket No. FAA–2000–7402 [5–30/5–25]'' (RIN2120–AH05)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

EC–9595. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model SA–365N, AS–365N1, AS–365N2 and AS–365N3 Helicopters; docket No. 99–SW–86 [5–22/5–25]'' (RIN2120–AA64 (2000–0272)) received on May 25, 2000; to the Committee on Commerce, Science, and Transportation.

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REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WARNER, from the Committee on Armed Services, with amendments:

S. 2507: An original bill to authorize appropriations for fiscal year 2001 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 106–325).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 869: A bill for the relief of Mina Vahedi Notash.

S. 2413: A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify the procedures and conditions for the award of matching grants for the purchase of armor vests.

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INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. DODD, Mrs. FEINSTEIN, Mr. DEWINE, Mr. KOHL, Mr. FEINGOLD, and Mr. KENNEDY):

S. 2812. A bill to amend the Immigration and Nationality Act to provide a waiver of the oath of renunciation and allegiance for naturalization of aliens having certain disabilities; to the Committee on the Judiciary.

By Mr. MCCAIN:

S. 2813. A bill to provide for a land exchange to fulfill the Federal obligation to

the State of Arizona under the State's enabling act, and to use certain Federal land in Arizona to acquire by eminent domain State trust land located adjacent to Federal land for the purpose of improving public land management, enhancing the conservation of unique natural areas, and fulfilling the purposes for which State trust land is set aside, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCONNELL:

S. 2814. A bill to amend title XI of the Social Security Act to direct the Commissioner of Social Security to conduct outreach efforts to increase awareness of the availability of medicare cost-sharing assistance to eligible low-income medicare beneficiaries; to the Committee on Finance.

By Mr. CLELAND (for himself and Ms. SNOWE):

S. 2815. A bill to provide for the nationwide designation of 2-1-1 as a toll-free telephone number for access to information and referrals on human services, to encourage the deployment of the toll-free telephone number, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM (for himself, Mr. AKAKA, Mr. L. CHAFEE, and Mr. MCCAIN):

S. 2816. A bill to provide the financial mechanisms, resource protections, and professional skills necessary for high quality stewardship of the National Park System, to commemorate the heritage of people of the United States to invest in the legacy of the National Park System, and to recognize the importance of high quality outdoor recreational opportunities on federally managed land; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself and Mr. GORTON):

S. 2817. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to establish permanent recreation fee authority; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON:

S. 2818. A bill to amend the Agricultural Market Transition Act to establish a flexible fallow program under which a producer may idle a portion of the total planted acreage of the loan commodities of the producer in exchange for higher loan rates for marketing assistance loans on the remaining acreage of the producer; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REED (for himself and Mr. JEFFORDS):

S. 2819. To provide for the establishment of an assistance program for health insurance consumers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HOLLINGS (by request):

S. 2820. A bill to provide for a public interest determination by the Consumer Product Safety Commission with respect to repair, replacement, or refund actions, and to revise the civil and criminal penalties, under both the Consumer Product Safety Act and the Federal Hazardous Substances Act; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 2821. A bill to amend chapter 84 of title 5, United States Code, to make certain temporary Federal service performed for the Federal Deposit Insurance Corporation creditable for retirement purposes; to the Committee on Governmental Affairs.

By Mrs. FEINSTEIN:

S. 2822. A bill for the relief of Denes and Gyorgyi Fulop; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. DEWINE, Mr. MOYNIHAN, Mr. GRASSLEY, Mr. DODD, Mr. COVERDELL, and Mr. BIDEN):

S. 2823. A bill to amend the Andean Trade Preference Act to grant certain benefits with respect to textile and apparel, and for other purposes; to the Committee on Finance.

By Mr. CLELAND (for himself, Mr. JOHNSON, Mr. WARNER, Mr. KERREY, Mr. HAGEL, Mrs. MURRAY, Mr. MCCAIN, Mr. ROBB, Ms. SNOWE, Mr. BIDEN, Mr. BURNS, Mr. GRAHAM, Mr. HELMS, Mr. EDWARDS, Mr. THURMOND, Mr. KOHL, Mr. DOMENICI, Mr. DURBIN, Mr. MACK, Mr. TORRICELLI, Mr. SMITH of Oregon, Ms. LANDRIEU, Mr . SHELBY, Mrs. LINCOLN, Mr. GRASSLEY, Mr. REED, Mr. ALLARD, Mr. KERRY, Mr. INHOFE, Mr. LAUTENBERG, Mr. HATCH, Mrs. BOXER, Mr. BENNETT, Mr. LEVIN, Mr. JEFFORDS, Mr. BAUCUS, Mr. L. CHAFEE, Mr. REID, Mr. SMITH of New Hampshire, Mr. DASCHLE, Mr. COVERDELL, Mr. BYRD, Mr. CRAIG, Mr. WELLSTONE, Mr. ABRAHAM, Mr. FEINGOLD, Mrs. HUTCHISON, Mr. SCHUMER, Mr. CAMPBELL, Mr. DORGAN, Mr. COCHRAN, Mr. CONRAD, Ms. COLLINS, Mr. HOLLINGS, Mr. KYL, Mr. ROCKEFELLER, Mr. FRIST, Ms. MIKULSKI, Mr. SANTORUM, Mrs. FEINSTEIN, Mr. AKAKA, Mr. BAYH, Mr. LIEBERMAN, Mr. BRYAN, Mr. LEAHY, Mr. BINGAMAN, and Mr. WYDEN):

S. 2824. A bill to authorize the President to award a gold medal on behalf of Congress to General Wesley K. Clark, United States Army, in recognition of his outstanding leadership and service during the military operations against the Federal Republic of Yugoslavia (Serbia and Montenegro); to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER (for himself, Mr. JEFFORDS, and Mr. BREAUX):

S. 2825. A bill to strengthen the effectiveness of the earned income tax credit in reducing child poverty and promoting work; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. ROCKEFELLER):

S. 2826. A bill to amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the medicare program; to the Committee on Finance.

By Mr. ALLARD:

S. 2827. A bill to provide for the conveyance of the Department of Veterans Affairs Medical Center at Ft. Lyon, Colorado, to the State of Colorado, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GRASSLEY (for himself, Mr. CONRAD, Mr. SHELBY, Mr. BAUCUS, Mr. THOMAS, and Mr. COCHRAN):

S. 2828. A bill to amend title XVIII of the Social Security Act to require that the Secretary of Health and Human Services wage adjust the actual, rather than the estimated, proportion of a hospital's costs that are attributable to wages and wage-related costs; to the Committee on Finance.

By Mr. HUTCHINSON (for himself, Mr. LOTT, Mr. NICKLES, Mr. GREGG, Mr. GORTON, Mr. COVERDELL, and Mr. INHOFE):

S. 2829. A bill to provide of an investigation and audit at the Department of Education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY (for himself and Mr. FEINGOLD):

S. 2830. A bill to preclude the admissibility of certain confessions in criminal cases; to the Committee on the Judiciary.

By Mr. KERRY (for himself and Mr. HOLLINGS):

S. 2831. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to improve conservation and management of sharks and establish a consistent national policy toward the practice of shark-finning; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE:

S. 2832. A bill to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 2833. A bill to amend the Federal Election Campaign Act of 1971 to improve the enforcement capabilities of the Federal Election Commission, and for other purposes; to the Committee on Rules and Administration.

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SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INHOFE:

S. Res. 330. A resolution designating the week beginning September 24, 2000, as ''National Amputee Awareness Week''; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 331. A resolution to authorize testimony, document production, and legal representation in United States v. Ellen Rose Hart; considered and agreed to.

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STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. DODD, Mrs. FEINSTEIN, Mr. DEWINE, Mr. KOHL, Mr. FEINGOLD, and Mr. KENNEDY):

S. 2812. A bill to amend the Immigration and Nationality Act to provide a waiver of the oath of renunciation and allegiance for naturalization of aliens having certain disabilities; to the Committee on the Judiciary.

WAIVER OF OATH OF RENUNCIATION AND ALLEGIANCE FOR NATURALIZATION OF ALIENS HAVING CERTAIN DISABILITIES

● Mr. HATCH. Mr. President, I rise today with my colleagues, Senator CHRISTOPHER DODD and others, to introduce a simple but highly significant bill which will confer the treasured status of American citizenship on individuals with disabilities.

Under current law, the Attorney General possesses the authority to waive certain requirements of naturalization, such as the English and civics test requirements, for disabled applicants. The law, however, has been construed to stop short of granting the Attorney General authority to waive the requirement for the oath of renunciation and allegiance for disabled adult applicants.

Consequently, even though such persons are able to fulfill all other requirements of naturalization, or it is clear that the Attorney General can waive them, certain individuals with disabilities may never become citizens.

This is the sad situation that a young man from my home state of Utah is facing. Gustavo Galvez Letona, a 27 year-old immigrant from Guatemala, suffers from Down's syndrome. Mr. Letona's entire family are already

American citizens. But, while Mr. Letona is otherwise able to become a citizen, despite his developmental disability, the fact that the Attorney General's authority to waive the oath is unclear will prevent Mr. Letona from enjoying the same status as a naturalized American citizen.

Imagine a family in which mother, father, brothers and sisters could become U.S. citizens, but one sibling could not only because of a disability. I believe all my colleagues would agree that this would be a sad and tragic situation. It is discriminatory to boot.

This bill would not affect a large number of people. A recent estimate was that only about 1100 individuals with disabilities would possibly be eligible for such a waiver. Moreover, I used the word ''possibly'' because the waiver would not be automatic. The waiver would be granted at the discretion of the Attorney General and is not intended to confer citizenship on individuals—regardless of a disability—who would not otherwise qualify for citizenship. It would not apply to every individual with a disability, most of whom would not need such a waiver.

Today's legislation remedies this unfortunate scenario facing Gustavo Letona by extending the Attorney General's authority to waive the taking of the oath if the applicant is unable to understand or communicate an understanding of the oath because of disability. This simple solution allows Mr. Letona and others the privilege of becoming American citizens.

I would like to express my gratitude to Senator DODD for his willingness to make this a bipartisan effort. I would also like to thank my Utah Advisory Committee on Disability Policy, and particularly Ron Gardner, who brought this problem to my attention and who works tirelessly to protect the rights of the disabled.

I ask unanimous consent that the text of the bill be placed in the RECORD following my remarks.

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

S. 2812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF OATH OF RENUNCIATION AND ALLEGIANCE FOR NATURALIZATION OF ALIENS HAVING CERTAIN DISABILITIES.

(a) IN GENERAL.—The last sentence of section 337(a) of the Immigration and Nationality Act (8 U.S.C. 1448(a)) is amended to read as follows: ''The Attorney General may waive the taking of the oath if in the opinion of the Attorney General the applicant for naturalization is an individual with a disability, or a child, who is unable to understand or communicate an understanding of the meaning of the oath. If the Attorney General waives the oath for such an individual, the individual shall be considered to have met the requirements of section 316(a)(3) as to attachment to the Constitution and well disposition to the United States.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who applied for naturalization before, on, or after the date of enactment of this Act.●

Mr. DODD. Mr. President, I rise with Senator HATCH, Senator FEINGOLD, Senator KENNEDY, Senator DEWINE, Senator FEINSTEIN, and Senator KOHL to introduce a bill to resolve a rare but serious problem for some American families.

I want to tell you a story about a young man named Mathieu, a resident of Connecticut. Mathieu's family—his mother, his father, and his sister—have all become naturalized U.S. citizens. But Mathieu has not been allowed to become a citizen because he's a 23-year-old low-functioning autistic man who cannot meet a very technical requirement of the naturalization process, namely that he be able to swear an oath of loyalty to the United States. His naturalization request has been in limbo since November of 1996 because Mathieu could not understand some of the questions he was asked by the INS agent processing his application for citizenship. All of the other members of Mathieu's family have become U.S. citizens. Now Mathieu's mother lives with the fear that when she dies her most vulnerable child could be removed from the country and sent to a nation that he hardly knows, and where he has no family and no friends. Mathieu's mother—again, an American citizen—wants what every American wants—she wants to know that her child will be treated fairly by her government even when she's no longer capable of taking care of him herself. Mathieu's life is here. His friends and caregivers are here. His family is here. Mathieu's place is here and but for his disability, he would be allowed to stay here where he belongs. He would be allowed to become a citizen and his mother's fears would be relieved. Mr. President, this is a problem that a compassionate nation can fix. This is a problem that we have the power to solve.

Under current law, a very small subgroup of people with severe mental disabilities cannot become citizens because they lack the capacity to take the oath of renunciation and allegiance. Since the Immigration and Nationality Act (INA) does not contain explicit statutory authority for the Immigration and Naturalization Service (INS) to waive the oath, people with brain injuries and other mental disabilities are routinely denied citizenship—even when the rest of their families are already U.S. citizens.

Congress has previously recognized the injustice of denying citizenship to individuals based on their disabilities and has attempted to resolve the problem. In fact, in 1991 Congress created a procedure for expedited administration of the oath for applicants who have special circumstances, including disabilities, that prevent them from personally appearing at a scheduled ceremony. And in 1994, Congress exempted certain applicants with disabilities who are unable to learn from taking the English and civics tests. Unfortunately, these efforts have not effectively addressed the problem of individuals who are unable to take the oath because of mental incapacity, leaving the oath as the only barrier to citizenship for such individuals.

The legislation we introduce today would amend the Immigration and Nationality Act to give the INS the discretion to waive the oath of allegiance for certain individuals who lack the mental capacity to comprehend the oath.

Waiving the oath is really a technical amendment. There is no indication that Congress ever intended to split up families or cast doubt on the futures of family members not able to utter the oath by virtue of a mental disability.

Waiving the oath does not defeat the purpose of Naturalization or the oath requirement. Individuals with disabilities who receive oath waivers would still have to fulfill the other requirements of naturalization, including good moral character and residency. Remember the main purpose of the oath requirement is to prevent the naturalization of people who are hostile to the government of the United States, or the principles of the Constitution. People with severe disabilities who lack the capacity to understand the oath cannot form the intent to act against the government. Waiving the oath poses no danger and manifests America's best, most compassionate characteristics.

Let me conclude by saying that this is not a problem that faces millions of people—or even many thousands of people, but it is an important issue for the few families that are affected. Mr. President the United States should not force the break up of families. This bill will right an injustice and I urge its passage.

By Mr. MCCAIN:

S. 2813. A bill to provide for a land exchange to fulfill the Federal obligation to the State of Arizona under the State's enabling act, and to use certain Federal land in Arizona to acquire by eminent domain State trust land located adjacent to Federal land for the purpose of improving public land management, enhancing the conservation of unique natural areas, and fulfilling the purposes for which State trust land is set aside, and for other purposes; to the Committee on Energy and Natural Resources.

THE ARIZONA LAND EXCHANGE FACILITATION ACT OF 2000

Mr. MCCAIN. Mr. President, I rise to introduce legislation that authorizes the Secretary of the U.S. Department of Interior and the Governor of Arizona to carry out a federal-state land exchange in order to protect environmentally significant lands in the state and enhance the state education trust fund to benefit Arizona's schoolchildren.

I must first make mention that Interior Secretary Bruce Babbitt and Governor Jane Hull of Arizona are currently involved in negotiating a comprehensive state-federal land exchange agreement. The Secretary and the Governor have been engaged in land exchange negotiations since January of this year, which so far have been very productive and positive. If their negotiations are successful and a land trade is agreed upon, legislation will be necessary to authorize that exchange.

To express my strong support for a potential exchange, I am introducing this bill as a place holder for the necessary authorization to implement any agreement for a land exchange. This legislation is in no way intended to override or influence ongoing negotiations, nor do I intend to force either party to accept a proposal that is not in their best interests.

The purpose of this legislation is two-fold. One, it is simply a framework for a future agreement. It is intended to facilitate discussion to define the necessary legislative authority to implement a state-federal land exchange in Arizona. If the details of a land exchange are agreed upon between the Secretary and the Governor, those specifics can be incorporated into this legislation.

The second purpose is to define the necessary legislative language that will accommodate existing Arizona Constitutional and Arizona Enabling Act restrictions that require state trust lands to be managed for the benefit of education and other public purposes. In addition, the bill recognizes the important goal of resolving the federal government's land ''debt'' to Arizona as a result of not receiving the state's full allotment at statehood. This legislation proposes to use federal friendly-condemnation authority to effect other aspects of a comprehensive exchange to address the current Arizona constitutional restriction on land trades.

In recent years, the people of Arizona have embraced the idea of promoting conservation as part of the state's land management objectives. Through public referenda and other proposals, the people of Arizona have strongly supported the concept of a state-wide effort to conserve unique natural areas. The federal-state land exchange currently under discussion could ensure that ecologically important state lands are placed under permanent conservation protection as part of an existing federal land management unit. In return, the state would receive parcels currently owned by the federal government that may be more suitable for revenue-generating activity in keeping with the requirements of state law. Such an exchange could accomplish both state conservation and education goals. The opportunity to explore and effect a means of serving these two important purposes should not be missed.

In the past, some of my colleagues and I have evaluated different options to reduce the number of state inholdings on federal property and vice-versa—a situation that complicates resource management and does not serve the public interest. This legislation could be an important step forward in reducing state inholdings in federal land management areas which makes good environmental, economic and administrative sense.

Mr. President, let me make very clear once again, this legislation is a starting point only. It does not represent by any means an endorsement of any particular lands for exchange that are currently under negotiation. Nor is it my intention to fast-track any proposal that does not abide by a fair and strict appraisal process. It is intended to encourage the Secretary and the Governor to forward a serious proposal to the Congress for consideration. Once a proposal is forwarded, I have every intention to consult with affected entities and engage in a thorough process of public input from local citizenry, governments and other interested parties.

I also recognize that such land exchanges do take time and it is very possible that a land exchange proposal may not be finalized this year. My colleagues from Arizona recall as well as I do that it took three years to negotiate and enact the Arizona Desert Wilderness Act of 1990 to preserve over two million acres as designated wilderness. We never would have accomplished that feat without the front-line leadership and vision of Mo Udall who initiated the process by offering a legislative framework. I believe that this opportunity is one that Mo would have supported. I hope that my colleagues and friends in Arizona will agree and that we can all work together on a comprehensive land exchange proposal that will accomplish educational and environmental objectives.

Mr. President, I ask unanimous consent to include the full text of the bill in the RECORD.

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

S. 2813

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 ''Arizona Land Exchange Facilitation Act of 2000''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) when the State of Arizona entered the Union, the State was granted more than 9,000,000 acres of State trust land to be held in permanent trust to be managed on behalf of the beneficiaries of the trust, primarily Arizona's schoolchildren;

(2) the State is entitled to select additional land of a value that is approximately equal to the value of 15,234 acres of in lieu base land from vacant, unappropriated, and unreserved Federal land to fulfill the entitlement arising from the Act of June 20, 1910 (36 Stat. 557, chapter 310), and the consent judgment known as the ''San Carlos Consent Judgment'' entered in State of Arizona v. Rogers C.B. Morton, Court Document 74–696–PHX–WPC (D. Ariz. (1978));

(3) while the State has recognized that certain State trust land is of unique and significant value and ought to be conserved as open space to benefit future generations, while ensuring that there is a higher benefit to public schools and other trust beneficiaries, there is no mechanism currently available to the State to conserve such unique State trust land; and

(4) an exchange of certain Federal and State land in Arizona will provide for improved land management by the Federal and State governments by exchanging certain State trust land that is of significant ecological value for permanent protection for certain Federal land that is suitable for the revenue generation mission of the State and other purposes identified by the State on behalf of its beneficiaries.

(b) PURPOSES.—The purposes of this Act are to improve manageability of Federal public land and State trust land in the State, to promote the conservation of unique natural areas, and to fulfill obligations to the beneficiaries of State trust land by providing for a land conveyance and a land exchange between the Federal and State governments under which—

(1) the Secretary of the Interior shall identify a pool of parcels of land that are vacant, unappropriated, unreserved, and suitable for disposal, so that the State may select Federal land that the Secretary shall convey to the State to fulfill the State's entitlement under the State's enabling act; and

(2) the Secretary shall acquire certain State trust land in the State by eminent domain, with the consent of the State, in exchange for certain Federal land.

SEC. 3. DEFINITIONS.

In this Act:

(1) IN LIEU BASE LAND.—The term ''in lieu base land'' means land granted to the State under section 25 of the Act of June 20, 1910 (36 Stat. 573).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) STATE.—The term ''State'' means the State of Arizona.

(4) STATE TRUST LAND.—The term ''State trust land'' means all right, title, and interest of the State on the date of enactment of this Act in and to—

(A) land (including the mineral estate) granted by the United States under sections 24 and 25 of the Act of June 20, 1910 (36 Stat. 572, 573, chapter 310); and

(B) land (including the mineral estate) owned by the State on the date of enactment of this Act that, under State law, is required to be managed for the benefit of the public school system or the institutions of the State designated under that Act.

SEC. 4. FULFILLMENT OF ENTITLEMENT UNDER THE ENABLING ACT.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall identify land under the jurisdiction of the Secretary that—

(1) is vacant, unappropriated, and unreserved; and

(2) is suitable for disposal under land management plans in effect on the date of enactment of this Act.

(b) SELECTION.—Not later than 120 days after the date of enactment of this Act, the State shall select land, identified by the Secretary under subsection (a), of approximately equal value (determined in accordance with section 6) to the 15,234 acres of in lieu base land identified as base land depicted on the map entitled ''Arizona State Trust Base Lands Not Compensated by the Federal Government'' and dated _____.

(c) CONVEYANCE.—On final agreement between the Secretary and the State under section 7(a), the Secretary shall convey to the

State the land selected by the State under subsection (b).

SEC. 5. LAND EXCHANGE.

(a) CONVEYANCE BY THE SECRETARY OF FEDERAL LAND.—

(1) IN GENERAL.—In exchange for the State trust land acquired by the Secretary under subsection (b), the Secretary shall convey to the State Federal land described in paragraph (2) that is of a value that is approximately equal to the value of the acquired State trust land, as determined under section 6.

(2) FEDERAL LAND.—The Federal land referred to in paragraph (1) is land under the jurisdiction of the Secretary and in the State that the Secretary determines is available for exchange under this Act.

(b) ACQUISITION BY THE SECRETARY OF STATE TRUST LAND.—

(1) IN GENERAL.—The Secretary shall—

(A) on final agreement between the Secretary and the State under section 7(a), acquire by eminent domain the State designated trust land described in paragraph (2); and

(B) manage the land in accordance with paragraph (3).

(2) STATE TRUST LAND.—The State trust land referred to in paragraph (1) is land under the jurisdiction of the State that the State determines is available for exchange under this Act.

(3) MANAGEMENT OF LAND ACQUIRED BY THE SECRETARY.—

(A) IN GENERAL.—On acceptance of title by the United States, any land or interest in land acquired by the United States under this section that is located within the boundaries of a unit of the National Park System, the National Wildlife Refuge System, or any other system established by Act of Congress—

(i) shall become a part of the unit; and

(ii) shall be subject to all laws (including regulations) applicable to the unit.

(B) ALL OTHER LAND.—Any land or interest in land acquired by the United States under this section (other than land or an interest in land described in subparagraph (A))—

(i) shall be administered by the Bureau of Land Management in accordance with laws (including regulations) applicable to the management of public land under the administration of the Bureau of Land Management; or

(ii) where appropriate to protect land of unique ecological value, may be made subject to special management considerations, including a conservation easement, to—

(I) protect the land or interest in land from development; and

(II) preserve open space.

(4) WITHDRAWAL.—Subject to valid existing rights, all land acquired by the Secretary under this subsection is withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from operation of the mineral leasing and geothermal leasing laws.

SEC. 6. DETERMINATION OF VALUE.

(a) IN GENERAL.—All exchanges authorized under this Act shall be for approximately equal value.

(b) APPRAISAL PROCESS.—The Secretary and the State shall jointly determine an independent appraisal process, which shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions, to estimate values for the categories and groupings of land to be conveyed under section 4 and exchanged under section 5.

(c) DISPUTE RESOLUTION.—In the case of a dispute concerning an appraisal or appraisal issue that arises in the appraisal process, the appraisal or appraisal issue shall be resolved in accordance with section 206(d)(2) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)(2)).

(d) ADJUSTMENT TO ACHIEVE EQUAL VALUE.—After the values of the parcels of land are determined, the Secretary and the State may—

(1) add or remove parcels to achieve a package of equally valued Federal land and State trust land; and

(2) make public a list of the parcels included in the package.

(e) EFFECT OF DETERMINATION.—A determination of the value of a parcel of land under this section shall serve to establish the value of the parcel or interest in land in any eminent domain proceeding.

(f) COSTS.—The costs of carrying out this section shall be shared equally by the Secretary and the State.

SEC. 7. CONVEYANCES OF TITLE.

(a) AGREEMENT.—The Secretary and the State shall enter into an agreement that specifies the terms under which land and interests in land shall be conveyed under sections 4 and 5, consistent with this section.

(b) CONVEYANCES BY THE UNITED STATES.—All conveyances by the United States to the State under this Act shall be subject to valid existing rights and other interests held by third parties.

(c) CONVEYANCES BY THE STATE.—All conveyances by the State to the United States under this Act shall be subject only to such valid existing surface and mineral leases, grazing permits and leases, easements, rights-of-way, and other interests held by third parties as are determined to be acceptable under the title regulations of the Attorney General of the United States.

(d) TIMING.—The conveyance of all land and interests in land to be conveyed under this Act shall be made not later than 60 days after final agreement is reached between the Secretary and the State under subsection (a).

(e) FORM OF CONVEYANCE.—A conveyance of land or an interest in land by the State to the United States under this section shall be in such form as is determined to be acceptable under the title regulations of the Attorney General of the United States.

SEC. 8. GENERAL PROVISIONS.

(a) HAZARDOUS WASTE.—

(1) IN GENERAL.—Notwithstanding the conveyance to the United States of land or an interest in land, the State shall continue to be responsible for all environmental remediation, waste management, and environmental compliance activities arising from ownership and control of the land or interest in land under applicable Federal and State laws with respect to conditions existing on the land on the date of conveyance.

(2) CONTINUING RESPONSIBILITY.—Notwithstanding the conveyance to the State of land or an interest in land, the United States shall continue to be responsible for all environmental remediation, waste management, and environmental compliance activities arising from ownership and control of the land or interest in land under applicable Federal and State laws with respect to conditions existing on the land on the date of conveyance.

(b) COSTS.—The United States and the State shall each bear its own respective costs incurred in the implementation of this Act, except for the costs incurred under section 6.

(c) MAPS AND LEGAL DESCRIPTIONS.—The State and the Secretary shall each provide to the other the legal descriptions and maps of the parcels of land and interests in land under their respective jurisdictions that are to be exchanged under this Act.

SEC. 9. LAS CIENEGAS STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the State, shall—

(1) conduct a study of land values of all State trust land within the exterior boundaries of the proposed conservation area under the Las Cienegas National Conservation Area Establishment Act of 1999, H.R. 2941, 106th Congress, in Pima County and Santa Cruz County, Arizona; and

(2) submit to Congress a recommendation on whether any such land should be acquired by the Federal Government.

(b) CONTENTS.—The study shall include an examination of possible forms of compensation for the State trust land within the proposed Las Cienegas National Conservation Area, including—

(1) cash payments;

(2) Federal administrative sites under the management of the Administrator of General Services;

(3) water rights; and

(4) relief from debt payment for the Central Arizona Water Conservation District.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 11. EXPIRATION OF AUTHORITY.

The authority of the Secretary to make the land conveyance under section 4 and the land exchange under section 5 expires on the date that is 2 years after the date of enactment of this Act.

By Mr. MCCONNELL:

S. 2814. A bill to amend title XI of the social Security Act to direct the Commissioner of Social Security to conduct outreach efforts to increase awareness of the availability of Medicare cost-sharing assistance to eligible low-income Medicare beneficiaries, to the Committee on Finance.

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THE LOW-INCOME WIDOWS ASSISTANCE ACT OF 2000

● Mr. MCCONNELL. Mr. President, I come to the floor today to introduce the Low-Income Widows Assistance Act of 2000. Since 1988, Congress has established several programs to help pay the out of pocket medical costs for low-income Medicare beneficiaries. These programs, commonly referred to as Medicare Buy-in or QMB, SLMB, and QI–1, operate as federal-state partnerships and are funded through state Medicaid programs. Depending on an eligible senior's income level, the programs could cover the cost of Medicare Part B premiums, doctor visits, deductibles, and co-payments.

Despite the availability of these programs, many seniors are not aware that they may be eligible to receive these additional benefits. According to a 1998 Families USA study, there are somewhere between 3.3 and 3.8 million seniors in America who are eligible to receive these benefits, but not currently receiving them. In my home state, the same study estimates that there are somewhere between 49,000 and 58,000 Kentucky seniors who may be eligible for one of these assistance programs but are not enrolled. While the actual task of enrolling eligible seniors

is left to the states, there are several important steps the federal government, through the Social Security Administration (SSA), can and should take.

A key component in improving participation in cost-sharing programs is the capacity of federal and state agencies to identify those individuals who experience a reduction in income after they have already enrolled in Social Security and Medicare. One group at particular risk of reduced income in their later years is widowed spouses.

For anyone who has lost a loved one, the experience is often overwhelming both mentally and emotionally. The loss of a spouse leaves many elderly with the difficult task of restructuring their lives in order to regain personal and financial stability. When SSA is informed that a married individual has died, the agency recalculates the benefit to determine the new benefit level. Frequently, the widowed spouse's benefit is lower than the amount the married couple received from Social Security. This sets up a circumstance in which a widow who was not previously eligible to receive QMB/SLMB benefits when she was married, would now be eligible to receive these benefits because her income has fallen.

In an effort to address this serious problem, I am today introducing the Low-Income Widows Assistance Act. This legislation directs Social Security to undertake outreach efforts designed to identify and notify individuals who may be eligible for these expanded benefits. It also addresses the unique challenges facing widowed spouses by requiring that when SSA recalculates the benefits for a recently widowed spouse and finds that he or she might be eligible for these assistance programs, the agency must:

One, notify the beneficiary that he or she may now be eligible for this additional assistance.

Two, notify the beneficiary's state that she may be eligible so that they can begin their own outreach efforts.

In order to help better understand how the Low-Income Widows Assistance Act would work in practical terms, I would like my colleagues to imagine the following scenario. Sally and Bob enjoyed 60 years of marriage, but just last fall, Bob suddenly passed away. Since Bob's death, Sally has been having a hard time making ends meet. She now has a lot of expenses to take care of on her own: making the house payment, buying food and clothes, and paying for doctors' visits and prescriptions—and not to mention the ''extras'' like birthday and Christmas presents for her many grandchildren. While her expenses remain essentially the same, Sally's Social Security survivors benefit is lower than what she and Bob were receiving.

Under the Low-Income Widows Assistance Act, when SSA recalculates Sally's benefit and finds that her monthly Social Security check has fallen below the $855 threshold for SLMB eligibility, the agency would be required to notify Sally that she may be eligible for SLMB benefits. SSA also would be required to notify Sally's state government that she may be eligible for these additional benefits. It is my hope that the states would then use this information to conduct their own outreach efforts to enroll Sally and others like her.

I look forward to working with my colleagues in the Senate, as well as Congressmen LEWIS and FLETCHER who are introducing similar legislation in the House, to help low-income widows by enacting the Low-Income Widows Assistance Act of 2000.●

By Mr. CLELAND (for himself and Ms. SNOWE):

S. 2815. A bill to provide for the nationwide designation of 2–1–1 as a toll-free telephone number for access to information and referrals on human services, to encourage the deployment of the toll-free telephone number, and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. CLELAND. Mr. President, I rise today to introduce with my colleague, Senator SNOWE, a bill to designate 2–1–1 as the nationwide, toll-free number to access health and human services. Such designation is needed to simplify access to the maze of numbers and service organizations that currently exist. These organizations, which exist to help people, are useless if those in need do not know how to access the services provided.

Imagine a single mother who needs shelter and dinner one night for herself and her children. Although she may know of a shelter providing these services, there may be one closer that better fits her needs by catering to children and women in need. 2–1–1 could provide her with a targeted referral to a shelter specializing in child care and empowering mothers to get back on their feet. Or, visualize an older American on a fixed income, who may need assistance paying her electricity bill during a particularly cold month, can call 2–1–1 for a referral to an agency to assist her with her need. Also, if someone has goods or services she would like to donate to her community, she can call 2–1–1 for a referral to an agency with a specific need for her items or time. All 2–1–1 calls are confidential and unaffiliated with government agencies.

The United Way of Metropolitan Atlanta has implemented 2–1–1 service with much success. Not only has this consolidation of human services referrals provided direction and aid to those in need, it also has helped pool the resources of area charitable organizations. This pooling of resources has eliminated duplication and highlighted gaps in current service, which in turn has improved the delivery of services to the citizens of Metro Atlanta. Because of the great success in Atlanta, the United Way and other non-profit groups are attempting to replicate this service in almost every state in the nation. Petitions to designate 2–1–1 as a referral to health and human services have been approved or are pending in several other states. However, 2–1–1 offers such an important service to communities, that I believe it is time to reserve this number nationwide. Several states have indicated reservations about pending petitions without direction from the appropriate federal agencies that 2–1–1 will not be used for another purpose. Senator SNOWE and I believe it is time to indicate to state and federal regulators Congress's clear support for 2–1–1.

One of the unique aspects of 2–1–1 in Metropolitan Atlanta, which I believe can be replicated in the other states, is the generous support it has received from the community through private donations. This funding model is one of the unique aspects of this legislation. Specifically, the bill stipulates that none of the costs of 2–1–1 service shall be passed on to telephone customers but will be supported by the organizations operating the 2–1–1 service.

Mr. President, I would like to submit a letter endorsing this legislation signed by the United Way of America, the American Red Cross, the Alliance for Children and Families, Girls Scouts of the United States of America, United Jewish Communities, Lutheran Services of America, and Volunteers of America to name only a few. I realize that N–1–1 numbers are finite in availability, but 2–1–1 is a service in the public interest that needs a national designation. I urge my colleagues to support this legislation that will enable Americans, no matter where they are, to obtain the assistance they need through the use of a three digit number.

I ask consent that a copy of the United Way letter and a copy the bill be printed in the RECORD.

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

S. 2815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONWIDE DESIGNATION OF TOLL-FREE TELEPHONE NUMBER FOR ACCESS TO HUMAN SERVICES INFORMATION AND REFERRAL.

(a) FINDINGS.—Congress makes the following findings:

(1) N–1–1 codes, or 3-digit abbreviated dialing telephone numbers, provide Americans with easy, efficient, nationwide access to emergency and nonemergency information that serves the public interest.

(2) Individuals and families often find it difficult to navigate the complex and ever growing maze of human services agencies and programs and often spend inordinate amounts of time in trying to identify the agency or program that provides a service that may be immediately or urgently required.

(3) Americans desire to volunteer and become involved in their communities, and this desire, together with a desire to donate to organizations which provide human services, are among the reasons to call a center

which provides information and referrals on human services.

(4) The number ''2–1–1'' is easy-to-remember and universally recognizable and would serve well as the designation of a telephone service for linking individuals and families to information and referral centers which could, in turn, make critical connections between individuals and families in need and appropriate human services agencies, including both community-based organizations and government agencies.

(5) United Ways and other non-profit and governmental centers that provide information about and referrals to human services have secured funding for the establishment, implementation, and current operation in the United States of three centers that provide such information and referrals and are accessed through the telephone number 2–1–1.

(6) United Way of Metropolitan Atlanta, Contact Helpline of Columbus, Georgia, and United Way of Connecticut currently utilize the telephone number 2–1–1 for the purpose of access to information about and referral to human services.

(7) Since United Way of Metropolitan Atlanta and United Way of Connecticut switched from 10-digit telephone numbers for access to their centers of information and referral on human services to the telephone number 2–1–1 for access to such centers, the volume of calls received at such centers has increased by approximately 40 percent. The centers of United Way of Metropolitan Atlanta and United Way of Connecticut each handled approximately 200,000 calls in 1999.

(8) Rapid deployment nationwide of the telephone number 2–1–1 as a means of access to information about and referral to human services requires coordination among State governments and the information and referral centers of many localities.

(9) Alabama, Massachusetts, North Carolina, and Utah have approved petitions for the implementation of the telephone number 2–1–1 statewide for that purpose, and implementation of the use of that number for that purpose is underway. Jurisdictions in Louisiana and Tennessee have also designated the use of 2–1–1 for that purpose.

(10) Ohio, South Dakota, Texas, and Wisconsin are considering petitions to designate the telephone number 2–1–1 for that purpose.

(11) Florida and Virginia have developed statewide models for telephone access for that purpose.

(12) The use of 2–1–1 for that purpose is being consider by nearly every other State.

(b) DESIGNATION OF TOLL-FREE HUMAN SERVICES ACCESS TELEPHONE NUMBER.—

(1) IN GENERAL.—Section 251(e) of the Communications Act of 1934 (47 U.S.C. 251(e)) is amended by adding at the end the following new paragraph:

''(3) HUMAN SERVICES ACCESS TELEPHONE NUMBER.—

''(A) DESIGNATION.—The Commission, and each commission or other entity to which the Commission has delegated authority under this subsection, shall designate 2–1–1 as a toll-free telephone number within the United States for access to information and referral centers for information about and referral to providers of human services, including information and referrals for purposes of volunteering and making donations.

''(B) APPLICABILITY.—The designation under subparagraph (A) shall apply to wire and wireless telephone service.

''(C) PAYMENT OF COSTS.—The costs of a telecommunications carrier in providing access to a provider of information and referrals through the telephone number designated under this paragraph shall be borne by the provider of such information and referrals.

''(D) CALL LOCATION INFORMATION.—Nothing in this paragraph shall be construed to require any telecommunications carrier to provide call location information to a provider of information or referrals on human services through the telephone number designated under this paragraph.

''(E) DEFINITIONS.—In this paragraph:

''(i) HUMAN SERVICES.—The term 'human services' means services as follows:

''(I) Services that assist individuals in becoming more self-sufficient, in preventing dependency, and in strengthening family relationships.

''(II) Services that support personal and social development.

''(III) Services that help ensure the well-being of individuals, families, and communities.

''(ii) INFORMATION AND REFERRAL CENTER.—The term 'information and referral center' means a center that—

''(I) maintains a database of providers of human services in a State or locality; and

''(II) assists individuals, families, and communities in identifying, understanding, and accessing such providers and the human services offered by such providers.''.

(2) TRANSITION.—The Federal Communications Commission shall provide for the implementation within a reasonable period of time of the designation required by paragraph (3) of section 251(e) of the Communications Act of 1934, as added by paragraph (1) of this subsection, throughout the areas of the United States where the designation is not in effect as of the date of the enactment of this Act.

(c) SUPPORT FOR STATE EFFORTS.—

(1) IN GENERAL.—The Commission shall encourage and support efforts by States to develop and implement the use of the toll-free telephone number 2–1–1 for access to providers of information and referrals on human services.

(2) ACTIVITIES.—In providing encouragement and support under paragraph (1), the Commission shall—

(A) consult with appropriate State officials, including State human services agencies, and appropriate representatives of the telecommunications industry, United Ways, Alliance of Information and Referral Systems (AIRS), AIRS affiliates, law enforcement and emergency service providers, and local non-profit and governmental information and referral centers; and

(B) encourage States to coordinate statewide implementation of the use of the telephone number in consultation with such representatives.

(3) PROHIBITION ON IMPOSITION OF OBLIGATIONS OR COSTS.—Nothing in this subsection shall be construed to authorize or require the Commission to impose an obligation or cost on any person.

(d) PROVISION OF CALL INFORMATION.—Section 222(d) of the Communications Act of 1934 (47 U.S.C. 222(d)) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(3) by adding at the end the following:

''(4) to provide call information when required by applicable law.''.

UNITED WAY OF AMERICA,
Alexandria, VA June 29, 2000.

DEAR SENATOR: The undersigned organizations support the bill cosponsored by Senators Max Cleland (D–GA) and Olympia Snowe (R–ME) to nationally designate the 211 abbreviated dialing code for access to health and human services information and referral (I&R). 211 is an easy-to-remember and universally recognizable number that makes a critical connection between individuals and families in need and the appropriate community-based organizations and government agencies. Since United Way of Metropolitan Atlanta and United Way of Connecticut switched from 10-digit I&R numbers to 211, the volume of calls received at both has increased by 40 percent, with each handling over 200,000 calls in 1999.

A petition to nationally designate 211 for health and human services I&R submitted by the 211 Collaborative, of which United Way and the Alliance of Information and Referral Systems are members, has awaited action by the Federal Communications Commission (FCC) for well over a year. FCC inaction leaves current and ongoing 211 implementation in state and local jurisdictions in jeopardy. Additionally, some state public utility commissions have indicated they will not take action on 211 petitions before the FCC makes its decision. Further, with 211 being considered or implemented in 45 states, if the FCC designates the number for a different purpose, all current and future 211 call centers would need to make significant expenditures and do considerable outreach to convert to a new, 10-digit number.

Legislation designating 211 for human services I&R would alleviate these concerns and would bypass a potentially lengthy and uncertain FCC approval process. We urge you to support the Cleland—Snowe bill. Thank you.

Sincerely,

Alliance for Children and Families
Alliance of Information and Referral Systems
American Association of Homes and Services for the Aging
American Red Cross
America's Blood Centers
Association of Jewish Family & Children's Agencies
Camp Fire Boys and Girls
Citizen's Scholarship Foundation of America
Coalition of Human Needs
Coalition of Labor Union Women
Council for Health and Human Service Ministries
Girl Scouts of the USA
Girls Incorporated
Lutheran Services of America
National Association of Child Care Resource and Referral Agencies
National Association of State Units on Aging
National Association of WIC Directors
Service Employees International Union
The Salvation Army
United Jewish Communities
United Neighborhood Houses
United Way of America
Volunteers of America
Women in Community Service●

By Mr. GRAHAM (for himself, Mr. AKAKA, Mr. L. CHAFEE, and Mr. MCCAIN):

S. 2816. A bill to provide the financial mechanisms, resource protections, and professional skills necessary for high quality stewardship of the National Park System, to commemorate the heritage of people of the United States to invest in the legacy of the National Park System, and to recognize the importance of high quality outdoor recreational opportunities on federally managed land; to the Committee on Energy and Natural Resources.

THE NATIONAL PARKS STEWARDSHIP ACT

By Mr. GRAHAM (for himself and Mr. GORTON):

S. 2817. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to establish permanent recreation fee authority; to the Committee on Energy and Natural Resources.

THE RECREATIONAL FEE AUTHORITY ACT OF 2000

Mr. GRAHAM. Mr. President, I come before you to today to discuss one of our nation's most valued assets—our National Parks.

Throughout the history of our country, visionary statesmen have arisen to remind us of the natural resource heritage on which our country rests. As early as 1903, President Theodore Roosevelt, spoke of the challenge at hand:

We must handle the woods, the water, the grasses so that we will hand them to our children and our children's children in better and not worse shape than we got them.

It is a challenge we still face today, and will into the future, in our role as stewards of the world in which we live.

Our system of National Parks and other public lands is the envy of the world. It serves as a model for other countries, as they also seek to preserve their natural and cultural heritage. No other country has set aside as full a spectrum of public lands—from wilderness to urban parks—for people to use and enjoy. But to just set them aside is, of course, not enough. The feature that makes these lands remarkable—that they are open and accessible to all Americans to enjoy—also threatens their existence in the future.

Mr. President, we face an ironic question: are we loving our national parks to death? The simple answer to that question is yes.

Earlier this year, the National Parks Conservation Association released its list of the Ten Most Endangered National Parks. We should all feel ashamed that they have so many endangered Parks from which to chose. This year's list includes National Parks across the country, from Alaska to Arizona, from Tennessee to Hawaii. It also includes Everglades National Park in my state of Florida, where decades of human manipulation have led to ecosystem destruction.

This list of the 2000 Ten Most Endangered National Parks is unfortunately not comprehensive, but is representative. During the past year I have visited several national parks to get a first hand view of the problem. From personal experience, I can enlarge the list of endangered national parks.

At Ellis Island National Monument, a facade of immaculate buildings hides an inventory of dilapidated historical structures.

At Bandelier National Monument in New Mexico, lack of maintenance and vandalism is leading to the deterioration of historical artifacts.

I recently witnessed a similar deterioration of marine-related artifacts at a park in my own state of Florida.

In April I participated in my 359th work day at Biscayne National Park, a chain of subtropical islands protecting mangrove shoreline, interrelated marine systems and the northernmost coral reef in the United States. This was my 4th workday in a National Park.

At Biscayne National Park, we Americans are in danger of losing a piece of our history. The HMS Fowey, an 18th century British warship, lies submerged in a highly unstable location. This very significant, national register site has been weakened by looting, prop-wash deflection, storms and other forces. The best choice available is to excavate the wreckage and recover whatever of the historical record we can. This kind of operation is well beyond the means of Biscayne National Park's annual operating budget.

My feelings about the National Park System are truly of wonder. The wonder that I feel at the treasures in our park system is only matched by my wonder at how we can take such treasures for granted. The importance of our National Parks should be reflected in our stewardship of the National Park System. We have failed to provide the National Park Service with the tools it needs to be good stewards of our National Parks.

Today, with my colleagues Senator AKAKA, Senator L. CHAFEE and Senator MCCAIN, I am introducing the ''National Parks Stewardship Act''.

I would also like to include for the record a letter from the National Parks Conservation Association expressing that organization's support for this legislation.

This legislation seeks to give the National Park Service the tools it needs to prepare for the next century. It also includes many of the proposals of others who feel strongly about the importance of our National Parks.

This bill gives park managers the protective tools needed to support the stewardship challenges of Theodore Roosevelt. We provide three types of tools: resource protection, financial tools and human resources.

The first element in the resource protection section of my bill deals with activities occurring outside park boundaries.

My inspiration for this was legislation introduced by the late Senator John Chafee who proposed the formation of ''park protection areas'' in 1986. John Chafee proposed that these areas be formed outside park boundaries to create the ''buffer zone'' needed for resource protection.

I identified strongly with this concept, having worked since the 1970's on a state-federal partnership for Everglades restoration that focuses heavily on providing a buffer zone for Everglades National Park. Today, the original boundaries of Everglades National Park are surrounded by Big Cypress Preserve, an expanded park boundary, and undeveloped land on the eastern side of the park.

It is as a memorial to John Chafee that I echo his provision in my bill, which I hope will become a permanent component of National Park stewardship. It is an honor to have LINCOLN CHAFEE, a fine statesman in his own right, as a co-sponsor.

The federal government must be unified in its stewardship of the National Parks.

My legislation requires that federal agencies taking action on lands bordering National Park units consult with the Department of the Interior to ensure such actions do not degrade or destroy National Park resources.

It also requires the Secretary of the Interior to prohibit actions on Interior lands that will adversely impact Park resources.

The second action I propose to protect park resources relates to park uses.

The National Park Stewardship Act requires that activities allowed in National Parks pass the test of compatibility with natural, cultural and historical resource protection. As our parks are used and enjoyed by visitors, we must ensure that park resources are not inadvertently damaged. For example, the Park Service recently issued regulations limiting or prohibiting the use of personal water craft in some areas. This action was only taken after the use of these water craft in some areas was allowed at intensities seriously degrading water and air quality, and threatening both park wildlife and other park visitors.

My bill requires the National Park Service to take action to protect these resources before damage occurs. Activities must be analyzed and the impacts understood before they are authorized. It also asks the National Parks to seriously plan for the future, projecting visitation and use trends and identify needed personnel and facilities.

Another resource protection portion of the bill focuses on ensuring that our National Park System fully represents the history of our nation. Each year, a smaller percentage of the American population can trace its ancestry to those who landed at Plymouth rock, settled Jamestown, or fought in the American revolution. Many Americans are descended from people who crossed international boarders from the North or South, or landed at locations from the Florida Keys to the Aleutian Islands, from Ellis Island to the island of Oahu. All those who came to settle write their history alongside, and often atop the history of our country's native peoples.

The bill calls for a comprehensive look at the ethnic and cultural content of our National Park System. It asks the National Park Service to report this review to Congress, and to make recommendations on sites that might round out the American story. It encourages cultural/ethnic groups to nominate sites important to their heritage for inclusion in the System, and to recommend changes in the interpretation of present sites to improve historic accuracy.

America is etched with a rich historical record. I commend those who have

succeeded in adding important heritage sites to the National park System. Units like the National Underground Railroad Network to Freedom, authorized by Congress in 1998, and the Juan Bautista de Anza National Historic Trail in California, tracing the path of a party of Spanish colonists in 1776, ensure that these events do not pass from our historical landscape. There are certainly many as equally important sites to consider.

Mr. President, I would like to include in the RECORD letters from the Ambassador of Spain and the Spanish Institute for Military History and Culture. These letters exemplify the willingness of those who contributed to the history of the United States to help in this effort. The Ambassador points out how the Institute's letter, ''opens the way for a cooperation between the two institutions that could result in a much better use of the many historical sites, of Spanish origin, on American soil. They could ''make the stones speak'' to many people in this country who are still unaware of a very rich and common heritage.'' I am sure other countries will be willing to help illustrate how the history of our country is linked to their own history.

Our National Park System, the treasured sites of American history, must contain the history of all Americans. If not, our National Park System is like a partially woven tapestry, depicting only part of the picture. Instead let our National Park System be woven, whole and beautiful, from the multi-colored threads of history of the people of these United States.

I hope this proposal will move us one step closer to a National Park System where all Americans should be entitled to see the role of their people in the exploration, settlement and development of this country. And I see it as complementing Senator AKAKA's bill, S. 2478, calling for a study on the ''Peopling of America,'' which I am honored to cosponsor.

The second major section of the National Parks Stewardship act deals with financial resources.

Last year, I introduced legislation with Senators REID and MACK, S. 819, the National Park Preservation Act, that would provide dedicated funding to the National Park Service to restore and conserve the natural, cultural and historic resources in our park system. We continue to work toward final passage of S. 819. However, this bill alone does not meet all of the needs in our National Parks.

The need for construction and maintenance in National Parks is great. Backlog estimates range from 2 to 8 billion dollars, depending on the method of calculation.

In order to accommodate many visitors each year, some National Parks have facilities and services that rival those of towns or small cities. Along with these facilities come the problems of infrastructure maintenance and repair that are beyond the reach of annually appropriated budgets.

Even at Yellowstone National Park, certainly a crown jewel of the system, a dilapidated sewer system leaking untreated waste befouls what should be pristine streams and lakes. At Yellowstone, a park visited by over 3 million people a year, certainly we should provide the means for financing a new sewer system.

My colleague Senator MCCAIN addressed this need through his bill, S. 831, which would authorize a portion of park entrance fees to be used to secure bonds for these very necessary capital improvements. Bonding would seem to be a workable approach, if we could find an appropriate way for a federal agency to issue revenue bonds.

The National Parks Stewardship Act introduced today calls for the Secretary of the Treasury and the Secretary of the Interior to study and report to Congress how National Parks could issue revenue bonds to meet such large infrastructure needs.

The authority to issue revenue bonds places into the hands of National Park superintendents a tool to generate the funds to make these repairs.

The second revenue provision I propose is to make the recreation fee program in operation as a demonstration since its authorization in 1996 into a permanent park program. The program has demonstrated that park visitors can get a good return on the fees they pay; a return paid out in better maintained facilities, improved visitor services, and all-in-all, a more enjoyable park visit.

To underscore the importance of recreation fee permanence, I, along with Senator GORTON, am introducing today the ''Recreation Fee Authority Act of 2000,'' a stand along piece of legislation containing these provisions.

In fiscal year 1999, the recreation fee demonstration program generated $176.4 million in fee revenue at National Parks, National Forests, National Wildlife Refuges and Bureau of Land Management sites. Even more important than the amount collected is the fact that the large majority of the fees were retained at the site where collected for use in Park operations, maintenance, resource protection and visitor services.

Biscayne National Park, where I worked for a day in April, is one of the units benefitting from the recreation fee demonstration program. Last year, that park collected over $20,000 in recreation fees. At Biscayne, these funds were used to:

replace the broken tables and grills in the picnic area;

restore a historic breeze way trail across Elliott Key; and

renovate the public showers and bathrooms on Elliott Key, improving their accessibility for people with disabilities.

When park visitors see their ''fees at work'' in the form of improved facilities and services, research has shown that they understand and support the collection of an appropriate and reasonable fee. Over 95 percent of respondents to this year's National Survey on Recreation and the Environment felt reasonable fees were acceptable as a means for funding recreation services on public lands.

The recreation fee demonstration authority is temporary. If it is not extended or made permanent, Biscayne and other National Parks will lose this very necessary means to get the job done. Let's instead make this a permanent tool for National Park Stewardship.

In addition to revenue bonding and the recreation fee program, I propose the expanded use of Challenge Cost Share agreements, which allow the ''leveraging'' of Park Service appropriations with funds from the private sector and other federal agencies.

The final tool I propose in this legislation focuses on the professional skills of those we employ as the stewards for National Parks. Professionals typically attracted to the Service come from many fields, including education, recreation management, and the biological sciences. Today park managers must also demonstrate fiscal and program accountability and management planning, skills that are not found throughout National Park Service ranks.

I am proposing a pilot program, ''Professionals for Parks'', to attract needed skilled professionals to National Park Service careers. It will focus on recruiting at business schools across the country, offering talented graduates an entry level professional job within the National Park Service and a student loan buy-back program.

Professionals for Parks will add to National Park Service ranks the business management skills needed for better management, leading to long term stewardship. And we know this can make a difference.

We're looking for people like Nick Hardigg, a recent graduate of the Yale School of Management, who is now working as Chief of Concessions at Denali National Park. His financial analysis of the visitor transportation system in Denali led to a newly negotiated contract with the bus company. This contract allows for a healthy profit for the operator and for the first time in several years does not increase fees to park visitors. It also protects park resources by providing a quality transportation system.

It's a long way from the Ivy League to the Alaskan wilderness. Mr. Hardigg has made that journey, and has put his business skills to good use for National Park stewardship.

Mr. President, the National Park Stewardship Act is not calling for a revolution in the National Park System. It recognizes the value of what we have in the National Park System, recognizes what we stand to lose without immediate attention, and supplies the tools to the right people to tackle the job.

In closing I would like to recall the words of John Chafee, a visionary

statesman who helped craft much of the foundation on which our system of environmental protection rests.

In 1994, he reminded us of the importance of our Parks stewardship role:

I can think of no instance where the Government has designated an area as a park and years later people have looked back, regretted the decision, and tried to reverse it. As we continue to develop and extract resources from the remaining open spaces in our Nation, it is important that we ensure that there will always be places where people can get away and renew their spirits, breathe fresh air, and appreciate nature's gifts.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

NATIONAL PARKS
CONSERVATION ASSOCIATION,
Washington, DC, May 23, 2000.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The National Parks and Conservation Association (NPCA) would like to commend you and your cosponsors for the introduction of the National Parks Stewardship Act. This bill includes many provisions that will promote better protection and management of national park resources.

As you know, the beginning of the 21st century is a watershed moment for Americans and our National Park System. One hundred and twenty-eight years after the establishment of Yellowstone, we have a magnificent park system that stretches from the coast of Maine to the tropical reefs of American Samoa. Millions people visit and enjoy these parks every year.

However, the National Park System also is severely troubled. Threats to the health of the National Park System fall into several broad categories: lack of funding; activities that damage park resources from inside and outside park boundaries; and poor management. As a result, basic information about park resources is lacking, much of the infrastructure and visitor services are in poor condition, and parks are increasingly jeopardized by activities around them.

Your National Stewardship Act addresses many of these concerns by:

Facilitating the issuance of national park revenue bonds that would help finance needed improvements at national parks;

Requiring that all activities in national parks be consistent with resource protection and preservation;

Ensuring that other federal government agencies respect the integrity of national park lands;

Promoting the protection of the historical documents in National Park Service collections;

Expanding the opportunities for national park managers to develop public administration and business management skills.

The National Parks Stewardship Act also ensures that the National Park System will better represent the diverse heritage of all people of the United States. Support for the National Park System runs deep in the hearts of millions of Americans. That support, however, will wane if significant numbers of people feel disconnected from the message and meaning of the parks. To ensure continued public support, and historical relevance, the National Parks Stewardship Act requires that the National Park Service review existing sites to determine if there are deficiencies in the accurate representation of all peoples that contributed to the shaping of the United States. We commend you for this farsighted proposal.

Thank you for undertaking this effort to assure the vitality of the National Park System through the 21st century and beyond. We look forward to promoting this legislation with you.

Sincerely,

THOMAS C. KIERNAN.

EL EMBAJADOR DE ESPANA,
Washington, DC, April 27, 2000.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR, I have read with the utmost interest your proposed legislation on the role of the National Park Service of the United States in conservation and promotion of historic sites in this country.

With respect to the numerous monuments left by Spain in the southern States, we would certainly welcome all possible cooperation with the Park Service to give these venerable ruins a real cultural and educational purpose. We believe that solid support from historians and other experts from Spanish official institutions such as our Ministry of Defense or the Institute for the Protection of Historic Legacy, could make these sites incite the interest of new generations on pages of their past that they might have insufficient knowledge of.

I have written to the two aforementioned Spanish cultural institutions to ensure their willingness to collaborate with the National Park Service on the goals set forth in the draft Resolution.

In the meantime, let me assure you of our enthusiastic support for your initiative that I certainly hope will muster the necessary backing from the rest of the Senate.

Thanking you most warmly for your enlightened defense of the cultural integrity of this great country.

I remain,

Yours very sincerely,

ANTONIO DE OYARZABAL.

EL EMBAJADOR DE ESPANA,
Washington, DC, June 9, 2000.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR, I am pleased to enclose the attached letter from my friend General Penaranda, the Director of the Institute for Military History and Culture in Madrid, in response to my request for support to your initiative in Congress, on behalf of the ''National Park Service.''

I think General Penaranda's very enthusiastic answer opens the way for a cooperation between the two institutions that could result in a much better use of the many historical sites, of Spanish origin, on American soil. They could ''make the stones speak'' to many young people in this country who are still unaware of a very rich and common heritage.

EMBAJADA DE ESPANA,
Madrid, May 29, 2000.

His Excellency Ambassador Antonio de Oyarzabal Marchesi,
Ambassador of Spain to the U.S.,
Washington, DC.

DEAR AMBASSADOR AND FRIEND: It gives me great pleasure to be able to oblige you with regard to the wishes of the National Park Service which you refer to in your letter of April 26. I have consulted this Institute's Standing Committee on Historical Studies (Comision Permanente de Estudios Historicos) regarding the possibility of satisfying the possible American request, and it could not be more favorably disposed to the idea. It is very satisfying to be able to cooperate in some way in the efforts to heighten the historical value of the old Spanish military monuments in the U.S. as well as that of any other collection of documents, books or movables that can be considered part of this important historical legacy.

This institute has a considerable collection of documents and artifacts in its archives relating to the ancient viceroyalty and overseas provinces. Most of the items have already been catalogued (some have even been studied by U.S. specialists). Now we are in the advanced stages of negotiation with Puerto Rico whose Legislative Assembly has already allocated a budget for cataloguing, microfilming and digitizing all the material in our historical military archives about matters related to that island.

In any case, Antonio, you know that you can count on the Institute for Military History and Culture to initiate a collaborative effort with the National Park Service. It would be advisable to establish direct contact between the National Park Service and this Institute so as to define the matters of most interest to them. While we could begin in writing, a trip to Spain by a director or historian of the Park Service so that they might gain an understanding in situ of our capabilities with regard to their projects would be very fruitful. They will be most warmly received.

I am at your service!

With my best regards,

JUAN MA DE PENARANDA Y ALGAR.

Mr. GORTON. Mr. President, I am pleased to join my colleague from Florida, Senator GRAHAM, in introducing legislation today that seeks to permanently authorize the recreation fee program for the federal land management agencies. Congress authorized the Recreation Fee Demonstration Program in the FY 1996 Omnibus Consolidated Recissions and Appropriations Act, and has extended the program through the Interior Appropriations bill several times since 1996.

In the Pacific Northwest, the fees collected by the National Park Service and Forest Service have been a tremendous additional resource to provide improved campgrounds, trails, and other visitor facilities. As chairman of the Senate Interior Appropriations Committee, I have consistently provided increases for operations, maintenance, and repair of park, forest, and refuge facilities. Regardless, this country's love affair with recreation and the great outdoors has begun to take its toll on the public lands we enjoy so much.

Since I took over the chairmanship of the Interior Appropriations Subcommittee, I also have been faced with an unending list of federal land acquisition proposals. The demand to increase the federal government's land base cannot be considered in a vacuum, especially when we're faced with at least a $12 billion maintenance backlog on the lands we already own. In fact, the Congressional Budget Office recommended last year that the federal government place a ten-year moratorium on land acquisitions in an effort to address the backlog in maintenance projects.

I don't support taking such an extreme step. Rather, I believe we can have a reasonable level of land acquisitions, but we also need to commit to

finding the additional resources to maintain what we already have. I am committed to providing access to our public lands, but this can only happen if we have enough funding to maintain the land and facilities treasured by Americans and visitors from all over the world.

Over the past five years of the fee demonstration project, the federal agencies have tested various types of fees and collection methods in preparation for the possibility of some day establishing a long-term, consistent, and fair fee program. In general terms, the project has been a great success, providing the federal land management agencies nearly $200 million last year in additional revenue for maintenance and repair projects, and resources for improved visitor services.

In 1999, at the Mt. Baker-Snoqualmie Forest in my state, the program allowed this Forest to clear 739.6 miles of trail, hire 22 trail maintenance workers, develop leveraged partnerships with non-profit groups to accomplish maintenance work with volunteers, and maintain 67 trailhead toilets and 136 trailheads. All of this vital work was accomplished by charging $3 for day passes or $25 for an annual pass.

Last week, the Senate Appropriations Committee reported the Interior Appropriations bill, which extends the Recreation Demonstration Fee Program through the end of fiscal year 2002. Despite my resistance to using the Interior bill to continue this program, I felt it was vital to provide the agencies certainty for another year. In fact, recent improvements to the Forest Service fee program in the Northwest, including the new Northwest Forest Pass, would have been jeopardized without the extension.

With that said, I believe the Senate, through the Energy and Natural Resources Committee, deserves the opportunity to fully consider legislation to permanently authorize the recreation fee program. The success stories are abundant, but by no means am I blind to the problems we've seen over the past five years. Most importantly, the public deserves the opportunity to participate, both through hearings and contact with their elected representatives, to provide us the input we need to authorize a permanent program.

That's why I have chosen to join Senator GRAHAM today in introducing a bill to begin the debate over how and whether Congress should permanently authorize the recreation fee program. The bill we've crafted provides the framework for a permanent program that will build upon the successes and correct the problems we've seen so far.

I want to stress that this bill will serve as the starting point for what I hope to be a full and deliberative discourse on recreation fees. I intend to work with the Energy and Natural Resources Committee to hold a series of hearings, including field hearings, so representatives of recreation groups, gateway communities, and other interested parties can air their concerns and suggestions. My staff and I have spent a considerable amount of time meeting and talking with recreation groups based in Washington state. I am certain there will be many ways we can improve the legislation introduced today to address their concerns through the committee process, and I am excited to continue that dialogue.

It goes without saying that no one really wants to pay a fee to recreate on public lands. The key to making a permanent program a success in the future will depend on keeping the fees reasonable and the results tangible. The most important component of the Recreation Fee Demonstration Project is the requirement that 80 percent of the fees remain at the site the fees are collected. The legislation introduced today maintains that requirement. In addition, Congress and the Administration must make a firm commitment to uphold its responsibility to continue to increase appropriations in the future to reduce the maintenance backlog. It's a two-way street, and we must all do our part.

Further, I fully expect to address other issues raised by my friends in the recreation community. Although the situation has improved recently, the multiple fee structures tested by the Forest Service created a confusing and frustrating situation for hikers and rock climbers. In particular, rock climbers have been hit with multiple fees for just one visit to the forest. Many recreationists are calling for multi-agency passes. I find this idea intriguing and would urge further discussion through the committee process. I must note, however, that multi-agency fees may distract from the expectation that fees remain at the facilities and sites where they are collected. Further, some outdoor enthusiasts are concerned the fee program could inspire over-building on our public lands to justify collection of the fees. I, too, am concerned with preserving the integrity of our public lands and avoiding the impulse to provide unnecessary facilities. This legislation directs the agencies to place a priority on deferred maintenance projects. But again, these are topics that deserve thoughtful discussion, and I look forward to addressing them in the near future.

Finally, many active recreationists have made a strong case for developing a recognition program that rewards volunteers for dedicating their time to improving our public lands. Many forests and parks have well-developed volunteer programs, while others do not. I am dedicated to working with recreation groups to provide the agencies appropriate guidelines in the bill to develop a consistent program that provides volunteers reduced or free access to our public lands.

Again, I want to thank my colleague from Florida for being a leader in the protection of the nation's public lands. I look forward to working with him, and the members of the Energy and Natural Resources Committee, to authorize a permanent program that provides necessary resources to maintain and improve these national treasures for generations to come.

By Mr. JOHNSON:

S. 2818. A bill to amend the Agricultural Market Transition Act to establish a flexible fallow program under which a producer may idle a portion of the total planted acreage of the loan commodities of the producer in exchange for higher loan rates for marketing assistance loans on the remaining acreage of the producer; to the Committee on Agriculture, Nutrition, and Forestry.

THE FOOD SECURITY AND LAND STEWARDSHIP ACT OF 2000

Mr. JOHNSON. Mr. President, I rise to introduce legislation to amend the 1996 farm bill. This legislation is really the culmination of at least two years of work on the part of two agricultural producers from my home State of South Dakota. These two individuals, Craig Blindert of Salem and Phil Cyre of Watertown, have devoted an enormous amount of time and energy refining the proposal I am introducing today and I want to express my thanks and gratitude.

While some policy makers purport to have all the answers to agricultural policy and our current economic disaster in farm country, I am proud that two South Dakota farmers approached me with their plan. Mr. Blindert and Mr. Cyre exhibit a quality inherent to a farmer that most policy makers will never exhibit, something I call ''tractor seat common sense.'' Former President Eisenhower once said, farming looks mighty easy when your plow is a pencil and you're a thousand miles away from a farm. Instead of pretending I have all of the answers, I think it just makes good practical sense to listen to farmers who know their business better than anyone in the world, and that is what I have tried to do with this proposal.

Unfortunately, all of that expertise our farmers demonstrate about the production of crops and livestock, marketing, and risk management means little when our farm policy and agribusinesses minimizes them into mere price takers. The legislation I am introducing today attempts to allow farmers to become price setters in response to the free market, and it attempts to ensure responsibility from agribusiness to finally offer a decent price for commodities.

The current economic setting and commodity price forecast for farmers and ranchers remains disastrous. Crop prices have absolutely collapsed with corn prices at a 12 year low, soybeans prices at a 27 year low, and wheat prices that have not been so low since 1977. Meatpacker concentration and unfair livestock dumping are still crippling livestock producers. Prices paid for livestock have remained low in the pork and lamb sectors while they have

recovered, at a very limited and still unprofitable rate, for cattle producers. As a result, net farm income has plummeted to around $40 billion this past year, plunging $9 billion from last year, without government assistance. Agricultural exports are down over $11 billion from 1996, and constricted global demand for our agricultural products restricts exports from boosting prices.

It is clear that once again this disastrous marketplace clouds the landscape of rural America as a woefully inadequate farm bill continues to rip the safety net from beneath farmers and ranchers. If not for government market loss assistance the last three years—a record level of $23 billion in 1999—many hard-working farmers and ranchers might be out of business.

The course of the last few years under the current farm bill has given all of us the opportunity to measure the theories of Freedom to Farm against the practical reality of experience. The measurable results of that practical experience should convince Congress we cannot delay to reform the current farm bill. Some tend to ignore this reality, choosing instead to overlook the flawed farm policy, in hopes that over time our nation's family farmers and ranchers will find themselves enjoying the prosperity of our booming economy. However, most farmers merely read about this prosperity as they face escalating production expenses, eroding equity, and collapsing crop prices.

Delay in reforming farm policy is dangerous to the entire fabric of rural America. The other day a farmer remarked to me, ''the best time for Congress to write a better farm bill would have been in 1996, but, the next best time is today.'' I couldn't agree more.

Congress cannot continue to overlook the link between the current financial stress our family producers face and the 1996 farm bill provisions which eliminated the financial safety net for farmers. Consequently, there should be no higher priority for this Congress to accomplish in farm policy than to restore a fair price from a truly free marketplace.

The legislation I am introducing today is not a radical departure from the current farm bill. We try to reinforce the advantages of Freedom to Farm while improving upon other areas of our farm policy. Coined ''Flexible Fallow'' by the farmers who developed it, my proposal adds a voluntary, annual, conservation-use feature to the loan rate provisions of the 1996 Farm Bill. Should a farmer desire to operate under current farm bill conditions, my legislation ensures that opportunity. However, should a farmer need greater leverage over crop production and marketing, Flex Fallow guarantees that planting and marketing flexibility.

Neil Harl of Iowa State University, arguably the most respected agricultural economist in the country, has enthusiastically endorsed my Flex Fallow proposal. In a letter to me he describes Flex Fallow as ''the missing link to the 1996 farm bill.'' He believes this proposal will function in a market oriented fashion and ensure that ''farmers continue to make production decisions based upon their own operations in a manner that makes economic sense.''

Mr. President, farmers electing to devote a portion of their total crop acreage to conservation-use under my bill receive a higher loan rate on their remaining crop production. On an annual and crop-by-crop basis, farmers can choose to conserve up to thirty percent of their total crop acreage.

An adjustable loan rate schedule is a key feature of this proposal. With the exception of wheat and soybeans, the proposed base loan rates for 0 percent participation in Flex Fallow (otherwise known as full production) are set at 2000 levels. Participation in Flex Fallow is directly proportional to increased loan rates. For corn, wheat, and soybeans, loan rates increase by one percent for each one percent increase in conservation-use.

In 1999, the Food and Agricultural Policy Research Institute (FAPRI) completed an analysis of the Flex Fallow proposal. I believe the results were very promising. In years and regions (areas of the country with a wide basis) of low commodity prices, Flex Fallow encourages farmers to voluntarily set-aside land in turn for a higher loan rate. Yet in years of better commodity prices, farmers are inclined to produce for the market, planting most or all of their land to crop production. The reduced plantings in years of poor crop prices, like the last three years, would lead to higher crop prices. More specifically, reduced plantings in the first two years of the program would translate into the following higher crop prices. Corn prices rise 27 cents per bushel over current levels, soybean prices climb 44 cents per bushel, wheat prices recover 29 cents per bushel, and cotton prices rise 9 cents per pound. The FAPRI analysis predicts a commodity price recovery in the long-term, and the analysis found participation in Flex Fallow to decline after 2002.

While I work on this amendment to the current farm bill, I am absolutely open to other ideas and alternatives that revise our farm policy. Unlike the authors of the 1996 farm bill, I do not cling to a pride in authorship in a farm program. So, I want the opportunity to support as many viable alternatives as possible.

In summary, here are a few highlights of the Flex Fallow farm bill amendment I am introducing today. Flex Fallow is flexible and adjustable enough to meet the needs of individual farm operations. Flex Fallow is voluntary. Flex Fallow is market-oriented because it permits farmers the freedom to plant for marketplace conditions. Flex Fallow emphasizes conservation practices. Flex Fallow updates yield data and eliminates current base acres. Flex Fallow targets disaster assistance to producers who suffer from weather-related crop loss and price collapse. Finally, Flex Fallow will result in a modest cost to taxpayers. The FAPRI analysis finds net Commodity Credit Corporation expenditures under Flex Fallow to compare with that of the 1996 farm bill without billion-dollar emergency spending additions.

In the coming months I anticipate a full airing of my Flex Fallow amendment to the farm bill, alongside other pieces of farm bill reform legislation that others in Congress may introduce. I expect to refine this proposal after discussing it further with farmers and farm organizations across South Dakota and the entire country. As a result, it is likely I will introduce another piece of legislation similar to Flex Fallow in the next session of Congress, wherein two other significant issues will be addressed.

First, of critical importance to me is the need to design a farm bill in the future that targets the benefits to family-sized farmers and ranchers. Too often, Congress and the Administration devise tactics to ignore and plow under the existing farm program payment limitations. If we have a limited amount of taxpayer funds in which to devote to price support for farmers, it simply makes sense to target those benefits to small and mid-sized family producers. While the amendment I introduce today does not alter current payments limits under the farm bill, I am a strong supporter of targeting. As such, I will work to place sensible, responsible, payment limitations that provide benefits to all but ensure targeted benefits to the small and mid-sized family farmers and ranchers who need and deserve greater attention from Congress.

Second, I believe Congress will be unable to develop a future farm bill without the support of those in the conservation and wildlife community. I am a strong supporter of conservation programs that protect sensitive soil and water resources, promote wildlife habitat, and provide farmers and landowners with benefits and incentives to conserve land. Flex Fallow can work very well with both short-term and longer-term conservation practices. It is my goal to bring conservation groups together with farm interests in order to develop a well-balanced approach to future farm policy that protects our resources while promoting family-farm agriculture.

Mr. President, I ask unanimous consent that the letter from Dr. Harl be printed in the RECORD at the end of my statement.

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

IOWA STATE UNIVERSITY
OF SCIENCE AND TECHNOLOGY,
Ames, IA, April 17, 2000.

Senator TIM JOHNSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSON: It is my understanding that legislation based on the

''Flexible-Fallow'' concept developed and advanced by Craig Blindert and Phil Cyre of South Dakota is being prepared for introduction. I would like to write in strong support of the legislation and do so most enthusiastically.

Mr. Blindert called me in late 1998 with a request for a half day to discuss a farm bill proposal. I was extremely busy at the time but reluctantly agreed to set aside an afternoon in late December. As the proposal was explained, I could see that what Blindert and Cyre had developed was the missing link for the 1996 farm bill. I wrote in strong support of the proposal following that meeting—encouraging an analysis by the Food and Agriculture Policy Research Institute (FAPRI)—and am even more supportive today.

The weak element of the 1996 farm bill was the downside protection in the event of pressure on the supply side for commodities. A series of normal to good weather years, a drop of nearly 20 percent in exports and the relentless effects of technology have combined to produce very low prices for most crops.

What I find so appealing about the Blindert-Dyre proposal is that—(1) the proposal would function in a market-oriented manner; (2) it would be most appealing in the so-called ''swing'' areas which are expected to shift land use patterns when prices for intensively-produced crops are low and to return to such production when prices recover; (3) the proposal would self-correct when prices rise; (4) it would entail only a modest amount of administrative involvement on a discretionary basis; (5) it would enable producers to continue to make decisions based on their own situation, in a manner that makes economic sense to them; and (6) the cost would be modest to taxpayers and to consumers.

I would be pleased to respond further in support of the proposal. Mr. Blindert and Mr. Cyre are to be commended for developing what I believe would be an enormously helpful adjunct to the 1996 farm bill.

Sincerely,

NEIL E. HARL,
Charles F. Curtiss Distinguished Professor in Agriculture, Professor of Economics and Director, Center for International Agricultural Finance.

By Mr. REED (for himself and Mr. JEFFORDS):

S. 2819. To provide for the establishment of an assistance program for health insurance consumers; to the Committee on Health, Education, Labor, and Pensions.

THE HEALTH CARE CONSUMER ASSISTANCE ACT

Mr. REED. Mr. President, I am pleased to join my colleague Senator JEFFORDS today to introduce the Health Care Consumer Assistance Act. This important legislation seeks to address a significant problem that currently exists in the health insurance market, the lack of a reliable source of information and assistance for health care consumers.

In 1997, President Clinton's Health Quality Commission identified the need for consumer assistance programs that allow consumers access to accurate, easily understood information and get assistance in making informed decisions about health plans and providers. Earlier this month, the Henry J. Kaiser Family Foundation and Consumer Reports magazine released the results of a survey they conducted on consumer satisfaction with their health plans. Their survey is part of a larger project looking at ways to improve how consumers resolve problems with their health insurance plans. The survey found that while most people who experienced a problem with their plan were often able to resolve them, the majority of those surveyed were confused about where to go for information and help if they have a problem with their health plan. Eventhough a growing number of states have taken steps to give patients new rights in dealing with their health insurance plans, most consumers are either unaware or do not know how to exercise those rights.

The legislation I am introducing today with Senator JEFFORDS seeks to remedy this information gap by providing grants to states that wish to establish health care consumer assistance programs. These programs are designed to help consumers understand and act on their health care choices, rights, and responsibilities. Under this bill, the Secretary of Health and Human Services will offer states funds to create or contract with an independent, nonprofit agency to provide a variety of information and support services for health care consumers, including the following: educational materials for health care consumers about strategies to resolve problems and grievances; operate a 1–800 telephone hotline to respond to consumer inquiries; coordinate and make referral to other private and public health care entities when appropriate; conduct education and outreach in the community; and collect and disseminate data about nature of inquiries, problems and grievances handled by the program.

The concept of a health care consumer assistance program has already received considerable support and several states have taken the initiative to create these programs. Governors and state legislatures in many states including, Florida, Georgia, Massachusetts, Maryland, Nebraska, Nevada, Rhode Island, Texas, Vermont, Virginia and Wisconsin have introduced or enacted health care ombudsman legislation. While some states have successfully launched their programs, other state initiatives have faltered due to a lack of sufficient funding.

While important strides are being made to enhance health care consumer information and resources, clearly more needs to be done to expand access to these simple and cost-effective services to all Americans.

Mr. President, I believe that Americans deserve access to the information and assistance they need to be empowered and informed health care consumers. As the health insurance system becomes more confusing and complex, it is critically important that as consumers navigate this system, they have a place where they can go for information, counseling and assistance. As health plan options become more complicated and the web of policies and principles governing those plans becomes more enmeshed, people need a reliable, accessible source of information, and state health care consumer assistance programs have proven their ability to meet this challenge. I look forward to working with my colleague, Senator JEFFORDS, in advancing this important and timely legislation.

Mr. President, I ask unanimous consent to have the text of my bill printed in the RECORD.

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

S. 2819

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 ''Health Care Consumer Assistance Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) People with health care insurance or coverage have many more options with respect to coverage of, payment or payments for, items, services or treatments. Also, their health plans, coverages, rights, and providers are frequently being reorganized, expanded, or limited.

(2) All consumers need information and assistance to understand their health insurance choices and to maximize their access to needed health services. Many do not understand their health care rights or how to exercise them, despite the current efforts of both the public and private sectors.

(3) Few people with health care coverage have independent credible sources of information or assistance to guide their decisionmaking or to help resolve problems.

(4) It is important to maintain and strengthen a productive working relationship between all consumers and their health care professionals and health insurance providers.

(5) Federally initiated health care consumer assistance and information programs targeted to consumers of long-term care and to medicare beneficiaries under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) are effective, as are a number of State and local consumer assistance initiatives.

(6) The principles, policies, and practices of health care providers for delivering safe, effective, and accessible health care can be enriched by State-based collaborative, independent education, problem resolution, and feedback programs. Health care consumer assistance programs have proven their ability to meet this challenge.

(7) Health care consumers want and need reliable information about their health care options that integrates data and effective resolution strategies from the full range of available resources. Health care consumer assistance programs can provide that reliable, problem-solving information to help in navigating the health care system.

(8) Health care delivered to individuals and within communities can be improved by collecting and examining consumers' experiences, questions, and problems and the ways in which their questions and problems are resolved. Health care consumer assistance programs can educate and inform consumers to be more effective, self-directed health care consumers.

(9) Many states have created health care consumer assistance programs. The Federal

Government can assist the States in developing and maintaining effective health care consumer assistance programs.

SEC. 3. GRANTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary'') shall award grants to States to enable such States to establish and administer (including the administration of programs established by States prior to the enactment of this Act) consumer assistance programs designed to provide information, assistance, and referrals to consumers of health insurance products.

(b) STATE ELIGIBILITY.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(1) the manner in which the State will establish, or solicit proposals for, and enter into a contract with, an entity eligible under subsection (d) to serve as the health care consumer assistance office for the State;

(2) the manner in which the State will ensure that the health care consumer assistance office will assist health care consumers in accessing needed care by educating and assisting health insurance enrollees to be responsible and informed consumers;

(3) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by the long-term care ombudsman authorized by the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the State health insurance information program authorized under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4), the protection and advocacy program authorized under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.), and any other programs that provide information and assistance to health care consumers;

(4) the manner in which the State will coordinate and distinguish the health care consumer assistance office and its services from enrollment services provided under the medicaid and State children's health insurance programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.), and medicare and medicaid health care fraud and abuse activities including those authorized by Federal law under title 11 of the Social Security Act (42 U.S.C. 1301 et seq.);

(5) the manner in which the State will provide services to underserved and minority populations and populations residing in rural areas;

(6) the manner in which the State will establish and implement procedures and protocols to ensure the confidentiality of all information shared by consumers and their health care providers, health plans, or insurers with the office established under subsection (d)(1) and to ensure that no such information is used, released or referred without the express permission of the consumer, except to the extent that the office collects or uses aggregate information as described in section 4(c)(8);

(7) the manner in which the State will provide for the collection of non-Federal contributions for the operations of the office in an amount that is not less than 30 percent of the amount of Federal funds provided under this Act; and

(8) the manner in which the State will ensure that funds made available under this Act will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this Act and those described in paragraphs (3) and (4).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From amounts appropriated under section 4 for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a health insurance plan (as determined by the Secretary) bears to the total number of individuals covered under a health insurance plan in all States (as determined by the Secretary). Any amounts provided to a State under this section that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this paragraph.

(2) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this section for a fiscal year be less than an amount equal to .5 percent of the amount appropriated for such fiscal year under section 5.

(d) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—From amounts provided under a grant under this section, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(2) ELIGIBILITY OF ENTITY.—To be eligible to enter into a contract under paragraph (1), an entity shall demonstrate that the entity has the technical, organizational, and professional capacity to deliver the services described in section 4 throughout the State to all public and private health insurance consumers.

SEC. 4. USE OF FUNDS.

(a) BY STATE.—

(1) IN GENERAL.—A State shall use amounts received under a grant under this Act to establish and operate of a health insurance consumer assistance office as provided for in this section and section 3(d).

(2) NONCOMPLIANCE.—If the State fails to enter into or renew a contract for the operation of a State health insurance consumer assistance office, the Secretary shall reallocate amounts to be provided to the State under this Act.

(b) BY ENTITY.—An entity that enters into a contract with a State under section 3(d) shall use amounts received under the contract to establish and operate a health insurance consumer assistance office.

(c) ACTIVITIES OF OFFICE.—A health insurance consumer assistance office established under this Act shall—

(1) operate a toll-free telephone hotline to respond to requests for information and assistance with health care problems and assist all health insurance consumers to navigate the health care system;

(2) acquire or produce and disseminate culturally and language appropriate educational materials concerning health insurance products available within the State, how best to access health care, and the rights and responsibilities of the health care consumer;

(3) educate health care consumers about strategies that such consumers can implement to promptly and efficiently resolve inquiries, problems, and grievances related to health insurance and access to health care;

(4) refer health care consumers to appropriate private and public entities so that inquiries, problems, and grievances with respect to health insurance and access to health care can be handled promptly and efficiently;

(5) coordinate with health organizations in the State, State health-insurance related agencies, and State organizations responsible for administering the programs described listed in paragraphs (3) and (4) of section 3(b) so as to maximize the ability of consumers to resolve health care questions and problems and achieve the best health care outcomes;

(6) conduct education and outreach within the State in partnership with consumers, health plans, health care providers, health care payers and governmental agencies with health oversight responsibilities;

(7) provide information to consumers about an internal, external, or administrative grievance or appeals procedure (in nonlitigative settings) to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a health insurance plan; and

(8) provide information to State agencies, employers, health plans, insurers, and the general public concerning the kinds of inquiries, problems, and grievances handled by the office.

(d) CONFIDENTIALITY AND ACCESS TO INFORMATION.—The health insurance consumer assistance office of a State shall establish and implement procedures and protocols to ensure the confidentiality of all information shared by consumers and their health care providers, health plans, or insurers with the office and to ensure that no such information is used, released or referred to State agencies or outside entities without the expressed permission of the consumer, except to the extent that the office collects or uses aggregate information described in subsection (c)(8).

(e) AVAILABILITY OF SERVICES.—The health insurance consumer assistance office of a State shall not discriminate in the provision of information and referrals regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under employer-provided insurance, self-funded plans, the medicare or medicaid programs under title XVII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(f) DESIGNATION OF RESPONSIBILITIES.—

(1) WITHIN EXISTING STATE ENTITY.—If the health insurance consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(A) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(B) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by consumers and their health care providers, health plans, or insurers with the office and to ensure that no information is transferred or released to the State agency or office without the expressed permission of the consumer.

(2) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under section 3(d), the entity shall provide assurances that the entity has no real or perceived conflict of interest in providing advice and assistance to consumers regarding health insurance and that the entity is independent of health insurance plans, companies, providers, payers, and regulators of care.

(g) SUBCONTRACTS.—The health insurance consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this Act are complied with by the office.

(i) TRAINING.—

(1) IN GENERAL.—The health insurance consumer assistance office of a State shall ensure that personnel employed by the office

possess the skills, expertise, and information necessary to provide the services described in subsection (c).

(2) CONTRACTS.—To meet the requirement of paragraph (1), an office may enter into contracts with 1 or more nonprofit entities for the training (both through technical and educational assistance) of personnel and volunteers. To be eligible to receive a contract under this paragraph, an entity shall be independent of health insurance plans, companies, providers, payers, and regulators of care.

(3) LIMITATION.—An amount not to exceed 7 percent of the amount awarded to an entity under a contract under section 3(d) for a fiscal year may be used for the provision of training under this section.

(j) ADMINISTRATIVE COSTS.—An amount not to exceed 1 percent of the amount of a grant awarded to the State under this Act for a fiscal year may be used by the State for administrative expenses.

(k) TERM.—A contract entered into under this section shall be for a term of 3 years.

SEC. 5. FUNDING.

There are authorized to be appropriated $100,000,000 to carry out this Act.

SEC. 6. REPORT OF THE SECRETARY.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains—

(1) a determination by the Secretary of whether amounts appropriated to carry out this Act for the fiscal year for which the report is being prepared are sufficient to fully fund this Act in such fiscal year;

(2) with respect to a fiscal year for which the Secretary determines under paragraph (1) that sufficient amounts are not appropriated, the recommendations of the Secretary for fully funding this Act through the use of additional funding sources; and

(3) information on States that have been awarded a grant under this Act and a summary of the activities of such States and the data that is produced.

Mr. JEFFORDS. Mr. President, I am here today to join in introducing the Health Care Consumer Assistance Act. This important bill has been crafted to help Americans navigate our increasingly complex and ever changing health care system. I want to recognize the leadership of Senator JACK REED in bringing this issue forward for consideration.

Americans need and want help with their health care. In a recent national survey, Consumers Report and the Kaiser Family Foundation learned that half of all managed care plan members have had a problem with their plan in the last year. The vast majority of those ''problems'' were minor and successfully resolved in a very short period of time. However, a large number of Americans report significant financial consequences, lost time at work, or actual health declines as a result of these disputes.

The same survey reports that 84% of Americans want ''an independent place to turn for help'' with their health care rights. In fact, Americans prefer, by a wide margin, an independent source of help, as provided for in the Health Care Consumer Assistance Act, rather than a right to sue.

Three years ago, my own state recognized that Vermonters needed an independent program to help them navigate the complex health care delivery system. The state offices of the Division of Banking and Insurance and the Office of Vermont Health Access (our Medicaid agency) jointly administer the Vermont Ombudsman. It has helped Vermonters find care providers and use appeal procedures.

It is time for the federal government to play a constructive role in aiding states like Vermont that will answer the needs of their citizens for a consumer-focused, consumer-directed health care assistance program. This bill builds on the existing state-based programs to provide an office that provides consumers with the basic and credible information they want and need to make all kinds of important health care decisions.

The bill gives each State the opportunity to design a consumer assistance program that meets local needs. At the same time, the grant program calls upon the state to coordinate this overall health care consumer assistance office's activities with its existing consumer assistance offices such as the long-term care Ombudsman program for long term care consumers and its work in registering children and families for S–CHIP.

Access to quality health care services is a priority for every American family, every state, and this nation. It is clearly time for a federal commitment to help families get the health care information and assistance they want and need.

Once again, I want to thank Senator REED for this bipartisan effort on such important health legislation. Health care consumers, plans, providers, and states will be well served by enacting our legislation as soon as possible.

By Mr. HOLLINGS (by request):

S. 2820. A bill to provide for a public interest determination by the Consumer Product Safety Commission with respect to repair, replacement, or refund actions, and to revise the civil and criminal penalties, under both the Consumer Product Safety Act and the Federal Hazardous Substances Act; to the Committee on Commerce, Science, and Transportation.

THE CONSUMER PRODUCT SAFETY COMMISSION ENHANCED ENFORCEMENT ACT

Mr. HOLLINGS. Mr. President, I rise to introduce at the request of the Administration and the Consumer Product Safety Commission (CPSC), the Consumer Product Safety Commission Enhanced Enforcement Act of 2000. This legislation is designed to enhance the authority of the CSPC to prevent the manufacture and sale of defective products.

The legislation seeks to accomplish this goal in two significant ways. First, it proposes to remove the cap that exists under current law on the maximum civil penalty that can be assessed to companies that market products in violation of federal consumer product safety regulations. Currently, the maximum civil penalty that can be assessed to companies that violate consumer product safety laws is $1,650,000, a figure that is less than the amount that generally could be assessed by the CPSC. According to the agency, in many instances, it seeks penalties against very large companies, which likely are not deterred by the $1,650,000 cap. Second, the legislation proposes to increase the CPSC's authority over recalls by authorizing the Commission to determine the manner in which a defective product is to be corrected. Currently, a company that has marketed a defective product has the right to determine the remedy that is offered to the public, regardless of whether the selected remedy is the most effective solution. The proposed legislation alters this situation by permitting the CPSC to choose the remedy that is best suited to protect the public as opposed to the company.

For these reasons, Mr. President, I am pleased to introduce this act on behalf of the Administration and the CPSC.

By Mr. GRAHAM (for himself, Mr. DEWINE, Mr. MOYNIHAN, Mr. GRASSLEY, Mr. DODD, Mr. COVERDELL, and Mr. BIDEN):

S. 2823. A bill to amend the Andean Trade Preference Act to grant certain benefits with respect to textile and apparel, and for other purposes; to the Committee on Finance.

THE PLAN COLOMBIA TRADE ACT

● Mr. GRAHAM. Mr. President, I rise today, joined by Senators DEWINE, MOYNIHAN, GRASSLEY, DODD, COVERDELL, and BIDEN, to introduce the Plan Colombia Trade Act, a bill that would provide additional trade benefits to the nations of the Andean Trade Pact, which includes Bolivia, Colombia, Ecuador and Peru.

This bill is an important component of Plan Colombia, which seeks to address not only the nation's crisis with respect to massive narcotrafficking and insurgent and paramilitary forces, but also focuses on Colombia's deep economic recession. The bill is consistent with U.S. policy of promoting trade and combating drugs on a regional basis, thereby ensuring that U.S. benefits and assistance provided to one nation do not adversely affect other nations in the immediate region. Such a strategy is the only way to avoid what is often described as the ''balloon effect,'' which has meant that the drug problem, at best, is displaced from one location to another. Finally, the bill would re-assert our commitment to promote economic growth and regional stability throughout the Andean region, and to provide alternatives to the cultivation and exportation of illegal narcotics.

Passage of this legislation by the Senate will signal the United States' support of the Andean Trade Pact's economic reform efforts, and will boost the confidence of both domestic and international investors in pursuing

business opportunities that create jobs and enhance international trade in the Andean region, particularly in Colombia. In addition, this bill would ensure that U.S. trade with these important nations is not adversely affected by the recent passage of the ''Trade and Development Act of 2000,'' which provided significant trade benefits to the Caribbean Basin.

To briefly summarize, the ''Plan Colombia Trade Act,'' would extend, for approximately one year, additional trade benefits to Bolivia, Colombia, Ecuador, and Peru–nations that currently benefit from the Andean Trade Preferences Act of 1991 (commonly known as the ATPA). New trade benefits would include some—but not all—trade benefits extended to the nations of the Caribbean Basin under the ''Trade and Development Act of 2000,'' which was signed by the President on May 18, 2000. Specifically, the bill would extend duty-free, quota-free treatment to apparel articles assembled or cut in ATPA beneficiary nations using yarns and fabric wholly formed in the United States, thereby achieving a measure of parity with the CBI nations, as well as expanding an important source of economic and employment growth for the U.S. textile and apparel industry.

In its March 2000 interim report, ''First Steps Toward a Constructive U.S. Policy in Colombia,'' a Council on Foreign Relations/Inter-American Dialogue Independent Task Force—which I co-chair with Brent Scowcroft—recommended the extension of the ATPA, to include the same benefits as those contained under the Caribbean Basin Initiative. Specifically, we recommended the following:

Indeed, Colombia's economic well-being is absolutely critical, and in this area the United States can be more helpful. Perhaps even more important than providing increased assistance to the Colombian government to support employment programs is assuring Colombia greater access to U.S. markets for its products. Extending trade-related benefits to Colombia would have a positive impact on the country's prospects for higher growth and employment levels.

Although the bill provides benefits to all ATPA beneficiaries, it is particularly critical to Colombia, which in 1998 exported 59 percent of all textiles and apparel from the Andean region to the U.S., two-thirds of which were assembled and/or cut from U.S. yarns and fabric.

This legislation addresses an important, albeit unintentional, contradiction in U.S. policy towards Colombia. With the recent passage of enhanced trade benefits to the countries of Caribbean Basin Initiative, Colombia stands to lose up to 150,000 jobs in the apparel industry. At least ten (10) U.S.-based companies that purchase apparel from Colombian garment manufacturers have already indicated their near-term intentions to shift production to CBI countries due to the significant cost savings associated with the new trade benefits afforded to the Caribbean basin. Some of these U.S. companies have utilized Colombia as a manufacturing base for over ten (10) years, providing desperately needed legitimate employment in the Colombian economy.

In summary, the immediate reaction of these companies to enhanced Caribbean trade benefits clearly demonstrates the negative effects of the CBI legislation on Colombia. It would be foolish for the Congress to approve a comprehensive aid package for Colombia, while simultaneously implementing legislation that puts tens of thousands of Colombians out of work. This bill will address that critical, unintended contradiction.

On a more comprehensive scale, passage of this legislation is critical to ensure that all nations in the Western Hemisphere can maintain their long-term competitiveness with Asian nations, particularly in the textile industry. At present, the textile products of most Asian nations are subject to quotas imposed by the Multi-Fiber Agreement, now known as the Agreement on Textiles and Clothing. This restriction on Asian textiles has enabled the nations of the Western Hemisphere to remain competitive, and further, the Andean region—specifically Colombia—has become a significant market for fabric woven in U.S. mills from yarn spun in the U.S., originating from U.S. cotton growers.

However, in 2005, these Asian import quotas will be phased out. At that time, textile production in both the Andean region and the Caribbean basin will be placed at a distinct and growing disadvantage. Disinvestment in the region will occur, reducing the incentive to use any material from U.S. textile mills or cotton grown in the United States.

BACKGROUND

Seventeen years ago, the U.S. Congress passed the first legislation to provide trade preferences to the twenty-seven countries of the Caribbean Basin. In 1983, the Caribbean Basin was a region inflamed with violent conflict and rampant drug trafficking that threatened the political and economic stability of our closest neighbors, as well as our own national security. The primary goal of the Caribbean Basin Initiative (CBI) was to stabilize the region by building stronger and more diverse economies, encouraging growth in international trade, developing a strong economic relationship between the U.S. and the region, and creating employment opportunities in the legitimate economy as an alternative to drug trafficking.

Following enactment of CBI, the U.S. trade position with the region improved from a deficit of $3 billion in 1983, to a surplus of nearly $3.5 billion in 1998. Between 1983 and 1998, U.S. exports to the region increased fourfold, while total imports from the region grew by less than 20 percent. On a per capita basis, the U.S. trade surplus with the region has consistently outpaced the U.S. trade surplus with any other region of the world—in fact, since 1995, U.S. exports to the CBI region have increased by almost 32 percent.

In 1991, after 8 years of resounding success in the CBI region, Congress passed the ATPA, providing CBI-like trade benefits to the countries of Bolivia, Colombia, Ecuador and Peru. In the nine years following enactment of ATPA, U.S. exports to the Andean region have more than doubled—from $3.8 billion in 1991 to over $8.6 billion in 1998. U.S. exports to Colombia account for over half of this increase, growing from $2 billion in 1991 to $4.8 billion in 1998. During the same time period, Andean exports to the U.S. increased by almost 80 percent. In addition, in 1998, the U.S. achieved a $309 million trade surplus with the ATPA nations. Under ATPA, Bolivia, Colombia, Ecuador, and Peru enjoyed the same trade benefits that we had extended to the CBI region. However, on May 18, 2000, the President signed the ''Trade and Development Act of 2000,'' which extended additional trade benefits—particularly with respect to textiles and apparel—to the nations of the CBI region. Therefore, our Andean trading partners are now likely to lose significant trade and investment opportunities that will shift to the CBI, given the additional trade benefits included in the ''Trade and Development Act of 2000.''

NEED FOR THE ''PLAN COLOMBIA TRADE ACT''

The United States is at now a critical juncture with its neighbors in the Andean region. As was demonstrated by the recent passage of the ''Trade and Development Act of 2000.'' it is clear that we must continue enhance our trading relationship with our partners in the Caribbean and the Andean region.

In particular, these additional trade benefits should be extended to Colombia, which is currently fighting a war for the survival of its democratic institutions, its free market economy and for the future of its people. Those challenging Colombia's future include drug traffickers, guerilla groups (the FARC and the ELN) and other elements of society who seek to foster instability and fear. A comprehensive strategy in response to the crisis in essential for Colombia.

The government of Colombia, therefore, has formulated Plan Colombia. The United States government, in turn, has responded generously to Columbia's needs by considering a supplemental appropriations package of more than $1.6 billion to help the country in this time of crisis. This will supplement over $4.0 billion being spent by Colombia itself.

Fundamental to Plan Colombia (and to the government's ability to succeed in its efforts to safeguard the country) will be efforts to encourage economic growth and provide jobs to the Colombian people. Today in Colombia more than one million people are displaced, the unemployment rate is nearly 20 percent and Colombia is experiencing

the worst recession in 70 years. Without new economic opportunities, more and more Colombians will turn to illicit activities to support their families or seek to join the growing numbers of people who are leaving the country to find a better, safer future for their families.

Measuring both imports and exports, Colombia is by far the most important U.S. trade partner in the ATPA region. In 1998, over 53 percent of U.S. exports to the Andean region went to Colombia, and over 53 percent of U.S. imports from the Andean region originated from Colombia.

Mr. President, to promote economic growth and regional stability, the Congress must consider additional trade measures that benefit the entire Andean region. Therefore, Congress should grant CBI parity to the ATPA beneficiaries, specifically with respect to textiles and apparel. During 1999, Colombia and its Andean neighbors exported approximately $562 million in textiles and apparel to the United States. While insignificant in comparison to the $8.4 billion in textile and apparel exports originating in the CBI region, Andean textile and apparel production sustains more than 200,000 jobs in Colombia alone—valuable jobs in the legitimate economy. Absent CBI parity, the Andean region will find itself at a significant competitive disadvantage with the 27 countries of the CBI region.

Mr. President, upon final passage of CBI enhancement legislation, I stated that we had initiated the process of establishing true ''partnership for success'' with some of our most important neighbors. Although that legislation was a good start, it was only the beginning. I urge my colleagues to look towards the future by supporting the ''Plan Colombia Trade Act,'' and by taking advantage of the real economic benefits that can be achieved by further enhancing our relationship with all of the nations of the Western Hemisphere.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2823

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 ''Plan Colombia Trade Act''.

SEC. 2. TEMPORARY EXTENSION OF ADDITIONAL TRADE BENEFITS TO CERTAIN ANDEAN COUNTRIES.

(a) IN GENERAL.—Section 204(b) of the Andean Trade Preference Act (19 U.S.C. 3203(b)) is amended to read as follows:

''(b) EXCEPTIONS TO DUTY-FREE TREATMENT.—

''(1) IN GENERAL.—Subject to paragraphs (2), the duty-free treatment provided under this title shall not apply to—

''(A) textile and apparel articles which are subject to textile agreements;

''(B) footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

''(C) tuna, prepared or preserved in any manner, in airtight containers;

''(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

''(E) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

''(F) articles to which reduced rates of duty apply under subsection (c);

''(G) sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the HTS; or

''(H) rum and tafia classified in subheading 2208.40.00 of the HTS.

''(2) TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

''(A) ARTICLES COVERED.—During the transition period, the preferential treatment described in subparagraph (B) shall apply to the following articles:

''(i) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY COUNTRIES.—Apparel articles assembled in one or more beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, that are—

''(I) entered under subheading 9802.00.80 of the HTS; or

''(II) entered under chapter 61 or 62 of the HTS, if, after such assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTS but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes.

''(ii) APPAREL ARTICLES CUT AND ASSEMBLED IN ONE OR MORE BENEFICIARY COUNTRIES.—Apparel articles cut in one or more beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States, if such articles are assembled in one or more such countries with thread formed in the United States.

''(iii) SPECIAL RULES.—

''(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, 'bow buds', decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and are used in the production of brassieres.

''(bb) In the case of an article described in clause (ii) of this subparagraph, sewing thread shall not be treated as findings or trimmings under this subclause.

''(II) CERTAIN INTERLINING.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

''(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, 'hymo' piece, or 'sleeve header', of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

''(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

''(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this paragraph because the article contains fibers or yarns not wholly formed in the United States or in one or more beneficiary countries shall not be ineligible for such treatment if the total weight of all such fibers or yarns is not more than 7 percent of the total weight of the good. Notwithstanding the preceding sentence, an apparel article containing elastomeric yarns shall be eligible for preferential treatment under this paragraph only if such yarns are wholly formed in the United States.

''(IV) SPECIAL ORIGIN RULE.—An article otherwise eligible for preferential treatment under clause (i) or (ii) of this subparagraph shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTS duty-free from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

''(iv) SPECIAL RULE FOR FABRICS NOT FORMED FROM YARNS.—

''(I) APPLICATION TO CLAUSE (i).—An article otherwise eligible for preferential treatment under clause (i) of this subparagraph shall not be ineligible for such treatment because the article is assembled in one or more beneficiary countries from fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States.

''(II) APPLICATION TO CLAUSE (ii).—An article otherwise eligible for preferential treatment under clause (ii) of this subparagraph shall not be ineligible for such treatment because the article is assembled in one or more beneficiary countries from fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States.

''(B) PREFERENTIAL TREATMENT.—During the transition period, the articles to which this paragraph applies shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels.

''(C) TRANSITION PERIOD.—In this paragraph, the term 'transition period' means, with respect to a beneficiary country, the period that begins on the date of enactment of the Plan Colombia Trade Act or October 1, 2000, whichever is later, and ends on the date that duty-free treatment ends under this title.''.

(b) FACTORS AFFECTING DESIGNATION.—

(1) IN GENERAL.—Section 203(d) of the Andean Trade Preference Act (19 U.S.C. 3202(d)) is amended—

(A) by striking ''and'' at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting ''; and''; and

(C) by adding at the end the following:

''(13) the extent to which such country adheres to democratic principles and the rule of law.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the earlier of—

(A) October 1, 2000; or

(B) the date of enactment of the Plan Colombia Trade Act.●

Mr. GRASSLEY. Mr. President, I rise today to co-sponsor the Plan Colombia Trade Act along with my colleague, Senator BOB GRAHAM. This important bill will supplement Plan Colombia by expanding trade benefits to the countries of Colombia, Bolivia, Ecuador and Peru.

Plan Colombia is an important package that provides about a billion dollars to the government of Colombia, and other countries in that region. These funds will go to fight drugs, eradicate the crops which create them, and provide for alternative development. Unfortunately, Plan Colombia does not provide for an important measure that we can do to help these countries, that is to stimulate their economy. We can achieve this by passing the Plan Colombia Trade Act, which will provide assistance to develop their textile and apparel industries.

Developing the apparel industry of these countries will encourage global trade, and offer the good people of that region a future filled with prosperity. Additionally, the trade benefits outlined in this bill will enhance peace, stability, and prosperity in that region, which will ultimately yield a better quality of life for all involved. This bill will not only benefit the struggling economies of Colombia, Bolivia, Ecuador, and Peru, but will advance the economy of the United States as well.

As important as the assistance package to Colombia is, most of the money we provide will not reach ordinary Colombians. They also are engaged in the effort to combat illegal drugs. We need to ensure that they are not penalized for doing so. The current bill helps us help Colombians not with cash but with opportunity. It preserves legitimate jobs in a country sorely beset with problems.

Most garments that are produced in Colombia are subject to a 20–30% duty rate upon importation into the U.S. As an example, swimsuits are subject to a duty rate of 33%. By granting duty-free and quota-free benefits to apparel assembled in these countries from U.S. made yarn, and U.S. made fabric, these countries will now be able to compete with other developing countries that currently enjoy duty-free and quota-free benefits. It will also afford them the opportunity to participate in the global economy. This will encourage additional export of U.S. made cotton and yarn, stimulate U.S. investment in the region and create needed jobs as well.

This bill is an opportunity to help rebuild a region which has been plagued by the drug trade. We can assist these countries, not by giving them more money, but by providing these enhanced trade opportunities. By helping our neighbors in the south to maintain political and economic stability, we will in effect be securing the National Security of the United States. This legislation will provide these countries with the opportunity build their industry and their struggling economies and will improve the quality of their everyday lives.

I urge my colleagues to support this important bill which will have a positive effect on the prosperity of our neighbors in Colombia, Ecuador, Bolivia, and Peru.

By Mr. ROCKEFELLER (for himself, Mr. JEFFORDS, and Mr. BREAUX):

S. 2825. A bill to strengthen the effectiveness of the earned income tax credit in reducing child poverty and promoting work; to the Committee on Finance.

THE TAX RELIEF FOR WORKING FAMILIES ACT OF 2000

Mr. ROCKEFELLER. Mr. President, I am proud to be joined by Senators JEFFORDS and BREAUX in introducing the Tax Relief for Working Families Act of 2000. This bipartisan bill is designed to strengthen the effectiveness of the Earned Income Tax Credit (EITC) in reducing child poverty and promoting work.

Our bill will increase the EITC for families with three or more children. Families could qualify for almost an additional $500. Obviously, raising a large family costs more, and these families have a higher poverty rate of 29 percent, more than double the poverty rate of children in smaller families. Nearly three out of every five poor children live in families with three or more children.

A report by the Committee for Economic Development found that the ''EITC has become a powerful force in dramatically raising the employment of low-income women in recent years.'' The report also recommended further expansions of the EITC. Since research shows that larger families have greater problems leaving welfare for work, this legislation should build upon our welfare reform efforts.

But even more compelling than national statistics are the real stories from West Virginia families. One woman in Huntington, West Virginia is struggling to raise five daughters and care for her husband who was disabled in a roofing accident. That family is managing on approximately $13,000 a year. She works the night shift, but must currently rely on the public bus. Her shift begins at midnight, but the last bus is at 9:00 p.m. so she takes the earlier bus, and spends several hours waiting for her shift instead of having time with her family. Last year, she used the EITC to pay her bills, including a winter coat for one of her daughters. With an increase, she hopes to save for a used car.

Another West Virginia mother is recently divorced and struggling to raise four sons, ranging in age from sixteen to seven. Her 16-year-old son has Downs Syndrome. Last year she earned $13,800 and she used her EITC to purchase a used van so she would have reliable transportation for her 50-mile commute to work. Another year, the EITC helped pay for new mattresses for her children's beds. With an increase, she'd like to save a little money in case of an emergency or for better housing.

These are real stories of real families who are working hard to make ends meet but need and deserve more help.

This is a bipartisan bill. We have closely consulted with leading groups like the Center on Budget and Policy Priorities, Catholic Charities U.S.A., the United Way of America, and the Progressive Policy Institute.

In addition to increasing the EITC available to large families, our bill includes several bipartisan provisions to simplify the credit by conforming the definition of earned income and simplifying the definition of a dependent child.

Some may question the cost of expanding the EITC, but I believe, compared to other tax proposals such as providing additional marriage tax relief, investing an additional $8 billion over the next five years is a reasonable investment to help low-wage working families. Most of these families are married. All are struggling, but working hard to do the right thing for their children. In its letter supporting our efforts, Catholic Charities U.S.A. describes our legislation is ''pro-family, pro-marriage, and pro-work.''

During the 1998 tax year, over 19 million working Americans got $30.5 billion in tax relief, thanks to the EITC. In my state, about 141,000 West Virginians claimed $210.7 million. About nineteen percent of West Virginia taxpayers benefit from the EITC. In my state, 84 percent of taxpayers earn less than $50,000. I believe that this legislation to expand the EITC for families with three or more children will help more West Virginians than many of the other, more expensive provisions under consideration as part of the marriage penalty relief debate.

We know that the EITC works. It encourages work, and it helps lift families out of poverty. I urge my colleagues to join with Senators JEFFORDS and BREAUX to help hard working families raise their children.

Mr. JEFFORDS. Mr. President, I am pleased today to join with Senators ROCKEFELLER and BREAUX to introduce a bill that will provide a third-tier earned income tax credit (EITC) for families with three or more children. I believe that the additional tax credit provided by this bill could be of significant help to working low-income families.

The EITC is a refundable tax credit to low-income families. It is only available to taxpayers who work and earn wages. Indeed, the EITC was enacted to encourage taxpayers to work—even at low-paying jobs—rather than relying on government programs. The EITC

has played a key role in reducing the poverty rate for families. By some estimates, it has been the single most important factor in removing children from poverty.

As currently structured, the EITC provides a credit to families with one child, and a higher credit to families that have two or more children. Families with three or four children receive the same EITC as families with two children.

For low-income families of four, we have seen significant progress in reducing the incidence of poverty. The combination of the minimum wage, the EITC, and food stamps can raise a family of four with a full-time year-round minimum wage worker close to the poverty line. But poverty persists in large families where there are more than two children. In families with three or more children, the official poverty rate is 29 percent—twice the rate for families with two children. While children in families with three or more children were 37 percent of all children in the United States in 1998, they comprised 57 percent of the children living in poverty.

It is not surprising that reducing poverty is more problematic in large families. As family size rises, so do family expenses. Welfare benefits increase with family size; wages, however, do not. For a large family, moving from welfare to work may actually mean less money. In addition, with more children, child care is not only more expensive, it is also more complicated.

With surplus projections now reaching $1.7 trillion, there are a whole host of tax reform proposals—many meritorious—circulating on Capitol Hill. In the debate about tax cuts, we must not lose sight of our most vulnerable workers. We should build on the proven success of the EITC to help these workers. I believe a larger earned income tax credit for families with three or more children will help put more low-income families on the path to self-sufficiency, while at the same time helping welfare reform succeed.

By Mr. SANTORUM (for himself and Mr. ROCKEFELLER):

S. 2826. A bill to amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the Medicare Program; to the Committee on Finance.

THE MEDICARE ADULT DAY SERVICES ALTERNATIVE ACT

Mr. SANTORUM. Mr. President, as this Congress continues to deliberate options of how best to care for our senior population, it is critical to consider, as well, the role that caregivers play in accommodating the delivery of such care to loved ones. Family caregivers are often forced to make difficult sacrifices. By just one measure, it is estimated that the average loss of income to these caregivers is more than $600,000 in wages, pensions and Social Security benefits. This does not have to be the case, though.

It does not have to be the case with the choices afforded by legislation I am pleased to be introducing today along with Senator ROCKEFELLER of West Virginia aimed at reforming Medicare's home health benefit. The Medicare Adult Day Services Alternative Act of 2000 would provide Medicare beneficiaries who qualify for home health benefits the choice to receive those services in qualified adult day care centers, and simultaneously assist family caregivers with the very real difficulties in caring for a homebound family member.

It is with America's Medicare beneficiaries and family caregivers in mind which makes the Medicare Adult Day Services Alternative Act a winner for Medicare, for patients and for their caregivers. First, it would allow patients to receive home health services in a setting that promotes rehabilitation by providing social interaction, meals and therapeutic activities above and beyond the provision of the prescribed home health benefit. Second, caregivers for homebound patients would be able to maintain employment outside of the home because they would know that their family member is in a healthy, protected environment during the day.

With this legislation, patients could elect to receive some, or all, of their home health benefit in a home or an adult day care congregate setting. I think my colleagues would agree with me that the opportunity to interact with others with similar needs can improve patients' mental and physical wellbeing. While not expanding the existing eligibility criteria for home health, this legislation offers Medicare beneficiaries a greater sense of autonomy afforded by receiving necessary care outside of their homes.

The adult day care center would be paid 95% of the rate paid to a home health agency for providing the Medicare-covered service. But within that lump-sum payment, the adult day care center would also be required to cover transportation, medication management, therapeutic activities, and meals.

The Medicare Adult Day Services Alternative Act recognizes the benefit that will come to family members of Medicare recipients of this service. These caregivers will be able to attend to other things in today's fast-paced family life, knowing their loved ones are well cared for. This creative solution to health care delivery also adequately reimburses providers and is designed to be budget neutral.

I hope that members on both sides of the aisle will join me in advancing this important issue for Medicare beneficiaries and their families. As this Congress considers various proposals to improve Medicare's home health benefit, this proposal deserves the serious attention and consideration of my colleagues. I look forward to working with them to enact this pro-beneficiary, potentially cost-saving reform legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2826

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 ''Medicare Adult Day Services Alternative Act of 2000''.

SEC. 2. FINDINGS.

Congress finds that—

(1) adult day care offers services, including medical care, rehabilitation therapies, dignified assistance with activities of daily living, social interaction, and stimulating activities, to seniors who are frail, physically challenged, or cognitively impaired;

(2) access to adult day care services provides seniors and their familial caregivers support that is critical to keeping the senior in the family home;

(3) more than 22,000,000 families in the United States serve as caregivers for aging or ailing seniors, nearly 1 in 4 American families, providing close to 80 percent of the care to individuals requiring long-term care;

(4) nearly 75 percent of those actively providing such care are women who also maintain other responsibilities, such as working outside of the home and raising young children;

(5) the average loss of income to these caregivers has been shown to be $659,130 in wages, pension, and Social Security benefits;

(6) the loss in productivity in United States businesses ranges from $11,000,000,000 to $29,000,000,000 annually;

(7) the services offered in adult day care facilities provide continuity of care and an important sense of community for both the senior and the caregiver;

(8) there are adult day care centers in every State in the United States and the District of Columbia;

(9) these centers generally offer transportation, meals, personal care, and counseling in addition to the medical services and socialization benefits offered; and

(10) with the need for quality options in how to best care for our senior population about to dramatically increase with the aging of the baby boomer generation, the time to address these issues is now.

SEC. 3. COVERAGE OF SUBSTITUTE ADULT DAY CARE SERVICES UNDER MEDICARE.

(a) SUBSTITUTE ADULT DAY CARE SERVICES BENEFIT.—

(1) IN GENERAL.—Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) is amended—

(A) in the matter preceding paragraph (1), by inserting ''or (8)'' after ''paragraph (7)'';

(B) in paragraph (6), by striking ''and'' at the end;

(C) in paragraph (7), by adding ''and'' at the end; and

(D) by inserting after paragraph (7), the following new paragraph:

''(8) substitute adult day care services (as defined in subsection (uu));''.

(2) SUBSTITUTE ADULT DAY CARE SERVICES DEFINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Substitute Adult Day Care Services; Adult Day Care Facility

''(uu)(1)(A) The term 'substitute adult day care services' means the items and services described in subparagraph (B) that are furnished to an individual by an adult day care facility as a part of a plan under subsection

(m) that substitutes such services for a portion of the items and services described in subparagraph (B)(i) furnished by a home health agency under the plan, as determined by the physician establishing the plan.

''(B) The items and services described in this subparagraph are the following items and services:

''(i) Items and services described in paragraphs (1) through (7) of subsection (m).

''(ii) Transportation of the individual to and from the adult day care facility in connection with any such item or service.

''(iii) Meals.

''(iv) A program of supervised activities designed to promote physical and mental health and furnished to the individual by the adult day care facility in a group setting for a period of not fewer than 4 and not greater than 12 hours per day.

''(v) A medication management program (as defined in subparagraph (C)).

''(C) For purposes of subparagraph (B)(v), the term 'medication management program' means a program of services, including medicine screening and patient and health care provider education programs, that provides services to minimize—

''(i) unnecessary or inappropriate use of prescription drugs; and

''(ii) adverse events due to unintended prescription drug-to-drug interactions.

''(2)(A) Except as provided in subparagraphs (B) and (C), the term 'adult day care facility' means a public agency or private organization, or a subdivision of such an agency or organization, that—

''(i) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

''(ii) meets such standards established by the Secretary to ensure quality of care and such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility;

''(iii) provides the items and services described in paragraph (1)(B); and

''(iv) meets the requirements of paragraphs (2) through (8) of subsection (o).

''(B) Notwithstanding subparagraph (A), the term 'adult day care facility' shall include a home health agency in which the items and services described in clauses (ii) through (v) of paragraph (1)(B) are provided by others under arrangements with them made by such agency.

''(C) The Secretary may waive the requirement of a surety bond under paragraph (7) of subsection (o) in the case of an agency or organization that provides a comparable surety bond under State law.

''(D) For purposes of payment for home health services consisting of substitute adult day care services furnished under this title, any reference to a home health agency is deemed to be a reference to an adult day care facility.''.

(3) CONFORMING AMENDMENTS.—Sections 1814(a)(2)(C) and 1835(a)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395f(a)(2)(C); 1395n(a)(2)(A)(i)) are each amended by striking ''section 1861(m)(7)'' and inserting ''paragraph (7) or (8) of section 1861(m)''.

(b) PAYMENT FOR SUBSTITUTE ADULT DAY CARE SERVICES.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended by adding at the end the following new subsection:

''(e) PAYMENT RATE FOR SUBSTITUTE ADULT DAY CARE SERVICES.—In the case of home health services consisting of substitute adult day care services (as defined in section 1861(uu)), the following rules apply:

''(1) The Secretary shall determine each component (as defined by the Secretary) of substitute adult day care services (under section 1861(uu)(1)(B)(i)) furnished to an individual under the plan of care established under section 1861(m) with respect to such services.

''(2) The Secretary shall estimate the amount that would otherwise be payable under this section for all home health services under that plan of care other than substitute adult day care services for a week or other period specified by the Secretary.

''(3) The total amount payable for home health services consisting of substitute adult day care services under such plan may not exceed 95 percent of the amount estimated to be payable under paragraph (2) furnished under the plan by a home health agency.

''(4) No payment may be made under this title for home health services consisting of substitute adult day care services described in clauses (ii) through (v) of section 1861(uu)(1)(B).''.

(c) ADJUSTMENT IN CASE OF OVERUTILIZATION OF SUBSTITUTE ADULT DAY CARE SERVICES.—

(1) MONITORING EXPENDITURES.—Beginning with fiscal year 2002, the Secretary of Health and Human Services shall monitor the expenditures made under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for home health services (as defined in section 1861(m) of such Act (42 U.S.C. 1395x(m))) for the fiscal year, including substitute adult day care services under paragraph (8) of such section (as added by subsection (a)), and shall compare such expenditures to expenditures that the Secretary estimates would have been made for home health services for that fiscal year if subsection (a) had not been enacted.

(2) REQUIRED REDUCTION IN PAYMENT RATE.—If the Secretary determines, after making the comparison under paragraph (1) and making such adjustments for changes in demographics and age of the medicare beneficiary population as the Secretary determines appropriate, that expenditures for home health services under the medicare program, including such substitute adult day care services, exceed expenditures that would have been made under such program for home health services for a year if subsection (a) had not been enacted, then the Secretary shall adjust the rate of payment to adult day care facilities so that total expenditures for home health services under such program in a fiscal year does not exceed the Secretary's estimate of such expenditures if subsection (a) had not been enacted.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date on which the prospective payment system for home health services furnished under the medicare program under section 1895 of the Social Security Act (42 U.S.C. 1395fff) is established and implemented.

By Mr. ALLARD.

S. 2827. A bill to provide for the conveyance of the Department of Veterans Affairs Medical Center at Ft. Lyon, Colorado, to the State of Colorado, and for other purposes; to the Committee on Veterans' Affairs.

LEGISLATION TO IMPROVE HEALTHCARE OPTIONS FOR VETERANS

Mr. ALLARD. Mr. President, today I am introducing a bill to improve the healthcare options for veterans in southern Colorado. To do this, I am expediting the transfer of the Ft. Lyon facility to the State of Colorado, which will allow the Veterans Administration (VA) to implement their plan to use the annual $8.6 million in savings from the closure of Fort Lyon to provide better service to Colorado's veterans through new outpatient clinics in La Junta, Lamar and Alamosa and a smaller, more efficient nursing home in Pueblo, CO.

Ft. Lyon is a historical building, but it is simply not more important than the needs of those who served us. I would prefer that the money currently used to maintain the facility was instead used to provide medical care for those veterans who need it.

This bill will lead to an improvement in medical services for veterans in several ways. With the estimated $8.6 million in savings to be realized after the Ft. Lyon closure, clinics will be set up in local communities which will be closer and more responsive to their local veteran communities. This bill mandates that the VA must open the replacement clinics before they convey Ft. Lyon to the State of Colorado, to ensure there is no gap in service. This bill will help to ensure that no service-connected veteran's needs are unmet. No veteran will go homeless. Every veteran who needs a nursing home bed due to service connected illness will still be granted one. Those veterans currently in Ft. Lyon will continue to receive nursing home care, at no additional charges to them. The cemetery and historic Kit Carson chapel will remain fully accessible to the public. And the people of the region will also be assisted by the opening of a state facility to replace Ft. Lyon in the local economy. Without this legislation, there are no guarantees any of this would occur.

I hope that this bill will be considered and pass quickly, so that the savings and the improvements in veteran's healthcare can begin as soon as possible.

By Mr. HUTCHINSON (for himself, Mr. LOTT, Mr. NICKLES, Mr. GREGG, Mr. GORTON, Mr. COVERDELL, and Mr. INHOFE):

S. 2829. A bill to provide for an investigation and audit at the Department of Education; to the Committee on Health, Education, Labor, and Pensions.

DEPARTMENT OF EDUCATION INVESTIGATION AND AUDIT LEGISLATION

Mr. HUTCHINSON. Mr. President, I rise today to introduce legislation requiring an audit of accounts at the U.S. Department of Education that are susceptible to waste, fraud, and abuse. It is unfortunate that Congress has to be dealing with this issue, but unfortunately, it is all too necessary.

As Members of the Senate have been debating education this year, we have stressed the need for accountability of federal funds. Before we stress accountability at the local level, though, we must ensure that accountability is also occurring at the federal level. It we are going to increase the budget for the Department of Education, as the Fiscal Year 2001 Labor, Health and Human

Services, and Education Appropriations bill does, we have the responsibility to determine whether the Department is properly accounting for the funding that they already have.

The U.S. Department of Education is already having problems overseeing the programs that it currently administers. For the second year in a row, the Department of Education has been unable to address its financial management problems. In its last two audits, the Department was unable to account for parts of its $32 billion program budget and the $175 billion owed in student loans. Every year, the Department is required to undergo an independent audit. Unfortunately, for Fiscal years 1998 and 1999, auditors have declared the Department of Education inauditable.

The House Education and the Workforce Committee has been holding hearing on financial problems at the Department of Education, and has found serious instances of duplicate payments to grant winners and an $800 million college loan to a single student. In its 1998 audit, the Department blamed its problems on a faulty new accounting system that cost $5.1 million, in addition to the cost of manpower to try to fix the system. A new accounting system will be the third in five years.

The most recent 1999 audit showed that the Department's financial stewardship remains in the bottom quartile of all major federal agencies. It also sent duplicate payments to 52 schools in 1999 at a cost of more than $6.5 million. In addition, none of the material weaknesses cited in the 1998 audit were corrected.

These instances show that the Department is currently vulnerable to fraud, waste, and abuse. The House of Representatives has already indicated its support for a fraud audit at the Department of Education by passing its own version of this bill on June 13, 2000, by an overwhelming vote of 380–19. Before Congress entrusts the U.S. Department of Education with funding that is so important to our nation's schools and students, we must demand that the funds they already have are well-managed.

By Mr. LEAHY (for himself and Mr. FEINGOLD):

S. 2830. A bill to preclude the admissibility of certain confessions in criminal cases; to the Committee on the Judiciary.

THE MIRANDA REAFFIRMATION ACT OF 2000

Mr. LEAHY. Mr. President, this week, the Supreme Court reaffirmed its landmark decision in Miranda v. Arizona. I applaud that decision. Miranda struck a balance between the needs of law enforcement and the rights of a suspect that has worked well for 34 years. There is no reason to upset that balance now.

Shortly after Miranda was decided in 1966, I became State's Attorney for Chittenden County, Vermont. I remember clearly the immediate impact that this momentous decision had upon law enforcement, prosecutors, criminal defendants and the criminal justice system as a whole. The Supreme Court's pronouncement that all suspects in custody needed to be advised of certain constitutional rights, including the privilege against self-incrimination, before being questioned was as new then as it is familiar today.

The Miranda decision put into place a fair and bright-line rule that both protects the rights of the accused and has proven workable for law enforcement. Statements stemming from custodial interrogation of a suspect are inadmissible at trial unless the police first provide the suspect with a set of four specific warnings: (1) you have the right to remain silent; (2) anything you say may be used as evidence against you; (3) you have the right to an attorney; and (4) if you cannot afford an attorney, one will be appointed for you.

These warnings are necessary to dispel the compulsion inherent in custodial surroundings and so ensure that any statement obtained from the suspect is truly the product of his free choice. As author and former Federal prosecutor Scott Thurow wrote in an opinion article in Wednesday's New York Times: ''The requirement to recite Miranda is an important reminder to the police that the war on lawlessness is always subject to the guidance of the law.''

Over the last 34 years, the Miranda rule has developed into a bedrock principle of American criminal law. The required issuance of Miranda warnings has been incorporated in local, State and Federal police practice across this nation. Indeed, it is no exaggeration to say, as the Court said this week, that Miranda warnings ''have become part of our national culture.''

Two years after Miranda was decided, Congress enacted 18 U.S.C. 3501, which laid down a rule that purported to overrule Miranda and to restore the case-by-case, totality-of-the-circumstances test of a confession's ''voluntariness'' that the Miranda decision found constitutionally inadequate. The validity of section 3501 did not come before the Court until now because no Administration of either party sought to use it, out of concern for its dubious constitutionality. The issue was finally presented only because an organization of conservative activists maneuvered a case before the most conservative Federal appeals court in the country. To her credit, Attorney General Reno declined to argue that Miranda had been invalidated by section 3501. She also declined to ask the Supreme Court to overrule Miranda, on the ground that it has proved to be workable in practice and in many respects beneficial to law enforcement.

The Court's decision this week in Dickerson v. United States—announced by the Chief Justice and joined by six other Justices—erased any doubt that the protections announced in Miranda are constitutionally required and cannot be overruled by an act of Congress. Section 3501's attempt to authorize the admission at trial of statements that would be excluded under Miranda is therefore unconstitutional, as I have long believed.

This week's resounding reaffirmation of the Miranda rule should put to rest the issue of Miranda's continuing vitality. Most law enforcement officers made their peace with Miranda long ago: It is time for the rest to do the same. That is why I am disturbed by Justice Scalia's parting shot in Dickerson. In a dissenting opinion joined by Justice Thomas, Justice Scalia vowed to continue to apply section 3501 until such time as it is repealed.

Mr. President, that time has come. I am introducing a bill today, together with my good friend, Senator FEINGOLD, to repeal section 3501. I can think of no good reason to allow this patently unconstitutional statute to remain on the books. On the contrary, leaving section 3501 on the books is sure to invite more unwarranted attacks on Miranda by the same conservative activists who brought us the Dickerson case. Enough is enough. Whatever you think of Miranda's reasoning and its resulting rule, seven Supreme Court Justices have reaffirmed its constitutional pedigree. I urge my colleagues on both sides of the aisle to uphold their oaths to defend the Constitution by repudiating an unconstitutional statute.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2830

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 ''Miranda Reaffirmation Act of 2000''.

SEC. 2. AMENDMENTS TO TITLE 18.

Section 3501 of title 18, United States Code, is amended—

(1) by striking subsections (a) and (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c) respectively.

Mr. FEINGOLD. Mr. President, I am pleased to join with my friend from Vermont to introduce the Miranda Reaffirmation Act, a bill that repeals two sections of the United States Criminal Code because they directly conflict with the constitutional rule set forth by the United States Supreme court in the 1966 landmark decision of Miranda v. Arizona.

This week, nearing the conclusion of a busy term, the United States Supreme Court handed down several very important decisions. In one of the more highly anticipated rulings, Dickerson v. United States, the Court held by a 7–2 majority that the rule announced in Miranda is still the supreme law of this

land. As we are all aware, the Miranda rule instructs all law enforcement officers that prior to an in-custody interrogation they must inform suspects of several important constitutional rights: the right to remain silent, the right to counsel, and the right to have counsel appointed if they cannot afford one.

As the Court noted, ''Miranda has become embedded in routine police practice to the point where the warning have become part of our national culture.'' Millions of American children have first learned about their constitutional rights by watching police dramas on television and hearing the famous Miranda warnings given to criminal suspects.

Mr. President, the Supreme Court's reaffirmation of the Miranda rule was extremely important. In the Dickerson case, a private legal foundation and a law professor intervened in a criminal case and questioned whether Miranda warnings are constitutionally required. Relying on 18 U.S.C. §3501, they argued that law enforcement officers should not have to inform suspects of their basic constitutional rights before proceeding with in-custody interrogations as long as any confessions obtained were determined to be voluntary. While every administration since the law was passed in 1968 has refused to make this argument, a lower court in the Dickerson case agreed with it. Section 3501 was enacted in 1968, just two years after the original Miranda decision. It was a clear attempt by Congress to overturn the constitutional rule laid down in that case.

It is a strange quirk of history that the validity of §3501 and Congress's attempt to overrule Miranda was addressed for the first time by the Supreme Court in the Dickerson case. The reason is that a series of Departments of Justice, under both Republican and Democratic Presidents assumed that the statute was unconstitutional and refused to proceed under it. In Dickerson, the Supreme Court agreed with that view.

Writing for a seven justice majority, Chief Justice Rehnquist pointed out that ''because of the obvious conflict between our decision in Miranda and §3501 we must address whether Congress has the constitutional authority to thus supercede Miranda.'' Second, the Chief Justice reiterated the established principle that ''Congress may not legislatively supercede our decision[s] interpreting and applying the constitution,'' and he concluded by ruling that ''Miranda announced a constitutional rule that Congress may not supercede legislatively.''

Justice Scalia, in dissent, disagreed vehemently with the majority's analysis. In a somewhat curious declaration of defiance he wrote: ''[U]ntil §3501 is repealed, [I] will continue to apply it in all cases where there has been a sustainable finding that the defendant's confession was voluntary.''

Mr. President, as a result of the Court's unequivocal ruling in Dickerson, we now have a law on the books that the Court has ruled is inconsistent with what the Constitution requires with respect to constitutional in-custody interrogations. That may seem to be a matter of little consequence, but the statement of Justice Scalia that he will continue to apply it in future cases shows that it is not. The bill that we are introducing today eliminates this potential problem by removing the unconstitutional provision from the criminal code.

This repeal will accomplish two things. It will bring our criminal code into line with what the Supreme Court has now firmly established as the law of the land, and it will remove from the books an ineffective law that Justice Rehnquist considered ''more difficult than Miranda for law enforcement officers to conform to, and for courts to apply in a consistent manner.'' The prophylactic rule established by Miranda has worked well and stood the test of time. Law enforcement officers, prosecutors, and defense attorneys have found that it is a far better way to protect the constitutional rights of those accused of crimes than the ''voluntariness'' standard that was in place before Miranda and that §3501 attempted to keep in place.

Mr. President, it is simply not appropriate for the existing criminal code to conflict with what the Supreme Court has ruled that the Constitution requires. It is our duty to act to repeal a provision that the Department of Justice has refused to apply and that the Supreme Court has held, in any event, cannot be enforced. As the ranking member of the Constitution Subcommittee of the Senate Judiciary Committee, I am proud to join the ranking member of the full Committee, Senator LEAHY, in offering this straightforward and commonsense measure.

By Mr. KERRY (for himself and Mr. HOLLINGS):

S. 2831. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to improve conservation and management of sharks and establish a consistent national policy toward the practice of shark-finning; to the Committee on Commerce, Science, and Transportation.

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THE SHARK CONSERVATION ACT OF 2000

Mr. KERRY. Mr. President, I rise today to introduce the Shark Conservation Act of 2000, legislation that will significantly improve conservation and management of sharks worldwide, and establish a consistent national policy toward the practice of shark-finning. The bill would prohibit the practice of shark finning and transshipment of shark fins by U.S. vessels, set forth a process to encourage foreign governments to end this practice by their own fishing fleets, and authorize badly needed fisheries research on shark populations. I am pleased to be joined in this effort by the Ranking Member of the Commerce Committee, Senator HOLLINGS.

Mr. President, sharks are among the most biologically vulnerable species in the ocean. Their slow growth, late maturity and small number of offspring leave them exceptionally vulnerable to overfishing and slow to recover from depletion. At the same time, sharks, as top predators, are essential to maintaining the balance of life in the sea. While many of our other highly migratory species such as tunas and swordfish are subject to rigorous management regimes, sharks have largely been overlooked until recently.

The bill first amends the Magnuson-Stevens Fishery Conservation and Management Act to prohibit shark finning, which is the practice of removing a shark's fins and returning the remainder of the shark to sea, and provides a rebuttable presumption that shark fins found on board a U.S. vessel were taken by finning, thus closing the transshipment loophole. National Marine Fisheries Service (NMFS) regulations in the Atlantic Ocean prohibit the practice of shark finning, but a nationwide prohibition does not currently exist. Shark fins comprise only a small percentage of the weight of the shark, and yet this is often the only portion of the shark retained. The Magnuson-Stevens Act and international commitments discourage unnecessary waste of fish, and thus I believe this bill ensure our domestic regulations are consistent on this point. Another goal of the Magnuson-Stevens Act—the minimization of bycatch and bycatch mortality—is an issue that I have been particularly committed to over the years. Because most of the sharks caught and finned are incidentally captured in fisheries targeting other species, I believe establishing a domestic ban will help us further reduce this type of shark mortality.

Mr. President, this legislation would also direct the Secretary of Commerce to initiate negotiations with foreign countries in order to encourage those countries to adopt shark finning prohibitions similar to ours. The establishment of a prohibition of shark finning by United States fishermen, or in waters subject to our jurisdiction, will not reduce finning by international fishing fleets or transshipment or landing of fins taken by these fleets. At present, foreign fleets transship or land approximately 180 metric tons of shark fins annually through ports in the Pacific alone. The global shark fin trade involves at least 125 countries, and the demand for shark fins and other shark products has driven dramatic increases in shark fishing and shark mortality around the world.

International measures are an absolutely critical component of achieving effective shark conservation. Under my legislation, the Secretary would be mandated to report to Congress on progress being made domestically and

internationally to reduce shark finning. Further, this legislation will establish a procedure for determining whether governments have adopted shark conservation measures which are comparable to ours through import certification procedures for sharks or shark parts. Imports of sharks or shark parts from countries that do not meet these certification procedures are prohibited. I have also included provisions which would provide technical assistance to foreign nations in an attempt to promote compliance.

Finally, my bill would authorize a Western Pacific longline fisheries cooperative research program to provide information for shark stock assessments, identify fishing gear and practices that prevent or minimize incidental catch of sharks and ensure maximum survivorship of released sharks, and provide data on the international shark fin trade.

Mr. President, the United States is a global leader in fisheries conservation and management. I believe this legislation provides us the opportunity to further this role, and take the first step in addressing an international fisheries management issue. In addition, I believe the U.S. should continue to lead efforts at the United Nations and international conventions to achieve coordinated international management of sharks, including an international ban on shark-finning. I look forward to working with Committee members on this important legislation.

Thank you Mr. President.

By Ms. SNOWE:

S. 2832. A bill to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE MAGNUSON-STEVENS REAUTHORIZATION ACT OF 2000

Ms. SNOWE. I rise today to introduce a bill that will reauthorize the most important Federal fisheries management law, the Magnuson-Stevens Fishery Conservation and Management Act. In 1996, Congress last reauthorized this law through enactment of the Sustainable Fisheries Act (SFA). The SFA contained the most substantial improvements to fisheries conservation since the original passage of the Magnuson Act in 1976.

The SFA made wholesale changes in fisheries management. For the first time, it required the regional fishery management councils and the Secretary of Commerce to prevent and end overfishing, reduce bycatch, protect essential fish habitat, and consider fishing communities in the regulatory decision-making process. These provisions of the SFA have presented a great challenge to the National Marine Fisheries Service the regional councils, and the fishermen who are regulated under this law. While the goals and intent of the SFA were certainly laudable, four years later, we still have a significant amount of work to do in that regard.

Therefore, today, Mr. President, I introduce the Magnuson-Stevens Reauthorization Act of 2000 with several very specific goals in mind. First and foremost, this bill provides for a major increase in funding. While the demands on fisheries managers at the local and federal levels have increased exponentially, funding has essentially remained level. One of the most serious problems in fisheries management is a lack of basic information on the resource. This bill, through increased funding and the establishment of two programs, will go a long way toward filling existing critical gaps in our information databases. For the past several years, Senators KERRY, GREGG, and I have worked to establish a cooperative research program in New England fisheries. This program, which requires federal and local scientists to partner with commercial fishermen in the gathering and development of fisheries data, has proven quite successful. Therefore, this bill would establish a National Cooperative Research and Management program to be administered by the agency in conjunction with the regional councils and local fishermen. In addition, the bill also establishes a National Cooperative Enforcement program. This too is based on existing programs in several states, where state marine law enforcement officers are deputized by their federal counterparts to help enforce conservation and management provisions of the Magnuson-Stevens Act and other marine related laws. Lack of enforcement of fisheries laws has been a constant problem for fishermen and fisheries managers.

This bill also addresses one of the most serious and emotional questions in fisheries management—individual fishing quotas (IFQs). The SFA included a five year moratorium on new IFQ programs and required the National Academy of Sciences (NAS) to study the issue. The NAS report issued a series of recommendations on IFQs. The first recommendation was for Congress to lift the existing moratorium on new IFQ programs and authorize the councils to design and implement new IFQs. The moratorium is set to expire on October 1, 2000.

This recommendation has received a lot of publicity. However, the NAS report contained a number of other recommendations to Congress that were to be considered in conjunction with the authorization of any new IFQ programs. These recommendations concern substantive issues, yet they have not received the level of attention that they fully deserve. For instance, the NAS recommended that Congress should encourage cost recovery and extraction of profits from new IFQ programs through fees, annual taxes, and zero-revenue auctions. The NAS also recommended that the Act be amended to allow the public to capture windfall gains generated from the initial allocation of IFQs. Additional recommendations include requiring accumulation limits and determining rules for foreign ownership.

Mr. President, the NAS report contains important recommendations that should be thoroughly examined by Congress and the public. I understand that in some regions of the country, both commercial and recreational fishermen want to immediately move to the design and implementation of new IFQ programs. However, it is clear that many of the important questions associated with any new IFQ program have not been fully considered and immediate implementation of such programs could have deleterious affects on fisheries and fishing communities. For that reason, the bill I introduce today contains a three year extension of the existing moratorium.

This provision simply recognizes that fisheries conservation and management must be approached from a long-term perspective. Widespread implementation of IFQ programs will drastically alter the face of fishing communities and the way we pursue fisheries conservation measures. If IFQs are indeed the answer that many of their advocates claim, then surely IFQs will still be a viable option in three years. But, a short-term extension of the moratorium, as this bill proposes, will force the Congress and fishing communities to consider the many other necessary questions related to IFQs. The NAS report recommended Congress provide guidance on these issues because they are clearly questions of national concern, and I suggest that we follow that course.

Mr. President, this bill provides a number of other improvements, including increased flexibility to the agency to reaffirm the original intent of Congress that there is no ''one-size-fits-all'' solution to fisheries management. Moreover, the bill would provide for an expanded national observer program to help collect critical information. It is widely recognized that we need to increase our use of observers to gain data on species composition, age structure, and bycatch. The bill also establishes a pilot program to help fisheries managers begin the move toward ecosystem-based management. While it is clear that we do not currently have sufficient information of resources to make a full shift to ecosystem-based management, it is equally clear that we need to move in this direction and a pilot program can illustrate for us how to do this.

Finally, I would like to say that this bill represents a significant amount of work by the Subcommittee on Oceans and Fisheries. Over the past year, the Subcommittee held six hearings in various parts of the country on the Magnuson Stevens Act. We begin the process in Washington, DC, and then visited fishing communities in New England, The Gulf of Mexico, the North Pacific and the Pacific. In this bill, I have tried to incorporate many of the suggestions we heard from those men and women who fish for a living and who

are most affected by the law and its regulations. I view this bill as a basis from which I intend to work with other members of the Subcommittee so that the Commerce Committee can consider it in executive session in July. I look forward to providing our fishing communities with a bill that will improve lives in a meaningful way.

By Mr. DODD:

S. 2833. A bill to amend the Federal Election Campaign Act of 1971 to improve the enforcement capabilities of the Federal Election Commission, and for other purposes; to the Committee on Rules and Administration.

FEDERAL ELECTION CAMPAIGN ACT OF 1971 AMENDMENTS LEGISLATION

Mr. DODD. Mr. President, Today the Senate passed, and sent to the President for signature, the most significant campaign finance reform in the last 2 decades—the so-called section 527 reform. Clearly, our campaign finance system is in need of further comprehensive reform. The McCain-Feingold legislation, I believe, is still the most comprehensive and necessary reform that we could pass in the 106th Congress.

In the meantime, however, we must also strengthen the abilities of the agency charged with enforcing the laws on the books today—and that is the Federal Election Commission. For that reason, I am today introducing legislation to improve the enforcement capabilities of the Federal Election Commission.

Created in the wake of the Watergate scandal, the primary purpose of the Federal Election Commission is to ensure the integrity of federal elections by overseeing federal election disclosure requirements and enforcing the federal campaign finance laws.

Regardless of the views of my colleagues with regard to the need for campaign finance reform, it cannot be argued that Congress intended that this enforcement agency be nothing more than a paper tiger. And yet, that is precisely what many view it to be. The legislation I am introducing today is intended to put some teeth into this enforcement body.

As a long time supporter of comprehensive campaign finance reform, I am not suggesting that my proposal is in any way a substitute for the McCain-Feingold bill or any other comprehensive reform. But sadly, it is clear that a minority in this body will once again prevent a majority of both houses of Congress from enacting meaningful reform this year.

As has been the case for the last several congresses, the 106th Congress will likely come to a close without enacting comprehensive campaign finance reform. In light of that reality, it is all the more important that we ensure that the campaign finance laws that are currently on the books are vigorously enforced. And that requires an agency that is fully armed with all the enforcement tools we can give it.

The legislation I am proposing today would give the Federal Election Commission the tools it needs to ensure compliance with the law. Specifically, this legislation would give the Commission the authority to conduct random audits and investigations to ensure voluntary compliance with the act. The potential of a random audit is a well-recognized deterrent to potential violators and an authority given to many federal enforcement agencies.

Secondly, this legislation would grant the Commission the authority to seek injunctive relief in the event that certain statutory conditions are met, including:

that there is a substantial likelihood that a violation of the act is occurring or about to occur;

that the failure to act expeditiously will result in irreparable harm;

that expeditious action will not cause undue harm or prejudice; and

that the best interest of the public would be served by the issuance of an injunction.

Finally, this legislation would increase the penalties for knowing and willful violations of the act from $10,000 to $15,000 or an amount equal to 300 percent. In order to ensure that the Commission has sufficient resources to carry out its statutory responsibilities, my legislation provides for an authorization of appropriations for FY 2001 at the full amount requested by the Commission, or nearly $41 million.

Enhanced enforcement authority is not a substitute for comprehensive reform. But passage of this legislation should be something every member of this body can support. Not to do so only confirms the critics' views that this agency is a toothless tiger.

I urge my colleagues to give serious consideration to this legislation.

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ADDITIONAL COSPONSORS

S. 573

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 573, a bill to provide individuals with access to health information of which they are a subject, ensure personal privacy with respect to health-care-related information, impose criminal and civil penalties for unauthorized use of protected health information, to provide for the strong enforcement of these rights, and to protect States' rights.

S. 1066

At the request of Mr. ROBERTS, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1066, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to encourage the use of and research into agricultural best practices to improve the environment, and for other purposes.

S. 1142

At the request of Ms. MIKULSKI, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1142, a bill to protect the right of a member of a health maintenance organization to receive continuing care at a facility selected by that member, and for other purposes.

S. 1150

At the request of Mr. HATCH, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 1150, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment.

S. 1155

At the request of Mr. ROBERTS, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 1155, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 1322

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1322, a bill to prohibit health insurance and employment discrimination against individuals and their family members on the basis of predictive genetic information or genetic services.

S. 1459

At the request of Mr. MACK, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1459, a bill to amend title XVIII of the Social Security Act to protect the right of a medicare beneficiary enrolled in a Medicare+Choice plan to receive services at a skilled nursing facility selected by that individual.

S. 1759

At the request of Mr. BREAUX, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1759, a bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for taxpayers owning certain commercial power takeoff vehicles.

S. 1805

At the request of Mr. KENNEDY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1805, a bill to restore food stamp benefits for aliens, to provide States with flexibility in administering the food stamp vehicle allowance, to index the excess shelter expense deduction to inflation, to authorize additional appropriations to purchase and make available additional commodities under the emergency food assistance program, and for other purposes.

S. 2018

At the request of Mrs. HUTCHISON, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2061

At the request of Mr. BIDEN, the name of the Senator from Washington

(Mrs. MURRAY) was added as a cosponsor of S. 2061, a bill to establish a crime prevention and computer education initiative.

S. 2062

At the request of Mr. DEWINE, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2062, a bill to amend chapter 4 of title 39, United States Code, to allow postal patrons to contribute to funding for organ and tissue donation awareness through the voluntary purchase of certain specially issued United States postage stamps.

S. 2274

At the request of Mr. GRASSLEY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2274, a bill to amend title XIX of the Social Security Act to provide families and disabled children with the opportunity to purchase coverage under the medicaid program for such children.

S. 2379

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2379, a bill to provide for the protection of children from tobacco.

S. 2434

At the request of Mr. L. CHAFEE, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 2434, a bill to provide that amounts allotted to a State under section 2401 of the Social Security Act for each of fiscal years 1998 and 1999 shall remain available through fiscal year 2002.

S. 2463

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2463, a bill to institute a moratorium on the imposition of the death penalty at the Federal and State level until a National Commission on the Death Penalty studies its use and policies ensuring justice, fairness, and due process are implemented.

S. 2527

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2527, a bill to amend the Public Health Service Act to provide grant programs to reduce substance abuse, and for other purposes.

S. 2583

At the request of Mr. LIEBERMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2583, a bill to amend the Internal Revenue Code of 1986 to increase disclosure for certain political organizations exempt from tax under section 527.

S. 2684

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2684, a bill to redesignate and reauthorize as anchorage certain portions of the project for navigation, Narraguagus River, Milbridge, Maine.

S. 2698

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2698, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 2700

At the request of Mr. L. CHAFEE, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2700, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

S. 2707

At the request of Mr. CRAPO, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2707, a bill to help ensure general aviation aircraft access to Federal land and the airspace over that land.

S. 2709

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2709, to establish a Beef Industry Compensation Trust Fund with the duties imposed on products of countries that fail to comply with certain WTO dispute resolution decisions.

S. 2735

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2735, a bill to promote access to health care services in rural areas.

S. 2739

At the request of Mr. LAUTENBERG, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 2739, a bill to amend title 39, United States Code, to provide for the issuance of a semipostal stamp in order to afford the public a convenient way to contribute to funding for the establishment of the World War II Memorial.

S. 2787

At the request of Mr. BIDEN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2787, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 2791

At the request of Mrs. HUTCHISON, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2791, a bill instituting a Federal fuels tax suspension.

S. 2793

At the request of Mr. HOLLINGS, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 2793, a bill to amend the Communications Act of 1934 to strengthen the limitation on holding and transfer of broadcast licenses to foreign persons, and to apply a similar limitation to holding and transfer of other telecommunications media by or to foreign governments.

S. 2799

At the request of Mr. MURKOWSKI, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2799, a bill to allow a deduction for Federal, State, and local taxes on gasoline, diesel fuel, or other motor fuel purchased by consumers between July 1, 2000, and December 31, 2000.

S. 2811

At the request of Mr. DASCHLE, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Kansas (Mr. ROBERTS), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 2811, a bill to amend the Consolidated Farm and Rural Development Act to make communities with high levels of outmigration or population loss eligible for community facilities grants.

S. RES. 268

At the request of Mr. EDWARDS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 268, a resolution designating July 17 through July 23 as ''National Fragile X Awareness Week.''

S. RES. 294

At the request of Mr. ABRAHAM, the names of the Senator from New Hampshire (Mr. GREGG) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. Res. 294, a resolution designating the month of October 2000 as ''Children's Internet Safety Month.''

S. RES. 301

At the request of Mr. THURMOND, the names of the Senator from Utah (Mr. HATCH), the Senator from Maine (Ms. SNOWE), the Senator from New Hampshire (Mr. GREGG), the Senator from Florida (Mr. GRAHAM), the Senator from Georgia (Mr. CLELAND), and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. Res. 301, a resolution designating August 16, 2000, as ''National Airborne Day.''

S. RES. 304

At the request of Mr. BIDEN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Res. 304, a resolution expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week that includes Veterans Day as ''National Veterans Awareness Week'' for the presentation of such educational programs.

AMENDMENT NO. 3648

At the request of Mr. COVERDELL, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of amendment No. 3648 intended to be proposed to H.R. 4577, a

bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 3654

At the request of Mr. KERREY, his name was added as a cosponsor of amendment No. 3654 proposed to H.R. 4577, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 3657

At the request of Ms. SNOWE, her name was added as a cosponsor of amendment No. 3657 intended to be proposed to H.R. 4577, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 3681

At the request of Mr. TORRICELLI, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 3681 intended to be proposed to H.R. 4577, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 3682

At the request of Mr. TORRICELLI, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 3682 intended to be proposed to H.R. 4577, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

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SENATE RESOLUTION 330—DESIGNATING THE WEEK BEGINNING SEPTEMBER 24, 2000, AS ''NATIONAL AMPUTEE AWARENESS WEEK''

Mr. INHOFE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 330

Whereas current research indicates that more than 1.5 million Americans, of all ages and of both genders, have had amputations;

Whereas every year 156,000 individuals in the United States lose a limb;

Whereas each month 13,000 individuals lose a limb;

Whereas each week 2,996 individuals lose a limb;

Whereas each day 428 individuals lose a limb;

Whereas becoming an amputee is a lifetime condition, not just a temporary circumstance;

Whereas prosthetic care can range in cost from $8,000 to more than $70,000 depending on the level of care and function of the patient;

Whereas most insurance policies cover prosthetics with the stipulation of one prosthesis per patient for life;

Whereas the average prosthesis lasts between three and five years;

Whereas the general public is unaware of the plight of the amputee community;

Whereas an increased awareness to the issues faced by the amputee community will also bring about increased awareness for further research; and

Whereas establishing ''National Amputee Awareness Week'' will bring the cause of amputee awareness to the national front: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of September 24, through September 30, 2000, as ''National Amputee Awareness Week''; and

(2) requests that the President issue a proclamation calling upon the people of the United States, interested groups, and affected persons to promote the awareness of the amputee community, and to observe the week with appropriate ceremonies and activities.

Mr. INHOFE. Mr. President, I am pleased to come to the Senate floor today to introduce a resolution to declare the week of September 24–30 ''National Amputee Awareness Week.'' When passed, this resolution will designate a specific time around which the Nation's amputee community can rally. Too often, we lose sight of many of those who are right in front of our very eyes. By dedicating this week to their cause, we will make certain that we no longer forget both the accomplishments and problems of the large and diverse amputee community.

The loss of limb can strike anyone, at any time. Each year 156,000 people lose a limb. This equates to 13,000 amputations per month, 2,996 amputations per week, 428 amputations per day and 18 amputations per hour in the United States alone. People from all backgrounds have had to deal with the hardships associated with amputation. Over half of amputations in the United States occur among elderly citizens as a result of vascular deficiencies. From childhood to middle adulthood, the most common cause of limb loss is from traumatic injuries. Other major causes can include primary bone malignancies and congenital limb defects.

Although there have been great strides in prosthetic research, many people are still limited by the financial burdens associated with acquiring an artificial limb. A new prosthetic device can cost between $8,000 and $70,000. These limbs must often be replaced every few years, adding to the burden placed on an amputee. Even when insurance does cover the cost of these new prosthetic devices, it is often a one-time reimbursement. This leaves the amputee to deal with any further care or replacement devices that are necessary.

The prosthetic device is not the only cost incurred by the amputee. There are many secondary factors that must be considered. Over 25,000 people are readmitted to the hospital each year due to complications resulting from their amputation. Amputees must deal with both the physical and emotional consequences of limb loss. Physical therapy must be undertaken to learn how to perform the most basic tasks with a new, foreign limb. They must often also look for alternate occupations once limb loss has made their current occupation infeasible. As a result, amputees must often undergo counseling to help them come to terms emotionally with their altered lifestyle.

According to the Amputee Coalition of America, amputees hope to one day see the elimination of barriers to their full participation in all aspects of life. In addition, they hope to see improvements in artificial limbs and prosthetic research. Finally they hope to see improved outcomes for amputees in the areas of chronic post-amputation pain and depression.

There are countless locally-based organizations in the United States who provide services to amputees with very little recognition. One of those such organizations is located in Oklahoma. The Limbs of Life Foundation is a nationwide non-profit organization established in 1995 in Oklahoma City to meet the needs of the amputee community. They do this in part by providing limbs at a free or discounted rate to individuals who would not normally be able to afford such devices. To date they have provided over 4,700 amputees with a prosthetic limb.

However, Limb for Life's efforts are not limited to limb provision. They also seek to raise awareness of the amputee cause. Each year this foundation holds a bike ride from Oklahoma City to Austin, Texas to raise funds for their efforts. This year's ''Project 50–2000'' will provide funds to purchase limbs for those in need and will bring national attention to the amputee community. This is the type of effort that National Amputee Awareness Week is designed to spotlight.

Mr. President, declaring the week of September 24–30 ''National Amputee Awareness Week'' would serve many purposes. At this point in time amputees have only a fragmented network through which to address their concerns. This week would provide them with a point of cohesion during which all amputees can come together in response to and in recognition of their common cause. Not only will amputees benefit from this week, the general population would also have the opportunity to be informed of the unique needs and problems faced by the amputee community. The amputee community and the general population would both gain from increased interaction that this week would bring.

In closing, I hope all of my colleagues will join me in creating this important awareness and outreach opportunity for the amputee community.

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SENATE RESOLUTION 331—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN UNITED STATES V. ELLEN ROSE HART

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 331

Whereas, in the case of United States v. Ellen Rose Hart, CR–F 99–5275 AWI, pending in the United States District Court for the Eastern District of California, testimony has been requested from Eric Vizcaino, an employee in the office of Senator Boxer, and Monica Borvice, an employee in the office of Senator Feinstein;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Eric Vizcaino, Monica Borvice, and any other employee of the Senate from whom testimony or document production may be required are authorized to testify and produce documents in the case of United States v. Ellen Rose Hart, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Eric Vizcaino, Monica Borvice, and any Member or employee of the Senate in connection with the testimony and document production authorized in section one of this resolution.

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AMENDMENTS SUBMITTED

DEPARTMENT OF LABOR APPROPRIATIONS ACT, 2001

DASCHLE (AND OTHERS) AMENDMENT NO. 3688

Mr. HARKIN (for Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. HARKIN, Mr. DODD, and Mr. ROBB)) proposed an amendment to the bill (H.R. 4577) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 92, between lines 4 and 5, insert the following:

TITLE ___ GENETIC NONDISCRIMINATION IN HEALTH INSURANCE AND EMPLOYMENT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Genetic Nondiscrimination in Health Insurance and Employment Act of 2000''.

Subtitle A—Prohibition of Health Insurance Discrimination on the Basis of Predictive Genetic Information

SEC. ___11. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH INSURANCE DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION OR GENETIC SERVICES.—

(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: ''(or information about a request for or the receipt of genetic services by an individual or a family member of such individual)''.

(B) NO DISCRIMINATION IN GROUP RATE BASED ON PREDICTIVE GENETIC INFORMATION.—

(i) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

''SEC. 2707. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or family member of such individual).''.

(ii) CONFORMING AMENDMENTS.—

(I) Section 2702(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–1(b)(2)(A)) is amended to read as follows:

''(A) to restrict the amount that an employer may be charged for coverage under a group health plan, except as provided in section 2707; or''.

(II) Section 2721(a) of the Public Health Service Act (42 U.S.C. 300gg–21(a)) is amended by inserting ''(other than subsections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 2702 and section 2707)'' after ''subparts 1 and 3''.

(2) LIMITATIONS ON GENETIC TESTING AND 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) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—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 an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

''(d) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (f) and (g), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(e) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

''(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

''(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

''(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

''(4) the individual's employer or any plan sponsor; or

''(5) any other person the Secretary may specify in regulations.

''(f) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

''(1) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that the individual provide the plan or issuer with evidence that such services were performed.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to—

''(A) permit a group health plan or health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

''(B) require that a group health plan or health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

''(g) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that an individual provide predictive genetic information so long as such information—

''(1) is used solely for the payment of a claim;

''(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

''(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

''(h) RULES OF CONSTRUCTION.—

''(1) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of subsections (d) (regarding collection) and (e) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

''(2) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

''(i) DEFINITIONS.—In this section:

''(1) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

''(2) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.''.

(3) 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 new paragraphs:

''(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 of such individual (including information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(17) GENETIC SERVICES.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counselling.

''(18) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

''(19) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means—

''(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) LIMITATIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

''(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.''.

(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.) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

''SEC. 2753. PROHIBITION OF HEALTH INSURANCE DISCRIMINATION AGAINST INDIVIDUALS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''(a) IN ELIGIBILITY TO ENROLL.—A health insurance issuer offering health insurance coverage in the individual market shall not establish rules for eligibility to enroll in individual health insurance coverage that are based on predictive genetic information concerning the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(b) IN PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium rates on the basis of predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''SEC. 2754. LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.

''(a) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

''(b) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (d) and (e), a health insurance issuer offering health insurance coverage in the individual market shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(c) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A health insurance issuer offering health insurance coverage in the individual market shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

''(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

''(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

''(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

''(4) the individual's employer or any plan sponsor; or

''(5) any other person the Secretary may specify in regulations.

''(d) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

''(1) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a health insurance issuer offering health insurance coverage in the individual market may request that the individual provide the plan or issuer with evidence that such services were performed.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to—

''(A) permit a health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

''(B) require that a health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

''(e) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a health insurance issuer offering health insurance coverage in the individual market may request that an individual provide predictive genetic information so long as such information—

''(1) is used solely for the payment of a claim;

''(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

''(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

''(f) RULES OF CONSTRUCTION.—

''(1) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of subsections (c) (regarding collection) and (d) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

''(2) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

''(g) DEFINITIONS.—In this section:

''(1) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

''(2) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.''.

(c) ENFORCEMENT.—

(1) GROUP PLANS.—Section 2722 of the Public Health Service Act (42 U.S.C. 300gg–22) is amended by adding at the end the following:

''(c) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this section against any administrator of a group health plan, or health insurance issuer offering group health insurance coverage in connection with a group health plan (including any third party administrator or other person acting for or on behalf of such plan or issuer) alleging a violation of subsections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 2702 and section 2707 the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

''(d) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (c), except that any such relief awarded shall be paid only into the general fund of the Treasury.''.

(2) INDIVIDUAL PLANS.—Section 2761 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended by adding at the end the following:

''(c) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this section against any health insurance issuer offering health insurance coverage in the individual market (including any other person acting for or on behalf of such issuer) alleging a violation of section 2753 and 2754 the court in which the action is commenced may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

''(d) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (c), except that any such relief awarded shall be paid only into the general fund of the Treasury.''.

(d) PREEMPTION.—

(1) GROUP MARKET.—Section 2723 of the Public Health Service Act (42 U.S.C. 300gg–23) is amended—

(A) in subsection (a)(1), by inserting ''or (e)'' after ''subsection (b)''; and

(B) by adding at the end the following:

''(e) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—With respect to group health insurance coverage offered by a health insurance issuer, the provisions of this part relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

''(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual); or

''(2) prohibits discrimination on the basis of genetic information than does this part.''.

(2) INDIVIDUAL MARKET.—Section 2762 of the Public Health Service Act (42 U.S.C. 300gg–46) is amended—

(A) in subsection (a), by inserting ''and except as provided in subsection (c),'' after ''Subject to subsection (b),''; and

(B) by adding at the end the following:

''(c) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—With respect to individual health insurance coverage offered by a health insurance issuer, the provisions of this part (or part C insofar as it applies to this part) relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law (as defined in section 2723(d)) which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

''(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services of an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) than does this part (or part C insofar as it applies to this part); or

''(2) prohibits discrimination on the basis of genetic information than does this part (or part C insofar as it applies to this part).''.

(e) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking ''If the plan sponsor'' and inserting ''Except as provided in subparagraph (D), if the plan sponsor''; and

(2) by adding at the end the following:

''(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F), (c), (d), (e), (f), and (g) of section 2702 and section 2707, and the provisions of section 2702(b) to the extent that they apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).''.

(f) AMENDMENT CONCERNING SUPPLEMENTAL EXCEPTED BENEFITS.—

(1) GROUP MARKET.—Section 2721(d)(3) of the Public Health Service Act (42 U.S.C. 300gg–23(d)(3)) is amended by inserting '', other than the requirements of subsections (a)(1)(F), (b) (in cases relating to genetic information or information about a request for or the receipt of genetic services by an individual or a family member of such individual)), (c), (d), (e), (f) and (g) of section 2702 and section 2707,'' after ''The requirements of this part''.

(2) INDIVIDUAL MARKET.—Section 2763(b) of the Public Health Service Act (42 U.S.C. 300gg–47(b)) is amended—

(A) by striking ''The requirements of this part'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of this part''; and

(B) by adding at the end the following:

''(2) LIMITATION.—The requirements of sections 2753 and 2754 shall apply to excepted benefits described in section 2791(c)(4).''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to—

(A) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning; and

(B) health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market, after July 1, 2000.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(B) July 1, 2001.

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 of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. ___12. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH INSURANCE DISCRIMINATION ON THE BASIS OF GENETIC SERVICES OR PREDICTIVE GENETIC INFORMATION.—Subpart B of Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''Each group health plan, and health insurance issuer offering group health insurance coverage in connection with a group health plan, shall comply with the genetic nondiscrimination provisions of subsections (a)(1)(F) and (c) through (g) of section 2702, and section 2707 of the Public Health Service Act, and each health insurance issuer shall comply with such provisions with respect to group health insurance coverage it offers, and such provisions shall be deemed to be incorporated into this subsection.''.

(b) ENFORCEMENT.—Section 502 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this section against any administrator of a group health plan, or health insurance issuer offering group health insurance coverage in connection with a group health plan (including any third party administrator or other person acting for or on behalf of such plan or issuer) alleging a violation of section 714, the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

''(o) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (n), except that any such relief awarded shall be paid only into the general fund of the Treasury.''.

(c) PREEMPTION.—Section 731 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191) is amended—

(1) in subsection (a)(1), by inserting ''or (e)'' after ''subsection (b)''; and

(2) by adding at the end the following:

''(e) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—With respect to group health insurance coverage offered by a health insurance issuer, the provisions of this part relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

''(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) than does this part; or

''(2) prohibits discrimination on the basis of genetic information than does this part.''.

(d) 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 of such individual (including information about a request for or the receipt of genetic services by such individual or family member of such individual).

''(7) GENETIC SERVICES.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

''(8) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

''(9) PREDICTIVE GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'predictive genetic information' means—

''(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) LIMITATIONS.—The term 'predictive genetic information' shall not include—

''(i) information about the sex or age of the individual;

''(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

''(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.''.

(e) AMENDMENT CONCERNING SUPPLEMENTAL EXCEPTED BENEFITS.—Section 732(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(c)(3)) is amended by inserting '', other than the requirements of section 714,'' after ''The requirements of this part''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—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 July 1, 2001.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, this section and the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) July 1, 2001.

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 of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. ___13. AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH INSURANCE DISCRIMINATION ON THE BASIS OF GENETIC SERVICES OR PREDICTIVE GENETIC INFORMATION.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''SEC. 9813. PROHIBITING DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

''(a) IN GENERAL.—Each group health plan shall comply with the genetic nondiscrimination provisions of subsections (a)(1)(F) and (c) through (i) of section 2702, and section 2707 of the Public Health Service Act and such provisions shall be deemed to be incorporated into this subsection.

''(b) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this section against any administrator of a group health plan (including any third party administrator or other person acting for or on behalf of such plan) alleging a violation of subsection (a), the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

''(c) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (b), except that any such relief awarded shall be paid only into the general fund of the Treasury.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—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 July 1, 2001.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, this section and the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) July 1, 2001.

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 of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

Subtitle B—Prohibition of Employment Discrimination on the Basis of Predictive Genetic Information

SEC. ___21. DEFINITIONS.

In this subtitle:

(1) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—The terms ''employee'', ''employer'', ''employment agency'', and ''labor organization'' have the meanings given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e), except that the terms ''employee'' and ''employer'' shall also include the meanings given such terms in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16). The terms ''employee'' and ''member'' include an applicant for employment and an applicant for membership in a labor organization, respectively.

(2) 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).

(3) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(4) GENETIC SERVICES.—The term ''genetic services'' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(5) GENETIC TEST.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

(6) PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—The term ''predictive genetic information'' means—

(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) LIMITATIONS.—The term ''predictive genetic information'' shall not include—

(i) information about the sex or age of the individual;

(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

SEC. ___22. EMPLOYER PRACTICES.

(a) IN GENERAL.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual;

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual, or information about a request for or the receipt of genetic services by such individual or family member of such individual; or

(3) to request, require, collect or purchase predictive genetic information with respect to an individual or a family member of the individual except—

(A) where used for genetic monitoring of biological effects of toxic substances in the workplace, but only if—

(i) the employee has provided prior, knowing, voluntary, and written authorization;

(ii) the employee is informed of individual monitoring results;

(iii) the monitoring conforms to any genetic monitoring regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) or the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.); and

(iv) the employer, excluding any licensed health care professional that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees; or

(B) where genetic services are offered by the employer and the employee provides prior, knowing, voluntary, and written authorization, and only the employee or family member of such employee receives the results of such services.

(b) LIMITATION.—In the case of predictive genetic information to which subparagraph (A) or (B) of subsection (a)(3) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a).

SEC. ___23. EMPLOYMENT AGENCY PRACTICES.

It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of

employment opportunities or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. ___24. LABOR ORGANIZATION PRACTICES.

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. ___25. TRAINING PROGRAMS.

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual), in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual);

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or receipt of genetic services by such individual or family member of such individual); or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. ___26. MAINTENANCE AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.

(a) MAINTENANCE OF PREDICTIVE GENETIC INFORMATION.—If an employer possesses predictive genetic information about an employee (or information about a request for or receipt of genetic services by such employee or family member of such employee), such information shall be treated or maintained as part of the employee's confidential medical records.

(b) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—An employer shall not disclose predictive genetic information (or information about a request for or receipt of genetic services by such employee or family member of such employee) except—

(1) to the employee who is the subject of the information at the request of the employee;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) under legal compulsion of a Federal court order, except that if the court order was secured without the knowledge of the individual to whom the information refers, the employer shall provide the individual with adequate notice to challenge the court order unless the court order also imposes confidentiality requirements; and

(4) to government officials who are investigating compliance with this subtitle if the information is relevant to the investigation.

SEC. ___27. CIVIL ACTION.

(a) IN GENERAL.—One or more employees, members of a labor organization, or participants in training programs may bring an action in a Federal or State court of competent jurisdiction against an employer, employment agency, labor organization, or joint labor-management committee or training program who commits a violation of this subtitle.

(b) ENFORCEMENT BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.—

(1) IN GENERAL.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, 710, and 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, 2000e–9, and 2000e–16) shall be the powers, remedies, and procedures provided to the Equal Employment Opportunity Commission to enforce this subtitle. The Commission may promulgate regulations to implement these powers, remedies, and procedures.

(2) EXHAUSTION OF REMEDIES.—Nothing in this subsection shall be construed to require that an individual exhaust the administrative remedies available through the Equal Employment Opportunity Commission prior to commencing a civil action under this section, except that if an individual files a charge of discrimination with the Commission that alleges a violation of this subtitle, the individual shall exhaust the administrative remedies available through the Commission prior to commencing a civil action under this section.

(c) REMEDY.—A Federal or State court may award any appropriate legal or equitable relief under this section. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of experts.

SEC. ___28. CONSTRUCTION.

Nothing in this subtitle shall be construed to—

(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act;

(2) limit the rights or protections of an individual under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights accorded under this subtitle;

(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains; or

(5) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

SEC. ___29. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SEC. ___30. EFFECTIVE DATE.

This subtitle shall become effective on October 1, 2000.

SEC. 31. NO IMPACT ON SOCIAL SECURITY TRUST FUND.—

(1) IN GENERAL.—Nothing in this title shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(2) TRANSFERS.—

(A) 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).

(B) TRANSFER OF FUNDS.—If, under subparagraph (A), 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.

SEC. 32. INFORMATION REQUIREMENTS.—

(1) 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).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 180 days after the date of the enactment of this Act.

SEC. 33. OFFSET.—Amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Labor and the Department of Health and Human Services shall be reduced on a pro rata basis by $25,000,000.

ASHCROFT (AND OTHERS) AMENDMENT NO. 3689

Mr. ASHCROFT (for himself, Mr. VOINOVICH, Mr. ALLARD, Mr. GRAMS, Mr. ABRAHAM, and Mr. FEINGOLD) proposed an amendment to the bill, H.R. 4577, supra; as follows:

At the end, insert the following:

SEC. ___. SOCIAL SECURITY AND MEDICARE SAFE DEPOSIT BOX ACT OF 2000.

(a) SHORT TITLE.—This section may be cited as the ''Social Security and Medicare Safe Deposit Box Act of 2000''.

(b) PROTECTION OF SOCIAL SECURITY AND MEDICARE SURPLUSES.—

(1) MEDICARE SURPLUSES OFF-BUDGET.—Notwithstanding any other provision of law, the net surplus of any trust fund for part A of Medicare shall not be counted as a net surplus for purposes of—

(A) the budget of the United States Government as submitted by the President;

(B) the congressional budget; or

(C) the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—Section 312 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(g) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would set forth an on-budget deficit for any fiscal year.

''(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of that bill or resolution in the form recommended in that conference report,

would cause or increase an on-budget deficit for any fiscal year.

''(3) DEFINITION.—For purposes of this section, the term 'on-budget deficit', when applied to a fiscal year, means the deficit in the budget as set forth in the most recently agreed to concurrent resolution on the budget pursuant to section 301(a)(3) for that fiscal year.''.

(3) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(c) PROTECTION OF SOCIAL SECURITY AND MEDICARE SURPLUSES.—

(1) IN GENERAL.—Chapter 11 of subtitle II of title 31, United States Code, is amended by adding before section 1101 the following:

''§ 1100. Protection of social security and medicare surpluses

''The budget of the United States Government submitted by the President under this chapter shall not recommend an on-budget deficit for any fiscal year covered by that budget.''.

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 31, United States Code, is amended by inserting before the item for section 1101 the following:

''1100. Protection of social security and medicare surpluses.''.

(d) EFFECTIVE DATE.—This section shall take effect upon the date of its enactment and the amendments made by this section shall apply to fiscal year 2001 and subsequent fiscal years.

CONRAD (AND LAUTENBERG) AMENDMENT NO. 3690

Mr. REID (for Mr. CONRAD (for himself, Mr. LAUTENBERG, and Mr. FEINGOLD)) proposed an amendment to the bill, H.R. 4577, supra; as follows:

Strike all after the first word and insert the following:

TITLE ___—SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2000

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Social Security and Medicare Off-Budget Lockbox Act of 2000''.

SEC. ___2. STRENGTHENING SOCIAL SECURITY POINTS OF ORDER.

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

''(g) STRENGTHENING SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 13301 of the Budget Enforcement Act of 1990.''.

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(c) ENFORCEMENT IN EACH FISCAL YEAR.—The Congressional Budget Act of 1974 is amended in—

(1) section 301(a)(7) (2 U.S.C. 632(a)(7)), by striking ''for the fiscal year'' through the period and inserting ''for each fiscal year covered by the resolution''; and

(2) section 311(a)(3) (2 U.S.C. 642(a)(3)), by striking beginning with ''for the first fiscal year'' through the period and insert the following: ''for any of the fiscal years covered by the concurrent resolution.''.

SEC. ___3. MEDICARE TRUST FUND OFF-BUDGET.

(a) IN GENERAL.—

(1) GENERAL EXCLUSION FROM ALL BUDGETS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS

''SEC. 316. (a) EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Hospital Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

''(1) the budget of the United States Government as submitted by the President;

''(2) the congressional budget; or

''(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

''(b) STRENGTHENING MEDICARE POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend this section.''.

(2) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''316,'' after ''313,''.

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''316,'' after ''313,''.

(b) EXCLUSION OF MEDICARE TRUST FUND FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by adding at the end the following: ''The concurrent resolution shall not include the outlays and revenue totals of the Federal Hospital Insurance

Trust Fund in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.''

(c) BUDGET TOTALS.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by inserting after paragraph (7) the following:

''(8) For purposes of Senate enforcement under this title, revenues and outlays of the Federal Hospital Insurance Trust Fund for each fiscal year covered by the budget resolution.''.

(d) BUDGET RESOLUTIONS.—Section 301(i) of the Congressional Budget Act of 1974 (2 U.S.C. 632(i)) is amended by—

(1) striking ''SOCIAL SECURITY POINT OF ORDER.—It shall'' and inserting ''SOCIAL SECURITY AND MEDICARE POINTS OF ORDER.—

''(1) SOCIAL SECURITY.—It shall''; and

(2) inserting at the end the following:

''(2) MEDICARE.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on the resolution) that would decrease the excess of the Federal Hospital Insurance Trust Fund revenues over Federal Hospital Insurance Trust Fund outlays in any of the fiscal years covered by the concurrent resolution. This paragraph shall not apply to amounts to be expended from the Hospital Insurance Trust Fund for purposes relating to programs within part A of Medicare as provided in law on the date of enactment of this paragraph.''.

(e) MEDICARE FIREWALL.—Section 311(a) of the Congressional Budget Act of 1974 (2 U.S.C. 642(a)) is amended by adding after paragraph (3), the following:

''(4) ENFORCEMENT OF MEDICARE LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any year relative to the levels set forth in the applicable resolution. This paragraph shall not apply to amounts to be expended from the Hospital Insurance Trust Fund for purposes relating to programs within part A of Medicare as provided in law on the date of enactment of this paragraph.''.

(f) BASELINE TO EXCLUDE HOSPITAL INSURANCE TRUST FUND.—Section 257(b)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''shall be included in all'' and inserting ''shall not be included in any''.

(g) MEDICARE TRUST FUND EXEMPT FROM SEQUESTERS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

''Medicare as funded through the Federal Hospital Insurance Trust Fund.''.

(h) BUDGETARY TREATMENT OF HOSPITAL INSURANCE TRUST FUND.—Section 710(a) of the Social Security Act (42 U.S.C. 911(a)) is amended—

(1) by striking ''and'' the second place it appears and inserting a comma; and

(2) by inserting after ''Federal Disability Insurance Trust Fund'' the following: '', Federal Hospital Insurance Trust Fund''.

SEC. ___4. PREVENTING ON-BUDGET DEFICITS.

(a) POINTS OF ORDER TO PREVENT ON-BUDGET DEFICITS.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by adding at the end the following:

''(h) POINTS OF ORDER TO PREVENT ON-BUDGET DEFICITS.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would cause or increase an on-budget deficit for any fiscal year.

''(2) SUBSEQUENT LEGISLATION.—Except as provided by paragraph (3), it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of that bill or resolution in the form recommended in that conference report,

would cause or increase an on-budget deficit for any fiscal year.''.

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(h),'' after ''312(g),''.

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(h),'' after ''312(g),''.

JEFFORDS (AND OTHERS) AMENDMENT NO. 3691

Mr. JEFFORDS (for himself, Mr. FRIST, Ms. SNOWE, Mr. ASHCROFT, Mr. ENZI, and Mr. MACK) proposed an amendment to amendment No. 3688 proposed by Mr. DASCHLE to the bill, H.R. 4577, supra; as follows:

At the end of the bill, add the following:

TITLE ___ GENETIC INFORMATION AND SERVICES

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Genetic Information Nondiscrimination in Health Insurance Act of 1999''.

SEC. ___02. 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 is amended by adding at the end the following:

''SEC. 714. 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 714.''.

(B) TABLE OF CONTENTS.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. 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. ___03. 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 (42 U.S.C. 300gg-4 et seq.) 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.''.

(e) AMENDMENTS TO PHSA 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) (42 U.S.C. 300gg-51 et seq.) is amended 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. ___04. 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 is further amended by adding at the end the following:

''SEC. 9813. 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 9813.''.

(C) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 9813. 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.

TORRICELLI (AND REED) AMENDMENT NO. 3692

(Ordered to lie on the table.)

Mr. TORRICELLI (for himself and Mr. REED) submitted an amendment intended to be proposed by them to the bill, H.R. 4577, supra; as follows:

On page 26, line 25, strike ''$3,204,496,000, of which'' and insert ''$3,214,496,000, of which $10,000,000 shall be made available to carry out section 317A of the Public Health Service Act and of which''.

On page 92, between lines 4 and 5, insert the following:

SEC. ___. Amounts made available under this Act for the salaries and expenses of the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on a pro rata basis, by a total of $10,000,000.

DORGAN (AND OTHERS) AMENDMENT NO. 3693

Mr. DORGAN (for himself, Mr. KENNEDY, Mr. DASCHLE, Mr. GRAHAM, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. KERRY, Mr. EDWARDS, Mr. HARKIN, Mr. REID, Mr. ROCKEFELLER, and Mr. ROBB) proposed an amendment to the bill, H.R. 4577, supra; as follows:

On page 92, between lines 4 and 5, insert the following:

SEC. ___. Any Act that is designed to protect patients against the abuses of managed care that is enacted after June 27, 2000, shall, at a minimum—

(1) provide a floor of Federal protection that is applicable to all individuals enrolled in private health plans or private health insurance coverage, including—

(A) individuals enrolled in self-insured and insured health plans that are regulated under the Employee Retirement Income Security Act of 1974;

(B) individuals enrolled in health insurance coverage purchased in the individual market; and

(C) individuals enrolled in health plans offered to State and local government employees;

(2) provide that States may provide patient protections that are equal to or greater than the protections provided under such Act; and

(3) provide the Federal Government with the authority to ensure that the Federal floor referred to in paragraph (1) is being guaranteed and enforced with respect to all individuals described in such paragraph, including determining whether protections provided under State law meet the standards of such Act.

NICKLES AMENDMENT NO. 3694

Mr. NICKLES proposed an amendment to the bill, H.R. 4577, supra; as follows:

On page 92, strike line 5, and insert the following:

DIVISION ___ HEALTH CARE ACCESS AND PROTECTIONS FOR CONSUMERS

SEC. 1. SHORT TITLE.

This division may be cited as the ''Patients' Bill of Rights Plus Act''.

TITLE I—TAX-RELATED HEALTH CARE PROVISIONS

Subtitle A—Health Care and Long-Term Care

SEC. 101. DEDUCTION FOR HEALTH AND LONG-TERM CARE INSURANCE COSTS OF INDIVIDUALS NOT PARTICIPATING IN EMPLOYER-SUBSIDIZED HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

''SEC. 222. HEALTH AND LONG-TERM CARE INSURANCE COSTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.

''(b) APPLICABLE PERCENTAGE.—

''(1) IN GENERAL.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
2002 and 2003	25
2004	35
2005	65
2006 and thereafter	100.

''(2) LONG-TERM CARE INSURANCE FOR INDIVIDUALS 60 YEARS OR OLDER.—In the case of amounts paid for a qualified long-term care insurance contract for an individual who has attained age 60 before the close of the taxable year, the applicable percentage is 100.

''(c) LIMITATION BASED ON OTHER COVERAGE.—

''(1) COVERAGE UNDER CERTAIN SUBSIDIZED EMPLOYER PLANS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer if 50 percent or more of the cost of coverage under such plan (determined under section 4980B and without regard to payments made with respect to any coverage described in subsection (e)) is paid or incurred by the employer.

''(B) EMPLOYER CONTRIBUTIONS TO CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND MEDICAL SAVINGS ACCOUNTS.—Employer contributions to a cafeteria plan, a flexible spending or similar arrangement, or a medical savings account which are excluded from gross income under section 106 shall be treated for purposes of subparagraph (A) as paid by the employer.

''(C) AGGREGATION OF PLANS OF EMPLOYER.—A health plan which is not otherwise described in subparagraph (A) shall be treated as described in such subparagraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

''(D) SEPARATE APPLICATION TO HEALTH INSURANCE AND LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (C) shall be applied separately with respect to—

''(i) plans which include primarily coverage for qualified long-term care services or are qualified long-term care insurance contracts, and

''(ii) plans which do not include such coverage and are not such contracts.

''(2) COVERAGE UNDER CERTAIN FEDERAL PROGRAMS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any amount paid for any coverage for an individual for any calendar month if, as of the first day of such month, the individual is covered under any medical care program described in—

''(i) title XVIII, XIX, or XXI of the Social Security Act,

''(ii) chapter 55 of title 10, United States Code,

''(iii) chapter 17 of title 38, United States Code,

''(iv) chapter 89 of title 5, United States Code, or

''(v) the Indian Health Care Improvement Act.

''(B) EXCEPTIONS.—

''(i) QUALIFIED LONG-TERM CARE.—Subparagraph (A) shall not apply to amounts paid for coverage under a qualified long-term care insurance contract.

''(ii) CONTINUATION COVERAGE OF FEHBP.—Subparagraph (A)(iv) shall not apply to coverage which is comparable to continuation coverage under section 4980B.

''(d) LONG-TERM CARE DEDUCTION LIMITED TO QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—In the case of a qualified long-term care insurance contract, only eligible long-term care premiums (as defined in section 213(d)(10)) may be taken into account under subsection (a).

''(e) DEDUCTION NOT AVAILABLE FOR PAYMENT OF ANCILLARY COVERAGE PREMIUMS.—Any amount paid as a premium for insurance which provides for—

''(1) coverage for accidents, disability, dental care, vision care, or a specified illness, or

''(2) making payments of a fixed amount per day (or other period) by reason of being hospitalized,

shall not be taken into account under subsection (a).

''(f) SPECIAL RULES.—

''(1) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

''(2) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (17) the following new item:

''(18) HEALTH AND LONG-TERM CARE INSURANCE COSTS.—The deduction allowed by section 222.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 222. Health and long-term care insurance costs.

''Sec. 223. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 102. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 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 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''.

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) of such Code is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 103. LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) CAFETERIA PLANS.—

(1) IN GENERAL.—Subsection (f) of section 125 of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by inserting before the period at the end ''; except that such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract''.

(b) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 of such Code (relating to contributions by employer to accident and health plans) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 104. ADDITIONAL PERSONAL EXEMPTION FOR TAXPAYER CARING FOR ELDERLY FAMILY MEMBER IN TAXPAYER'S HOME.

(a) IN GENERAL.—Section 151 of the Internal Revenue Code of 1986 (relating to allowance of deductions for personal exemptions) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ADDITIONAL EXEMPTION FOR CERTAIN ELDERLY FAMILY MEMBERS RESIDING WITH TAXPAYER.—

''(1) IN GENERAL.—An exemption of the exemption amount for each qualified family member of the taxpayer.

''(2) QUALIFIED FAMILY MEMBER.—For purposes of this subsection, the term 'qualified family member' means, with respect to any taxable year, any individual—

''(A) who is an ancestor of the taxpayer or of the taxpayer's spouse or who is the spouse of any such ancestor,

''(B) who is a member for the entire taxable year of a household maintained by the taxpayer, and

''(C) who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in paragraph (3) for a period—

''(i) which is at least 180 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

''(3) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this paragraph if the individual—

''(A) is unable to perform (without substantial assistance from another individual) at least two activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(B) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least one activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(4) SPECIAL RULES.—Rules similar to the rules of paragraphs (1), (2), (3), (4), and (5) of section 21(e) shall apply for purposes of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 105. STUDY OF LONG-TERM CARE NEEDS IN THE 21ST CENTURY.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall on or after October 1, 2001, provide, in accordance with this section, for a study in order to determine—

(1) future demand for long-term health care services (including institutional and home and community-based services) in the United States in order to meet the needs in the 21st century; and

(2) long-term options to finance the provision of such services.

(b) DETAILS.—The study conducted under subsection (a) shall include the following:

(1) An identification of the relevant demographic characteristics affecting demand for long-term health care services, at least through the year 2030.

(2) The viability and capacity of community-based and other long-term health care services under different federal programs, including through the medicare and medicaid programs, grants to States, housing services, and changes in tax policy.

(3) How to improve the quality of long-term health care services.

(4) The integration of long-term health care services for individuals between different classes of health care providers (such as hospitals, nursing facilities, and home care agencies) and different Federal programs (such as the medicare and medicaid programs).

(5) The possibility of expanding private sector initiatives, including long-term care insurance, to meet the need to finance such services.

(6) An examination of the effect of enactment of the Health Insurance Portability and Accountability Act of 1996 on the provision and financing of long-term health care services, including on portability and affordability of private long-term care insurance, the impact of insurance options on low-income older Americans, and the options for eligibility to improve access to such insurance.

(7) The financial impact of the provision of long-term health care services on caregivers and other family members.

(c) REPORT AND RECOMMENDATIONS.—

(1) IN GENERAL.—October 1, 2002, the Secretary shall provide for a report on the study under this section.

(2) RECOMMENDATIONS.—The report under paragraph (1) shall include findings and recommendations regarding each of the following:

(A) The most effective and efficient manner that the Federal Government may use its resources to educate the public on planning for needs for long-term health care services.

(B) The public, private, and joint public-private strategies for meeting identified needs for long-term health care services.

(C) The role of States and local communities in the financing of long-term health care services.

(3) INCLUSION OF COST ESTIMATES.—The report under paragraph (1) shall include cost estimates of the various options for which recommendations are made.

(d) CONDUCT OF STUDY.—

(1) USE OF INSTITUTE OF MEDICINE.—The Secretary of Health and Human Services shall seek to enter into an appropriate arrangement with the Institute of Medicine of the National Academy of Sciences to conduct the study under this section. If such an arrangement cannot be made, the Secretary may provide for the conduct of the study by any other qualified non-governmental entity.

(2) CONSULTATION.—The study should be conducted under this section in consultation with experts from a wide-range of groups from the public and private sectors.

Subtitle B—Medical Savings Accounts

SEC. 111. EXPANSION OF AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) REPEAL OF LIMITATIONS ON NUMBER OF MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (D).

(B) Section 138 of such Code is amended by striking subsection (f).

(b) AVAILABILITY NOT LIMITED TO ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 220(c)(1)(A) of such Code (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 subparagraph (C).

(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.

(c) INCREASE IN AMOUNT OF DEDUCTION ALLOWED FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Paragraph (2) of section 220(b) of such Code 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 (as of the first day of such month) of the individual's coverage under the high deductible health plan.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking ''75 percent of''.

(d) BOTH EMPLOYERS AND EMPLOYEES MAY CONTRIBUTE TO MEDICAL SAVINGS ACCOUNTS.—Paragraph (4) of section 220(b) of such Code (as redesignated by subsection (b)(2)(C)) is amended to read as follows:

''(4) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—The limitation which would (but for this paragraph) apply under this subsection to the taxpayer for any taxable year shall be reduced (but not below zero) by the amount which would (but for section 106(b)) be includible in the taxpayer's gross income for such taxable year.''.

(e) REDUCTION OF PERMITTED DEDUCTIBLES UNDER HIGH DEDUCTIBLE HEALTH PLANS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking ''$1,500'' in clause (i) and inserting ''$1,000'';

(B) by striking ''$3,000'' in clause (ii) and inserting ''$2,000''; and

(C) by striking the matter preceding subclause (I) in clause (iii) and inserting ''pursuant to which the annual out-of-pocket expenses (including deductibles and co-payments) are required to be paid under the plan (other than for premiums) for covered benefits and may not exceed—''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 220 of such Code is amended to read as follows:

''(g) COST-OF-LIVING ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2002, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) SPECIAL RULES.—In the case of the $1,000 amount in subsection (c)(2)(A)(i) and the $2,000 amount in subsection (c)(2)(A)(ii), paragraph (1)(B) shall be applied by substituting 'calendar year 2002' for 'calendar year 2001'.

''(3) ROUNDING.—If any increase under paragraph (1) or (2) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

(f) LIMITATION ON ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—Section 220(f)(4) of such Code (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 the earlier of January 1 of the calendar year in which the taxable year begins or January 1 of the last calendar year in which the account holder is covered under a high deductible health plan).''.

(g) TREATMENT OF NETWORK-BASED MANAGED CARE PLANS.—Section 220(c)(2)(B) of such Code (relating to special rules for high deductible health plans) is amended by adding at the end the following:

''(iii) TREATMENT OF NETWORK-BASED MANAGED CARE PLANS.—A plan which provides health care services through a network of contracted or affiliated health care providers, if the benefits provided when services are obtained through network providers meet the requirements of subparagraph (A), shall not fail to be treated as a high deductible health plan by reason of providing benefits for services rendered by providers who are not members of the network, so long as the annual deductible and annual limit on out-of-pocket expenses applicable to services received from non-network providers are not lower than those applicable to services received from the network providers.''.

(h) MEDICAL SAVINGS ACCOUNTS MAY BE OFFERED UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by striking ''106(b),''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(2) LIMITATION ON ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—The amendment made by subsection (f) shall apply to taxable years beginning after December 31, 2005.

SEC. 112. AMENDMENTS TO TITLE 5, UNITED STATES CODE, RELATING TO MEDICAL SAVINGS ACCOUNTS AND HIGH DEDUCTIBLE HEALTH PLANS UNDER FEHBP.

(a) MEDICAL SAVINGS ACCOUNTS.—

(1) CONTRIBUTIONS.—Title 5, United States Code, is amended by redesignating section 8906a as section 8906c and by inserting after section 8906 the following:

''§ 8906a. Government contributions to medical savings accounts

''(a) An employee or annuitant enrolled in a high deductible health plan is entitled, in addition to the Government contribution under section 8906(b) toward the subscription charge for such plan, to have a Government contribution made, in accordance with succeeding provisions of this section, to a medical savings account of such employee or annuitant.

''(b)(1) The biweekly Government contribution under this section shall, in the case of any such employee or annuitant, be equal to the amount (if any) by which—

''(A) the biweekly equivalent of the maximum Government contribution for the contract year involved (as defined by paragraph (2)), exceeds

''(B) the amount of the biweekly Government contribution payable on such employee's or annuitant's behalf under section 8906(b) for the period involved.

''(2) For purposes of this section, the term 'maximum Government contribution' means, with respect to a contract year, the maximum Government contribution that could be made for health benefits for an employee or annuitant for such contract year, as determined under section 8906(b) (disregarding paragraph (2) thereof).

''(3) Notwithstanding any other provision of this section, no contribution under this section shall be payable to any medical savings account of an employee or annuitant for any period—

''(A) if, as of the first day of the month before the month in which such period commences, such employee or annuitant (or the spouse of such employee or annuitant, if coverage is for self and family) is entitled to benefits under part A of title XVIII of the Social Security Act;

''(B) to the extent that such contribution, when added to previous contributions made under this section for that same year with respect to such employee or annuitant, would cause the total to exceed—

''(i) the limitation under paragraph (1) of section 220(b) of the Internal Revenue Code of 1986 (determined without regard to paragraph (3) thereof) which is applicable to such employee or annuitant for the calendar year in which such period commences; or

''(ii) such lower amount as the employee or annuitant may specify in accordance with regulations of the Office, including an election not to receive contributions under this section for a year or the remainder of a year; or

''(C) for which any information (or documentation) under subsection (d) that is needed in order to make such contribution has not been timely submitted.

''(4) Notwithstanding any other provision of this section, no contribution under this section shall be payable to any medical savings account of an employee for any period in a contract year unless that employee was enrolled in a health benefits plan under this chapter as an employee for not less than—

''(A) the 1 year of service immediately before the start of such contract year, or

''(B) the full period or periods of service between the last day of the first period, as prescribed by regulations of the Office of Personnel Management, in which he is eligible to enroll in the plan and the day before the start of such contract year,
whichever is shorter.

''(5) The Office shall provide for the conversion of biweekly rates of contributions specified by paragraph (1) to rates for employees and annuitants whose pay or annuity is provided on other than a biweekly basis, and for this purpose may provide for the adjustment of the converted rate to the nearest cent.

''(c) A Government contribution under this section—

''(1) shall be made at the same time that, and the same frequency with which, Government contributions under section 8906(b) are made for the benefit of the employee or annuitant involved; and

''(2) shall be payable from the same appropriation, fund, account, or other source as would any Government contributions under section 8906(b) with respect to the employee or annuitant involved.

''(d) The Office shall by regulation prescribe the time, form, and manner in which an employee or annuitant shall submit any information (and supporting documentation) necessary to identify any medical savings

account to which contributions under this section are requested to be made.

''(e) Nothing in this section shall be considered to entitle an employee or annuitant to any Government contribution under this section with respect to any period for which such employee or annuitant is ineligible for a Government contribution under section 8906(b).

''§ 8906b. Individual contributions to medical savings accounts

''(a) Upon the written request of an employee or annuitant enrolled in a high deductible health plan, there shall be withheld from the pay or annuity of such employee or annuitant and contributed to the medical savings account identified by such employee or annuitant in accordance with applicable regulations under subsection (c) such amount as the employee or annuitant may specify.

''(b) Notwithstanding subsection (a), no withholding under this section may be made from the pay or annuity of an employee or annuitant for any period—

''(1) if, or to the extent that, a Government contribution for such period under section 8906a would not be allowable by reason of subparagraph (A) or (B)(i) of subsection (b)(3) thereof;

''(2) for which any information (or documentation) that is needed in order to make such contribution has not been timely submitted; or

''(3) if the employee or annuitant submits a request for termination of withholdings, beginning on or after the effective date of the request and before the end of the year.

''(c) The Office of Personnel Management shall prescribe any regulations necessary to carry out this section, including provisions relating to the time, form, and manner in which any request for withholdings under this section may be made, changed, or terminated.''.

(2) RULES OF CONSTRUCTION.—Nothing in this section or in any amendment made by this section shall be considered—

(A) to permit or require that any contributions to a medical savings account (whether by the Government or through withholdings from pay or annuity) be paid into the Employees Health Benefits Fund; or

(B) to affect any authority under section 1005(f) of title 39, United States Code, to vary, add to, or substitute for any provision of chapter 89 of title 5, United States Code, as amended by this section.

(3) CONFORMING AMENDMENTS.—

(A) The table of sections at the beginning of chapter 89 of title 5, United States Code, is amended by striking the item relating to section 8906a and inserting the following:

''8906a. Government contributions to medical savings accounts.
''8906b. Individual contributions to medical savings accounts.
''8906c. Temporary employees.''.

(B) Section 8913(b)(4) of title 5, United States Code, is amended by striking ''8906a(a)'' and inserting ''8906c(a)''.

(b) INFORMATIONAL REQUIREMENTS.—Section 8907 of title 5, United States Code, is amended by adding at the end the following:

''(c) In addition to any information otherwise required under this section, the Office shall make available to all employees and annuitants eligible to enroll in a high deductible health plan, information relating to—

''(1) the conditions under which Government contributions under section 8906a shall be made to a medical savings account;

''(2) the amount of any Government contributions under section 8906a to which an employee or annuitant may be entitled (or how such amount may be ascertained);

''(3) the conditions under which contributions to a medical savings account may be made under section 8906b through withholdings from pay or annuity; and

''(4) any other matter the Office considers appropriate in connection with medical savings accounts.''.

(c) HIGH DEDUCTIBLE HEALTH PLAN AND MEDICAL SAVINGS ACCOUNT DEFINED.—Section 8901 of title 5, United States Code, is amended—

(1) in paragraph (10) by striking ''and'' after the semicolon;

(2) in paragraph (11) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(12) the term 'high deductible health plan' means a plan described by section 8903(5) or section 8903a(d); and

''(13) the term 'medical savings account' has the meaning given such term by section 220(d) of the Internal Revenue Code of 1986.''.

(d) AUTHORITY TO CONTRACT FOR HIGH DEDUCTIBLE HEALTH PLANS, ETC.—

(1) CONTRACTS FOR HIGH DEDUCTIBLE HEALTH PLANS.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

''(p)(1) The Office shall contract under this chapter for a high deductible health plan with any qualified carrier that offers such a plan and, as of the date of enactment of this subsection, offers a health benefits plan under this chapter.

''(2) The Office may contract under this chapter for a high deductible health plan with any qualified carrier that offers such a plan, but does not, as of the date of enactment of this subsection, offer a health benefits plan under this chapter.''.

(2) COMPUTATION OF GOVERNMENT CONTRIBUTIONS TO PLANS UNDER CHAPTER 89 NOT AFFECTED BY HIGH DEDUCTIBLE HEALTH PLANS.—Paragraph (2) of section 8906(a) of title 5, United States Code, is amended by striking ''(2)'' and inserting ''(2)(A)'', and adding at the end the following:

''(B) Notwithstanding any other provision of this section, the subscription charges for, and the number of enrollees enrolled in, high deductible health plans shall be disregarded for purposes of determining any weighted average under paragraph (1).''.

(e) DESCRIPTION OF HIGH DEDUCTIBLE HEALTH PLANS AND BENEFITS TO BE PROVIDED THEREUNDER.—

(1) IN GENERAL.—Section 8903 of title 5, United States Code, is amended by adding at the end the following:

''(5) HIGH DEDUCTIBLE HEALTH PLANS.—(A) One or more plans described by paragraph (1), (2), (3), or (4), which—

''(i) are high deductible health plans (as defined by section 220(c)(2) of the Internal Revenue Code of 1986); and

''(ii) provide benefits of the types referred to by section 8904(a)(5).

''(B) Nothing in this section shall be considered—

''(i) to prevent a carrier from simultaneously offering a plan described by subparagraph (A) and a plan described by paragraph (1) or (2); or

''(ii) to require that a high deductible health plan offer two levels of benefits.''.

(2) TYPES OF BENEFITS.—Section 8904(a) of title 5, United States Code, is amended by inserting after paragraph (4) the following:

''(5) HIGH DEDUCTIBLE HEALTH PLANS.—Benefits of the types named under paragraph (1) or (2) of this subsection or both.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 8903a of title 5, United States Code, is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

''(d) The plans under this section may include one or more plans, otherwise allowable under this section, that satisfy the requirements of clauses (i) and (ii) of section 8903(5)(A).''.

(B) Section 8909(d) of title 5, United States Code, is amended by striking ''8903a(d)'' and inserting ''8903a(e)''.

(4) REFERENCES.—Section 8903 of title 5, United States Code, is amended by adding after paragraph (5) (as added by paragraph (1) of this subsection) as a flush left sentence, the following:

''The Office shall prescribe regulations in accordance with which the requirements of section 8902(c), 8902(n), 8909(e), and any other provision of this chapter that applies with respect to a plan described by paragraph (1), (2), (3), or (4) of this section shall apply with respect to the corresponding plan under paragraph (5) of this section. Similar regulations shall be prescribed with respect to any plan under section 8903a(d).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after October 1, 2001. The Office of Personnel Management shall take appropriate measures to ensure that coverage under a high deductible health plan under chapter 89 of title 5, United States Code (as amended by this section) shall be available as of the beginning of the first contract year described in the preceding sentence.

SEC. 113. RULE WITH RESPECT TO CERTAIN PLANS.

(a) 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 5-year period beginning on October 1, 2001, 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.

(b) 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 5-year period described in such paragraph unless the State reenacts such law after such period.

Subtitle C—Other Health-Related Provisions

SEC. 121. EXPANDED HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Subclause (I) of section 45C(b)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

''(I) after the date that the application is filed for designation under such section 526, and''.

(b) CONFORMING AMENDMENT.—Clause (i) of section 45C(b)(2)(A) of such Code is amended by inserting ''which is'' before ''being'' and by inserting before the comma at the end ''and which is designated under section 526 of such Act''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2001.

SEC. 122. 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 2002, 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, 2001, 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, 2001.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 123. REDUCTION IN TAX ON VACCINES.

(a) IN GENERAL.—Paragraph (1) of section 4131(b) of the Internal Revenue Code of 1986 (relating to amount of tax) is amended by striking ''75 cents'' and inserting ''50 cents''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.

Subtitle D—Miscellaneous Provisions

SEC. 131. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this division (or an amendment made by this division) 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 division 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 division 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 division.

SEC. 132. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''2003'' and inserting ''2010''.

SEC. 133. ESTABLISHMENT OF MEDICARE ADMINISTRATIVE FEE FOR SUBMISSION OF PAPER CLAIMS.

(a) IMPOSITION OF FEE.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Health and Human Services shall establish (in the form of a separate fee or reduction of payment otherwise made under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) an administrative fee of $1 for the submission of a claim in a paper or non-electronic form for items or services for which payment is sought under such title.

(b) EXCEPTION AUTHORITY.—The Secretary of Health and Human Services shall waive the imposition of the fee under subsection (a)—

(1) in cases in which there is no method available for the submission of claims other than in a paper or non-electronic form; and

(2) for rural providers and small providers that the Secretary determines, under procedures established by the Secretary, are unable to purchase the necessary hardware in order to submit claims electronically.

(c) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this section as an allowable item on a cost report under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or title XIX of such Act (42 U.S.C. 1396 et seq.).

(d) EFFECTIVE DATE.—The provisions of this section apply to claims submitted on or after January 1, 2002.

SEC. 134. ESTABLISHMENT OF MEDICARE ADMINISTRATIVE FEE FOR SUBMISSION OF DUPLICATE AND UNPROCESSABLE CLAIMS.

(a) IMPOSITION OF FEE.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall establish (in the form of a separate fee or reduction of payment otherwise made under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) an administrative fee of $2 for the submission of a claim described in subsection (b).

(b) CLAIMS SUBJECT TO FEE.—A claim described in this subsection is a claim that—

(1) is submitted by an individual or entity for items or services for which payment is sought under title XVIII of the Social Security Act; and

(2) either—

(A) duplicates, in whole or in part, another claim submitted by the same individual or entity; or

(B) is a claim that cannot be processed and must, in accordance with the Secretary of Health and Human Service's instructions, be returned by the fiscal intermediary or carrier to the individual or entity for completion.

(c) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this section as an allowable item on a cost report under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or title XIX of such Act (42 U.S.C. 1396 et seq.).

(d) EFFECTIVE DATE.—The provisions of this section apply to claims submitted on or after January 1, 2002.

TITLE II—PATIENTS' BILL OF RIGHTS

Subtitle A—Right to Advice and Care

SEC. 201. 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. ACCESS TO EMERGENCY MEDICAL CARE.

''(a) COVERAGE OF EMERGENCY SERVICES.—If a group health plan (other than a fully insured group health plan) provides coverage for any benefits consisting of emergency medical care, except for items or services specifically excluded from coverage, the plan shall, without regard to prior authorization or provider participation—

''(1) provide coverage for emergency medical screening examinations to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such examinations to be necessary; and

''(2) provide coverage for additional emergency medical care to stabilize an emergency medical condition following an emergency medical screening examination (if determined necessary), pursuant to the definition of stabilize under section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

''(b) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—If a group health plan (other than a fully insured group health plan) provides coverage for any benefits consisting of emergency ambulance services, except for items or services specifically excluded from coverage, the plan shall, without regard to prior authorization or provider participation, provide coverage for emergency ambulance services to the extent that a prudent layperson, who possesses an average knowledge of health and medicine, would determine such emergency ambulance services to be necessary.

''(c) CARE AFTER STABILIZATION.—

''(1) IN GENERAL.—In the case of medically necessary and appropriate items or services related to the emergency medical condition that may be provided to a participant or beneficiary by a nonparticipating provider after the participant or beneficiary is stabilized, the nonparticipating provider shall contact the plan as soon as practicable, but not later than 2 hours after stabilization occurs, with respect to whether—

''(A) the provision of items or services is approved;

''(B) the participant or beneficiary will be transferred; or

''(C) other arrangements will be made concerning the care and treatment of the participant or beneficiary.

''(2) FAILURE TO RESPOND AND MAKE ARRANGEMENTS.—If a group health plan fails to respond and make arrangements within 2 hours of being contacted in accordance with paragraph (1), then the plan shall be responsible for the cost of any additional items or services provided by the nonparticipating provider if—

''(A) coverage for items or services of the type furnished by the nonparticipating provider is available under the plan;

''(B) the items or services are medically necessary and appropriate and related to the emergency medical condition involved; and

''(C) the timely provision of the items or services is medically necessary and appropriate.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to apply to a group health plan that does not require prior authorization for items or services provided to a participant or beneficiary after the participant or beneficiary is stabilized.

''(d) REIMBURSEMENT TO A NON-PARTICIPATING PROVIDER.—The responsibility of a group health plan to provide reimbursement to a nonparticipating provider under this section shall cease accruing upon the earlier of—

''(1) the transfer or discharge of the participant or beneficiary; or

''(2) the completion of other arrangements made by the plan and the nonparticipating provider.

''(e) RESPONSIBILITY OF PARTICIPANT.—With respect to items or services provided by a nonparticipating provider under this section, the participant or beneficiary shall not be responsible for amounts that exceed the amounts (including co-insurance, co-payments, deductibles or any other form of cost-sharing) that would be incurred if the care was provided by a participating health care provider with prior authorization.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan from negotiating reimbursement rates with a nonparticipating provider for items or services provided under this section.

''(g) DEFINITIONS.—In this section:

''(1) EMERGENCY AMBULANCE SERVICES.—The term 'emergency ambulance services' means, with respect to a participant or beneficiary under a group health plan (other than a fully insured group health plan), ambulance services furnished to transport an individual who has an emergency medical condition to a treating facility for receipt of emergency medical care if—

''(A) the emergency services are covered under the group health plan (other than a fully insured group health plan) involved; and

''(B) a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of such transport to result in 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, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

''(2) EMERGENCY MEDICAL CARE.—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 items or services that—

''(A) are furnished by any provider, including a nonparticipating provider, that is qualified to furnish such items or 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.

''(3) 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 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, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

''SEC. 722. OFFERING OF CHOICE OF COVERAGE OPTIONS.

''(a) REQUIREMENT.—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.

''(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) DIRECT ACCESS.—A group health plan described in subsection (b) may not require authorization or referral by the primary care provider described in subsection (b)(2) in the case of a female participant or beneficiary who seeks coverage for obstetrical or gynecological care provided by a participating physician who specializes in obstetrics or gynecology.

''(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

''(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 obstetric or gynecologic care; and

''(2) requires the designation by a participant or beneficiary of a participating primary care provider other than a physician who specializes in obstetrics or gynecology.

''(c) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) to require that a group health plan approve or provide coverage for—

''(A) any items or services that are not covered under the terms and conditions of the group health plan;

''(B) any items or services that are not medically necessary and appropriate; or

''(C) any items or services that are provided, ordered, or otherwise authorized under subsection (a)(2) by a physician unless such items or services are related to obstetric or gynecologic care;

''(2) to preclude a group health plan from requiring that the physician described in subsection (a) notify the designated primary care professional or case manager of treatment decisions in accordance with a process implemented by the plan, except that the group health plan shall not impose such a notification requirement on the participant or beneficiary involved in the treatment decision;

''(3) to preclude a group health plan from requiring authorization, including prior authorization, for certain items and services from the physician described in subsection (a) who specializes in obstetrics and gynecology if the designated primary care provider of the participant or beneficiary would otherwise be required to obtain authorization for such items or services;

''(4) to require that the participant or beneficiary described in subsection (a)(1) obtain authorization or a referral from a primary care provider in order to obtain obstetrical or gynecological care from a health care professional other than a physician if the provision of obstetrical or gynecological care by such professional is permitted by the group health plan and consistent with State licensure, credentialing, and scope of practice laws and regulations; or

''(5) to preclude the participant or beneficiary described in subsection (a)(1) from designating a health care professional other than a physician as a primary care provider if such designation is permitted by the group health plan and the treatment by such professional is consistent with State licensure, credentialing, and scope of practice laws and regulations.

''SEC. 724. ACCESS TO PEDIATRIC CARE.

''(a) PEDIATRIC CARE.—If a group health plan (other than a fully insured group health plan) requires or provides for a participant or beneficiary to designate a participating primary care provider for a child of such participant or beneficiary, the plan shall permit the participant or beneficiary to designate a physician who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan.

''(b) RULES OF CONSTRUCTION.—With respect to the child of a participant or beneficiary, nothing in subsection (a) shall be construed to—

''(1) require that the participant or beneficiary obtain prior authorization or a referral from a primary care provider in order to obtain pediatric care from a health care professional other than a physician if the provision of pediatric care by such professional is permitted by the plan and consistent with State licensure, credentialing, and scope of practice laws and regulations; or

''(2) preclude the participant or beneficiary from designating a health care professional other than a physician as a primary care provider for the child if such designation is permitted by the plan and the treatment by such professional is consistent with State licensure, credentialing, and scope of practice laws.

''SEC. 725. TIMELY ACCESS TO SPECIALISTS.

''(a) TIMELY ACCESS.—

''(1) IN GENERAL.—A group health plan (other than a fully insured group health plan) shall ensure that participants and beneficiaries receive timely coverage for access to specialists who are appropriate to the medical condition of the participant or beneficiary, when such specialty care is a covered benefit under the plan.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

''(A) to require the coverage under a group health plan (other than a fully insured group health plan) of benefits or services;

''(B) to prohibit a plan from including providers in the network only to the extent necessary to meet the needs of the plan's participants and beneficiaries;

''(C) to prohibit a plan from establishing measures designed to maintain quality and control costs consistent with the responsibilities of the plan; or

''(D) to override any State licensure or scope-of-practice law.

''(3) ACCESS TO CERTAIN PROVIDERS.—

''(A) PARTICIPATING PROVIDERS.—Nothing in this section shall be construed to prohibit a group health plan (other than a fully insured group health plan) from requiring that a participant or beneficiary obtain specialty care from a participating specialist.

''(B) NONPARTICIPATING PROVIDERS.—

''(i) IN GENERAL.—With respect to specialty care under this section, if a group health plan (other than a fully insured group health plan) determines that a participating specialist is not available to provide such care to the participant or beneficiary, the plan shall provide for coverage of such care by a nonparticipating specialist.

''(ii) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a group health plan (other than a fully insured group health plan) refers a participant or beneficiary to a nonparticipating specialist pursuant to clause (i), such specialty care shall be provided at no additional cost to the participant or beneficiary beyond what the participant or beneficiary would otherwise pay for such specialty care if provided by a participating specialist.

''(b) REFERRALS.—

''(1) AUTHORIZATION.—Nothing in this section shall be construed to prohibit a group health plan (other than a fully insured group health plan) from requiring an authorization in order to obtain coverage for specialty services so long as such authorization is for an appropriate duration or number of referrals.

''(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

''(A) IN GENERAL.—A group health plan (other than a fully insured group health plan) shall permit a participant or beneficiary who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan referred to in subsection (c) with respect to the condition.

''(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term 'ongoing 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.

''(c) 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 specialty care be provided pursuant to a treatment plan so long as the treatment plan is—

''(A) developed by the specialist, in consultation with the case manager or primary care provider, and the participant or beneficiary;

''(B) approved by the plan in a timely manner if the plan requires such approval; 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 plan with regular updates on the specialty care provided, as well as all other necessary medical information.

''(d) SPECIALIST DEFINED.—For purposes of this section, the term 'specialist' means, with respect to the medical condition of the participant or beneficiary, a health care professional, facility, or center (such as a center of excellence) that has adequate expertise (including age-appropriate expertise) through appropriate training and experience.

''(e) RIGHT TO EXTERNAL REVIEW.—Pursuant to the requirements of section 503B, a participant or beneficiary shall have the right to an independent external review if the denial of an item or service or condition that is required to be covered under this section is eligible for such review.

''SEC. 726. CONTINUITY OF CARE.

''(a) TERMINATION OF PROVIDER.—If a contract between a group health plan (other than a fully insured group health plan) and a treating health care provider is terminated (as defined in paragraph (e)(4)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan, and an individual who is a participant or beneficiary in the plan is undergoing an active course of treatment for a serious and complex condition, institutional care, pregnancy, or terminal illness from the provider at the time the plan receives or provides notice of such termination, the plan shall—

''(1) notify the individual, or arrange to have the individual notified pursuant to subsection (d)(2), on a timely basis of such termination;

''(2) provide the individual with an opportunity to notify the plan of the individual's need for transitional care; and

''(3) subject to subsection (c), permit the individual to elect to continue to be covered with respect to the active course of treatment with the provider's consent during a transitional period (as provided for under subsection (b)).

''(b) TRANSITIONAL PERIOD.—

''(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this section with respect to a serious and complex condition shall extend for up to 90 days from the date of the notice described in subsection (a)(1) of the provider's termination.

''(2) INSTITUTIONAL OR INPATIENT CARE.—

''(A) IN GENERAL.—The transitional period under this section for institutional or non-elective inpatient care from a provider shall extend until the earlier of—

''(i) the expiration of the 90-day period beginning on the date on which the notice described in subsection (a)(1) of the provider's termination is provided; or

''(ii) the date of discharge of the individual from such care or the termination of the period of institutionalization.

''(B) SCHEDULED CARE.—The 90 day limitation described in subparagraph (A)(i) shall include post-surgical follow-up care relating to non-elective surgery that has been scheduled before the date of the notice of the termination of the provider under subsection (a)(1).

''(3) PREGNANCY.—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.—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) 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 that is 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 this section upon the provider agreeing to the following terms and conditions:

''(1) The treating health care 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 this section had not been terminated.

''(2) The treating health care 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 treating health care 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) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

''(2) with respect to the termination of a contract under subsection (a) to prevent a

group health plan from requiring that the health care provider—

''(A) notify participants or beneficiaries of their rights under this section; or

''(B) provide the plan with the name of each participant or beneficiary who the provider believes is eligible for transitional care under this section.

''(e) DEFINITIONS.—In this section:

''(1) CONTRACT.—The term 'contract between a plan and a treating health care provider' shall include a contract between such a plan and an organized network of providers.

''(2) HEALTH CARE PROVIDER.—The term 'health care provider' or 'provider' means—

''(A) 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

''(B) 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.

''(3) SERIOUS AND COMPLEX CONDITION.—The term 'serious and complex condition' means, with respect to a participant or beneficiary under the plan, a condition that is medically determinable and—

''(A) in the case of an acute illness, is a condition serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

''(B) in the case of a chronic illness or condition, is an illness or condition that—

''(i) is complex and difficult to manage;

''(ii) is disabling or life- threatening; and

''(iii) requires—

''(I) frequent monitoring over a prolonged period of time and requires substantial ongoing specialized medical care; or

''(II) frequent ongoing specialized medical care across a variety of domains of care.

''(4) TERMINATED.—The term 'terminated' includes, with respect to a contract (as defined in paragraph (1)), 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.

''(f) RIGHT TO EXTERNAL REVIEW.—Pursuant to the requirements of section 503B, a participant or beneficiary shall have the right to an independent external review if the denial of an item or service or condition that is required to be covered under this section is eligible for such review.

''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.

''(a) IN GENERAL.—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.

''(b) RIGHT TO EXTERNAL REVIEW.—Pursuant to the requirements of section 503B, a participant or beneficiary shall have the right to an independent external review if the denial of an item or service or condition that is required to be covered under this section is eligible for such review.

''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. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.

''(a) COVERAGE.—

''(1) IN GENERAL.—If a group health plan (other than a fully insured group health plan) provides coverage to a qualified individual (as defined in subsection (b)), the plan—

''(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

''(B) subject to subsections (b), (c), and (d) 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 participant's or beneficiaries 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 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 and who meets the following conditions:

''(1)(A) The individual has been diagnosed with cancer 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 or beneficiary 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 (other than a fully insured group health plan) 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 to be paid for by the sponsors of an approved clinical trial.

''(2) STANDARDS FOR DETERMINING ROUTINE PATIENT COSTS ASSOCIATED WITH CLINICAL TRIAL PARTICIPATION.—

''(A) IN GENERAL.—The Secretary shall, in accordance with this paragraph, establish standards relating to the coverage of routine patient costs for individuals participating in clinical trials that group health plans must meet under this section.

''(B) FACTORS.—In establishing routine patient cost standards under subparagraph (A), the Secretary shall consult with interested parties and take into account —

''(i) quality of patient care;

''(ii) routine patient care costs versus costs associated with the conduct of clinical trials, including unanticipated patient care costs as a result of participation in clinical trials; and

''(iii) previous and on-going studies relating to patient care costs associated with participation in clinical trials.

''(C) APPOINTMENT AND MEETINGS OF NEGOTIATED RULEMAKING COMMITTEE.—

''(i) PUBLICATION OF NOTICE.—Not later than November 15, 2000, the Secretary shall publish notice of the establishment of a negotiated rulemaking committee, as provided for under section 564(a) of title 5, United States Code, to develop the standards described in subparagraph (A), which shall include—

''(I) the proposed scope of the committee;

''(II) the interests that may be impacted by the standards;

''(iii) a list of the proposed membership of the committee;

''(iv) the proposed meeting schedule of the committee;

''(v) a solicitation for public comment on the committee; and

''(vi) the procedures under which an individual may apply for membership on the committee.

''(ii) COMMENT PERIOD.—Notwithstanding section 564(c) of title 5, United States Code, the Secretary shall provide for a period, beginning on the date on which the notice is published under clause (i) and ending on November 30, 2000, for the submission of public comments on the committee under this subparagraph.

''(iii) APPOINTMENT OF COMMITTEE.—Not later than December 30, 2000, the Secretary shall appoint the members of the negotiated rulemaking committee under this subparagraph.

''(iv) FACILITATOR.—Not later than January 10, 2001, the negotiated rulemaking committee shall nominate a facilitator under section 566(c) of title 5, United States Code, to carry out the activities described in subsection (d) of such section.

''(v) MEETINGS.—During the period beginning on the date on which the facilitator is nominated under clause (iv) and ending on March 30, 2001, the negotiated rulemaking committee shall meet to develop the standards described in subparagraph (A).

''(D) PRELIMINARY COMMITTEE REPORT.—

''(i) IN GENERAL.—The negotiated rulemaking committee appointed under subparagraph (C) shall report to the Secretary, by not later than March 30, 2001, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceedings and whether such consensus is likely to occur before the target date described in subsection (F).

''(ii) TERMINATION OF PROCESS AND PUBLICATION OF RULE BY SECRETARY.—If the committee reports under clause (i) that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date described in subsection (F), the Secretary shall terminate such process and provide for the publication in the Federal Register, by not later than June 30, 2001, of a rule under this paragraph through such other methods as the Secretary may provide.

''(E) FINAL COMMITTEE REPORT AND PUBLICATION OR RULE BY SECRETARY.—

''(i) IN GENERAL.—If the rulemaking committee is not terminated under subparagraph (D)(ii), the committee shall submit to the Secretary, by not later than May 30, 2001, a report containing a proposed rule.

''(ii) PUBLICATION OF RULE.—If the Secretary receives a report under clause (i), the Secretary shall provide for the publication in the Federal Register, by not later than June 30, 2001, of the proposed rule.

''(F) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under subparagraph (C)(i), and for purposes of this paragraph, the 'target date for publication' (referred to in section 564(a)(5) of title 5, United States Code) shall be June 30, 2001.

''(G) EFFECTIVE DATE.—The provisions of this paragraph shall apply to group health plans (other than a fully insured group health plan) for plan years beginning on or after January 1, 2002.

''(3) 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 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 cancer clinical research study or cancer clinical investigation approved or 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) The Food and Drug Administration.

''(D) 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 coverage with respect to clinical trials.

''(f) PLAN SATISFACTION OF CERTAIN REQUIREMENTS; RESPONSIBILITIES OF FIDUCIARIES.—

''(1) IN GENERAL.—For purposes of this section, 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 requirements of this section 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.

''(2) CONSTRUCTION.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(g) STUDY AND REPORT.—

''(1) STUDY.—The Secretary shall study the impact on group health plans for covering routine patient care costs for individuals who are entitled to benefits under this section and who are enrolled in an approved cancer clinical trial program.

''(2) REPORT TO CONGRESS.—Not later than January 1, 2005, the Secretary shall submit a report to Congress that contains an assessment of—

''(A) any incremental cost to group health plans resulting from the provisions of this section;

''(B) a projection of expenditures to such plans resulting from this section; and

''(C) any impact on premiums resulting from this section.

''(h) RIGHT TO EXTERNAL REVIEW.—Pursuant to the requirements of section 503B, a participant or beneficiary shall have the right to an independent external review if the denial of an item or service or condition that is required to be covered under this section is eligible for such review.

''SEC. 730A. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

''(a) IN GENERAL.—A group health plan (other than a fully insured group health plan) 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.

''(b) CONSTRUCTION.—Subsection (a) shall not be construed—

''(1) as requiring the coverage under a group health plan of a particular benefit or service or to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's participants or beneficiaries or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan;

''(2) to override any State licensure or scope-of-practice law; or

''(3) as requiring a plan that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan.

''SEC. 730B. 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 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 5-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 5-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 the Employee Retirement Income Security Act of 1974 is amended—

(1) in the item relating to subpart C of part 7 of subtitle B of title I, 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, the following:

''SUBPART C—PATIENT RIGHT TO MEDICAL ADVICE AND CARE

''Sec. 721. Access to emergency medical care.
''Sec. 722. Offering of choice of coverage options.
''Sec. 723. Patient access to obstetric and gynecological care.
''Sec. 724. Access to pediatric care.
''Sec. 725. Timely 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. Coverage for individuals participating in approved cancer clinical trials.
''Sec. 730A. Prohibition of discrimination against providers based on licensure.
''Sec. 730C. Generally applicable provision.''.

SEC. 202. CONFORMING AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patient's bill of rights.'';

and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan (other than a fully insured group health plan) shall comply with the requirements of subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as added

by section 201 of the Patients' Bill of Rights Plus Act, and such requirements shall be deemed to be incorporated into this section.''.

SEC. 203. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—The amendments made by this subtitle 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 subtitle, against a group health plan with respect to a violation of a requirement imposed by such amendments before the date of issuance of regulations issued in connection with such requirement, if the plan has sought to comply in good faith with such requirement.

Subtitle B—Right to Information About Plans and Providers

SEC. 211. INFORMATION ABOUT PLANS.

(a) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. HEALTH PLAN INFORMATION.

''(a) REQUIREMENT—

''(1) DISCLOSURE.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with group health insurance coverage, shall provide for the disclosure of the information described in subsection (b) to participants and beneficiaries—

''(i) at the time of the initial enrollment of the participant or beneficiary under the plan or coverage;

''(ii) on an annual basis after enrollment—

''(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

''(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

''(iii) in the case of any material reduction to the benefits or information described in paragraphs (1), (2) and (3) of subsection (b), in the form of a summary notice provided not later than the date on which the reduction takes effect.

''(B) PARTICIPANTS AND BENEFICIARIES.—The disclosure required under subparagraph (A) shall be provided—

''(i) jointly to each participant and beneficiary who reside at the same address; or

''(ii) in the case of a beneficiary who does not reside at the same address as the participant, separately to the participant and such beneficiary.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a group health plan sponsor and health insurance issuer from entering into an agreement under which either the plan sponsor or the issuer agrees to assume responsibility for compliance with the requirements of this section, in whole or in part, and the party delegating such responsibility is released from liability for compliance with the requirements that are assumed by the other party, to the extent the party delegating such responsibility did not cause such noncompliance.

''(3) PROVISION OF INFORMATION.—Information shall be provided to participants and beneficiaries under this section at the last known address maintained by the plan or issuer with respect to such participants or beneficiaries, to the extent that such information is provided to participants or beneficiaries via the United States Postal Service or other private delivery service.

''(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

''(1) BENEFITS.—A description of the covered benefits, including—

''(A) any in- and out-of-network benefits;

''(B) specific preventative services covered under the plan or coverage if such services are covered;

''(C) any benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

''(D) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

''(2) COST SHARING.—A description of any cost-sharing requirements, including—

''(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing above any reasonable and customary charges, for which the participant or beneficiary will be responsible under each option available under the plan;

''(B) any maximum out-of-pocket expense for which the participant or beneficiary may be liable;

''(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

''(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

''(3) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

''(4) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

''(5) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants and beneficiaries in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 724 for a participant or beneficiary who is a child if such section applies.

''(6) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

''(7) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

''(8) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants and beneficiaries in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including the right to timely coverage for access to specialists care under section 725 if such section applies.

''(9) CLINICAL TRIALS.—A description the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved cancer clinical trials under section 729 if such section applies.

''(10) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants and beneficiaries in obtaining access to access to prescription drugs under section 727 if such section applies.

''(11) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant or beneficiary to obtain emergency services under the prudent layperson standard under section 721, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

''(12) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights of participants and beneficiaries under sections 503, 503A and 503B in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502.

''(13) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

''(14) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants and beneficiaries seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. The name of the designated decision-maker (or decision-makers) appointed under section 502(n)(2) for purposes of making final determinations under section 503A and approving coverage pursuant to the written determination of an independent medical reviewer under section 503B. Notice of whether the benefits under the plan are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

''(15) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants and beneficiaries with communication disabilities and a description of how to access these items or services.

''(16) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants and beneficiaries.

''(17) NOTICE OF REQUIREMENTS.—A description of any rights of participants and beneficiaries that are established by the Patients' Bill of Rights Plus Act (excluding those described in paragraphs (1) through (16)) if such sections apply. The description required under this paragraph may be combined with the notices required under sections 711(d), 713(b), or 606(a)(1), and with any

other notice provision that the Secretary determines may be combined.

''(18) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

''(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant or beneficiary shall include for each option available under a group health plan or health insurance coverage the following:

''(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

''(2) COMPENSATION METHODS.—A summary description of the methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating participating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage. The requirement of this paragraph shall not be construed as requiring plans or issuers to provide information concerning proprietary payment methodology.

''(3) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

''(4) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) determined for the plan or issuer's book of business.

''(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by the average participant.

''(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with group health insurance coverage, from—

''(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants and beneficiaries in the selection of a health plan; and

''(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as participants and beneficiaries are provided with an opportunity to request that informational materials be provided in printed form.

''(f) 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.

''(g) SECRETARIAL ENFORCEMENT AUTHORITY.—

''(1) IN GENERAL.—The Secretary may assess a civil monetary penalty against the administrator of a plan or issuer in connection with the failure of the plan or issuer to comply with the requirements of this section.

''(2) AMOUNT OF PENALTY.—

''(A) IN GENERAL.—The amount of the penalty to be imposed under paragraph (1) shall not exceed $100 for each day for each participant and beneficiary with respect to which the failure to comply with the requirements of this section occurs.

''(B) INCREASE IN AMOUNT.—The amount referred to in subparagraph (A) shall be increased or decreased, for each calendar year that ends after December 31, 2000, by the same percentage as the percentage by which the medical care expenditure category of the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2000.

''(3) FAILURE DEFINED.—For purposes of this subsection, a plan or issuer shall have failed to comply with the requirements of this section with respect to a participant or beneficiary if the plan or issuer failed or refused to comply with the requirements of this section within 30 days—

''(A) of the date described in subsection (a)(1)(A)(i);

''(B) of the date described in subsection (a)(1)(A)(ii); or

''(C) of the date on which additional information was requested under subsection (c).''.

(b) CONFORMING AMENDMENTS.—

(1) 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''.

(2) 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.''.

(3) Section 502(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by striking ''733(a)(1))'' and inserting ''733(a)(1)), except with respect to the requirements of section 714''.

SEC. 212. 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).

Subtitle C—Right to Hold Health Plans Accountable

SEC. 221. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 503 (29 U.S.C. 1133) the following:

''SEC. 503A. CLAIMS AND INTERNAL APPEALS PROCEDURES FOR GROUP HEALTH PLANS.

''(a) INITIAL CLAIM FOR BENEFITS UNDER GROUP HEALTH PLANS.—

''(1) PROCEDURES.—

''(A) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall ensure that procedures are in place for—

''(i) making a determination on an initial claim for benefits by a participant or beneficiary (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant or beneficiary is required to pay with respect to such claim for benefits; and

''(ii) notifying a participant or beneficiary (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant or beneficiary may be required to make with respect to such claim for benefits, and of the right of the participant or beneficiary to an internal appeal under subsection (b).

''(B) ACCESS TO INFORMATION.—With respect to an initial claim for benefits, the participant or beneficiary (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information necessary to make a determination relating to the claim, not later than 5 business days after the date on which the claim is filed or to meet the applicable timelines under clauses (ii) and (iii) of paragraph (2)(A).

''(C) ORAL REQUESTS.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant or beneficiary (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, may require that the participant or beneficiary (or authorized representative) provide written confirmation of such request in a timely manner.

''(2) TIMELINE FOR MAKING DETERMINATIONS.—

''(A) PRIOR AUTHORIZATION DETERMINATION.—

''(i) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a prior authorization determination on a claim for benefits is made within 14 business days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization, but in no case shall such determination be made later than 28 business days after the receipt of the claim for benefits.

''(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures for expediting a prior authorization determination on a claim for benefits described in such clause when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination and the treating health care professional substantiates, with the request, that a determination under the procedures described in clause (i) would seriously jeopardize the life or health of the participant or

beneficiary. Such determination shall be made within 72 hours after a request is received by the plan or issuer under this clause.

''(iii) CONCURRENT DETERMINATIONS.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a concurrent determination on a claim for benefits that results in a discontinuation of inpatient care is made within 24 hours after the receipt of the claim for benefits.

''(B) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a retrospective determination on a claim for benefits is made within 30 business days of the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, but in no case shall such determination be made later than 60 business days after the receipt of the claim for benefits.

''(3) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant or beneficiary (or authorized representative) and the treating health care professional not later than 2 business days after the determination (or within the 72-hour or 24-hour period referred to in clauses (ii) and (iii) of paragraph (2)(A) if applicable).

''(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under paragraph (3) shall include—

''(A) the reasons for the determination (including a summary of the clinical or scientific-evidence based rationale used in making the determination and instruction on obtaining a more complete description written in a manner calculated to be understood by the average participant);

''(B) the procedures for obtaining additional information concerning the determination; and

''(C) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with subsection (b).

''(b) INTERNAL APPEAL OF A DENIAL OF A CLAIM FOR BENEFITS.—

''(1) RIGHT TO INTERNAL APPEAL.—

''(A) IN GENERAL.—A participant or beneficiary (or authorized representative) may appeal any denial of a claim for benefits under subsection (a) under the procedures described in this subsection.

''(B) TIME FOR APPEAL.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall ensure that a participant or beneficiary (or authorized representative) has a period of not less than 60 days beginning on the date of a denial of a claim for benefits under subsection (a) in which to appeal such denial under this subsection.

''(C) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under subsection (a) within the applicable timeline established for such a determination under such subsection shall be treated as a denial of a claim for benefits for purposes of proceeding to internal review under this subsection.

''(D) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, may waive the internal review process under this subsection and permit a participant or beneficiary (or authorized representative) to proceed directly to external review under section 503B.

''(2) TIMELINES FOR MAKING DETERMINATIONS.—

''(A) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this subsection that involves an expedited or concurrent determination, a participant or beneficiary (or authorized representative) may request such appeal orally, but a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, may require that the participant or beneficiary (or authorized representative) provide written confirmation of such request in a timely manner.

''(B) ACCESS TO INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant or beneficiary (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information necessary to make a determination relating to the appeal, not later than 5 business days after the date on which the request for the appeal is filed or to meet the applicable timelines under clauses (ii) and (iii) of subparagraph (C).

''(C) PRIOR AUTHORIZATION DETERMINATIONS.—

''(i) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a determination on an appeal of a denial of a claim for benefits under this subsection is made within 14 business days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal, but in no case shall such determination be made later than 28 business days after the receipt of the request for the appeal.

''(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures for expediting a prior authorization determination on an appeal of a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination and the treating health care professional substantiates, with the request, that a determination under the procedures described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made not later than 72 hours after the request for such appeal is received by the plan or issuer under this clause.

''(iii) CONCURRENT DETERMINATIONS.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a concurrent determination on an appeal of a denial of a claim for benefits that results in a discontinuation of inpatient care is made within 24 hours after the receipt of the request for appeal.

''(B) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall maintain procedures to ensure that a retrospective determination on an appeal of a claim for benefits is made within 30 business days of the date on which the plan or issuer receives necessary information that is reasonably required by the plan or issuer to make a determination on the appeal, but in no case shall such determination be made later than 60 business days after the receipt of the request for the appeal.

''(3) CONDUCT OF REVIEW.—

''(A) IN GENERAL.—A review of a denial of a claim for benefits under this subsection shall be conducted by an individual with appropriate expertise who was not directly involved in the initial determination.

''(B) REVIEW OF MEDICAL DECISIONS BY PHYSICIANS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts, shall be made by a physician with appropriate expertise, including age-appropriate expertise, who was not involved in the initial determination.

''(4) NOTICE OF DETERMINATION.—

''(A) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant or beneficiary (or authorized representative) and the treating health care professional not later than 2 business days after the completion of the review (or within the 72-hour or 24-hour period referred to in paragraph (2) if applicable).

''(B) FINAL DETERMINATION.—The decision by a plan or issuer under this subsection shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this subsection within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 503B.

''(C) REQUIREMENTS OF NOTICE.—With respect to a determination made under this subsection, the notice described in subparagraph (A) shall include—

''(i) the reasons for the determination (including a summary of the clinical or scientific-evidence based rationale used in making the determination and instruction on obtaining a more complete description written in a manner calculated to be understood by the average participant);

''(ii) the procedures for obtaining additional information concerning the determination; and

''(iii) notification of the right to an independent external review under section 503B and instructions on how to initiate such a review.

''(c) DEFINITIONS.—The definitions contained in section 503B(i) shall apply for purposes of this section.

''SEC. 503B. INDEPENDENT EXTERNAL APPEALS PROCEDURES FOR GROUP HEALTH PLANS.

''(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall provide in accordance with this section participants and beneficiaries (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

''(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

''(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 60 business days after the date on which the participant or beneficiary receives notice of the denial under section 503A(b)(4) or the date on which the internal review is waived by the plan or issuer under section 503A(b)(1)(D).

''(2) FILING OF REQUEST.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group

health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may—

''(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

''(ii) limit the filing of such a request to the participant or beneficiary involved (or an authorized representative);

''(iii) except if waived by the plan or issuer under section 503A(b)(1)(D), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 503A;

''(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $50; and

''(v) require that a request for review include the consent of the participant or beneficiary (or authorized representative) for the release of medical information or records of the participant or beneficiary to the qualified external review entity for purposes of conducting external review activities.

''(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

''(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request may be made orally. In such case a written confirmation of such request shall be made in a timely manner. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v).

''(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

''(I) INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the Secretary) that the participant or beneficiary is indigent (as defined in such guidelines). In establishing guidelines under this subclause, the Secretary shall ensure that the guidelines relating to indigency are consistent with the poverty guidelines used by the Secretary of Health and Human Services under title XIX of the Social Security Act.

''(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 503A(b)(1)(D).

''(III) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse the denial which is the subject of the review.

''(IV) INCREASE IN AMOUNT.—The amount referred to in subclause (I) shall be increased or decreased, for each calendar year that ends after December 31, 2001, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2001.

''(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—

''(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering coverage in connection with a group health plan, the plan or issuer shall refer such request to a qualified external review entity selected in accordance with this section.

''(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted under this section, the participant or beneficiary (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with access to information that is necessary to conduct a review under this section, as determined by the entity, not later than 5 business days after the date on which a request is referred to the qualified external review entity under paragraph (1), or earlier as determined appropriate by the entity to meet the applicable timelines under clauses (ii) and (iii) of subsection (e)(1)(A).

''(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

''(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

''(i) any of the conditions described in subsection (b)(2)(A) have not been met;

''(ii) the thresholds described in subparagraph (B) have not been met;

''(iii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

''(iv) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant or beneficiary who is enrolled under the terms of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

''(v) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2)(C);

Upon making a determination that any of clauses (i) through (v) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (D).

''(B) THRESHOLDS.—

''(i) IN GENERAL.—The thresholds described in this subparagraph are that—

''(I) the total amount payable under the plan or coverage for the item or service that was the subject of such denial exceeds a significant financial threshold (as determined under guidelines established by the Secretary); or

''(II) a physician has asserted in writing that there is a significant risk of placing the life, health, or development of the participant or beneficiary in jeopardy if the denial of the claim for benefits is sustained.

''(ii) THRESHOLDS NOT APPLIED.—The thresholds described in this subparagraph shall not apply if the plan or issuer involved waives the internal appeals process with respect to the denial of a claim for benefits involved under section 503A(b)(1)(D).

''(C) PROCESS FOR MAKING DETERMINATIONS.—

''(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer under section 503A or the recommendation of a treating health care professional (if any).

''(ii) USE OF APPROPRIATE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

''(D) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

''(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant or beneficiary (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

''(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by an average participant;

''(II) shall include the reasons for the determination; and

''(III) include any relevant terms and conditions of the plan or coverage.

''(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant or beneficiary (or authorized representative) within 2 business days of such determination.

''(d) INDEPENDENT MEDICAL REVIEW.—

''(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

''(2) MEDICALLY REVIEWABLE DECISIONS.—A denial described in this paragraph is one for which the item or service that is the subject of the denial would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

''(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—The basis of the determination is that the item or service is not medically necessary and appropriate.

''(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—The basis of the determination is that the item or service is experimental or investigational.

''(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered but an evaluation of the medical facts by a health care professional in the specific case involved is necessary to determine whether the item or service or condition is required to be provided under the terms and conditions of the plan or coverage.

''(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

''(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to—

''(i) whether the item or service or condition that is the subject of the denial is covered under the terms and conditions of the plan or coverage; and

''(ii) based upon an affirmative determination under clause (i), whether or not the denial of a claim for a benefit that is the subject of the review should be upheld or reversed.

''(B) STANDARD FOR DETERMINATION.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigation nature, or the evaluation of the medical facts of the item, service, or condition shall be based on the medical condition of the participant or beneficiary (including the medical records of the participant or beneficiary) and the valid, relevant scientific evidence and clinical evidence, including

peer-reviewed medical literature or findings and including expert consensus.

''(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, provide coverage for items or services that are specifically excluded or expressly limited under the plan or coverage and that are not covered regardless of any determination relating to medical necessity and appropriateness, experimental or investigational nature of the treatment, or an evaluation of the medical facts in the case involved.

''(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

''(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence or guidelines used by the plan or issuer in reaching such determination.

''(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

''(iii) Additional evidence or information obtained by the reviewer or submitted by the plan, issuer, participant or beneficiary (or an authorized representative), or treating health care professional.

''(iv) The plan or coverage document.

''(E) INDEPENDENT DETERMINATION.—In making the determination, the independent medical reviewer shall—

''(i) consider the claim under review without deference to the determinations made by the plan or issuer under section 503A or the recommendation of the treating health care professional (if any);

''(ii) consider, but not be bound by the definition used by the plan or issuer of 'medically necessary and appropriate', or 'experimental or investigational', or other equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment; and

''(iii) notwithstanding clause (ii), adhere to the definition used by the plan or issuer of 'medically necessary and appropriate', or 'experimental or investigational' if such definition is the same as the definition of such term—

''(I) that has been adopted pursuant to a State statute or regulation; or

''(II) that is used for purposes of the program established under titles XVIII or XIX of the Social Security Act or under chapter 89 of title 5, United States Code.

''(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold or reverse the denial under review. Such written determination shall include the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific-evidence based rationale used in making the determination. The reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not be treated as part of the determination.

''(e) TIMELINES AND NOTIFICATIONS.—

''(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

''(A) PRIOR AUTHORIZATION DETERMINATION.—

''(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) not later than 14 business days after the receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services.

''(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant or beneficiary (or authorized representative) at any time during the process for making a determination, and the treating health care professional substantiates, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant or beneficiary. Such determination shall be made not later than 72 hours after the receipt of information under subsection (c)(2).

''(iii) CONCURRENT DETERMINATION.—Notwithstanding clause (i), a review described in such subclause shall be completed not later than 24 hours after the receipt of information under subsection (c)(2) if the review involves a discontinuation of inpatient care.

''(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) not later than 30 business days after the receipt of information under subsection (c)(2).

''(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant or beneficiary (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

''(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by an average participant.

''(4) TERMINATION OF EXTERNAL REVIEW PROCESS IF APPROVAL OF A CLAIM FOR BENEFITS DURING PROCESS.—

''(A) IN GENERAL.—If a plan or issuer—

''(i) reverses a determination on a denial of a claim for benefits that is the subject of an external review under this section and authorizes coverage for the claim or provides payment of the claim; and

''(ii) provides notice of such reversal to the participant or beneficiary (or authorized representative) and the treating health care professional (if any), and the external review entity responsible for such review,

the external review process shall be terminated with respect to such denial and any filing fee paid under subsection (b)(2)(A)(iv) shall be refunded.

''(B) TREATMENT OF TERMINATION.—An authorization of coverage under subparagraph (A) by the plan or issuer shall be treated as a written determination to reverse a denial under section (d)(3)(F) for purposes of liability under section 502(n)(1)(B).

''(f) COMPLIANCE.—

''(1) APPLICATION OF DETERMINATIONS.—

''(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

''(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

''(2) FAILURE TO COMPLY.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B)(i) with respect to a participant or beneficiary, where such failure to comply is caused by the plan or issuer, the participant or beneficiary may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

''(3) REIMBURSEMENT.—

''(A) IN GENERAL.—Where a participant or beneficiary obtains items or services in accordance with paragraph (2), the plan or issuer involved shall provide for reimbursement of the costs of such items of services. Such reimbursement shall be made to the treating health care professional or to the participant or beneficiary (in the case of a participant or beneficiary who pays for the costs of such items or services).

''(B) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant or beneficiary under subparagraph (A) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items of services) so long as—

''(i) the items or services would have been covered under the terms of the plan or coverage if provided by the plan or issuer; and

''(ii) the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

''(4) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant or beneficiary in accordance with this subsection, the professional, participant or beneficiary may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is unpaid and any necessary legal costs or expenses (including attorneys' fees) incurred in recovering such reimbursement.

''(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

''(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

''(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

''(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

''(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

''(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician or health care professional who—

''(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

''(B) typically treats the diagnosis or condition or provides the type or treatment under review.

''(3) INDEPENDENCE.—

''(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

''(i) not be a related party (as defined in paragraph (7));

''(ii) not have a material familial, financial, or professional relationship with such a party; and

''(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

''(B) EXCEPTION.—Nothing in this subparagraph (A) shall be construed to—

''(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

''(I) a non-affiliated individual is not reasonably available;

''(II) the affiliated individual is not involved in the provision of items or services in the case under review; and

''(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant or beneficiary (or authorized representative) and neither party objects;

''(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer if the affiliation is disclosed to the plan or issuer and the participant or beneficiary (or authorized representative), and neither party objects;

''(iii) permit an employee of a plan or issuer, or an individual who provides services exclusively or primarily to or on behalf of a plan or issuer, from serving as an independent medical reviewer; or

''(iv) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

''(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

''(A) IN GENERAL.—The requirement of this paragraph with respect to a reviewer in a case involving treatment, or the provision of items or services, by—

''(i) a physician, is that the reviewer be a practicing physician of the same or similar specialty, when reasonably available, as a physician who typically treats the diagnosis or condition or provides such treatment in the case under review; or

''(ii) a health care professional (other than a physician), is that the reviewer be a practicing physician or, if determined appropriate by the qualified external review entity, a health care professional (other than a physician), of the same or similar specialty as the health care professional who typically treats the diagnosis or condition or provides the treatment in the case under review.

''(B) PRACTICING DEFINED.—For purposes of this paragraph, the term 'practicing' means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 1 day per week.

''(5) AGE-APPROPRIATE EXPERTISE.—The independent medical reviewer shall have expertise under paragraph (2) that is age-appropriate to the participant or beneficiary involved.

''(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

''(A) not exceed a reasonable level; and

''(B) not be contingent on the decision rendered by the reviewer.

''(7) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a denial of a claim under a plan or coverage relating to a participant or beneficiary, any of the following:

''(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

''(B) The participant or beneficiary (or authorized representative).

''(C) The health care professional that provides the items of services involved in the denial.

''(D) The institution at which the items or services (or treatment) involved in the denial are provided.

''(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

''(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

''(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

''(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

''(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The Secretary shall implement procedures with respect to the selection of qualified external review entities by a plan or issuer to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner.

''(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in connection with a group health plan in a State, the State may, pursuant to a State law that is enacted after the date of enactment of the Patients' Bill of Rights Plus Act, provide for the designation or selection of qualified external review entities in a manner determined by the State to assure an unbiased determination in conducting external review activities. In conducting reviews under this section, an entity designated or selected under this subparagraph shall comply with the provision of this section.

''(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

''(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

''(A) be consistent with the standards the Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

''(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant or beneficiary (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

''(4) QUALIFICATIONS.—

''(A) IN GENERAL.—In this section, the term 'qualified external review entity' means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

''(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

''(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

''(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

''(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

''(v) The entity meets such other requirements as the Secretary provides by regulation.

''(B) INDEPENDENCE REQUIREMENTS.—

''(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

''(I) is not a related party (as defined in subsection (g)(7));

''(II) does not have a material familial, financial, or professional relationship with such a party; and

''(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

''(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

''(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

''(I) not exceed a reasonable level; and

''(II) not be contingent on the decision rendered by the entity or by any independent medical reviewer.

''(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

''(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

''(I) under a process that is recognized or approved by the Secretary; or

''(II) by a qualified private standard-setting organization that is approved by the Secretary under clause (iii).

''(ii) PROCESS.—The Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

''(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

''(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

''(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

''(IV) in the case recertification, shall review the matters described in clause (iv).

''(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the Secretary may approve a qualified private standard-setting organization if the Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

''(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

''(I) Provision of information under subparagraph (D).

''(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

''(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

''(IV) Compliance with applicable independence requirements.

''(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 5 years.

''(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the Secretary or by the organization providing such certification upon a showing of cause.

''(D) PROVISION OF INFORMATION.—

''(i) IN GENERAL.—A qualified external review entity shall provide to the Secretary, in such manner and at such times as the Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as the Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

''(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

''(I) The number and types of denials for which a request for review has been received by the entity.

''(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

''(III) The length of time in making determinations with respect to such denials.

''(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

''(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

''(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the Secretary under clause (i).

''(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

''(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

''(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

''(i) DEFINITIONS.—In this section:

''(1) AUTHORIZED REPRESENTATIVE.—The term 'authorized representative' means, with respect to a participant or beneficiary—

''(A) a person to whom a participant or beneficiary has given express written consent to represent the participant or beneficiary in any proceeding under this section;

''(B) a person authorized by law to provide substituted consent for the participant or beneficiary; or

''(C) a family member of the participant or beneficiary (or the estate of the participant or beneficiary) or the participant's or beneficiary's treating health care professional when the participant or beneficiary is unable to provide consent.

''(2) CLAIM FOR BENEFITS.—The term 'claim for benefits' means any request by a participant or beneficiary (or authorized representative) for benefits (including requests that are subject to authorization of coverage or utilization review), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage offered by a health insurance issuer in connection with a group health plan.

''(3) 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.

''(4) 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.

''(5) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2).

''(6) PRIOR AUTHORIZATION DETERMINATION.—The term 'prior authorization determination' means a determination by the group health plan or health insurance issuer offering health insurance coverage in connection with a group health plan prior to the provision of the items and services as a condition of coverage of the items and services under the terms and conditions of the plan or coverage.

''(7) 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.

''(8) UTILIZATION REVIEW.—The term 'utilization review' with respect to a group health plan or health insurance coverage means procedures used in the determination of coverage for a participant or beneficiary, such as procedures to evaluate the medical necessity, appropriateness, efficacy, quality, 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) CONFORMING AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 503 the following:

''Sec. 503A. Claims and internal appeals procedures for group health plans.
''Sec. 503B. Independent external appeals procedures for group health plans.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after 2 years 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.

SEC. 222. ENFORCEMENT.

Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by adding at the end the following:

''(8) The Secretary may assess a civil penalty against any plan of up to $10,000 for the plan's failure or refusal to comply with any deadline applicable under section 503B or any determination under such section, except that in any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant or beneficiary involved.''.

Subtitle D—Remedies

SEC. 231. AVAILABILITY OF COURT REMEDIES.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) CAUSE OF ACTION RELATING TO DENIAL OF A CLAIM FOR HEALTH BENEFITS.—

''(1) IN GENERAL.—

''(A) FAILURE TO COMPLY WITH EXTERNAL MEDICAL REVIEW.—In any case in which—

''(i) a designated decision-maker described in paragraph (2) fails to exercise ordinary care in approving coverage pursuant to the written determination of an independent medical reviewer under section 503B(d)(3)(F) that reverses a denial of a claim for benefits; and

''(ii) the failure described in clause (i) is the proximate cause of substantial harm to, or the wrongful death of, the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

''(B) WRONGFUL DETERMINATION RESULTING IN DELAY IN PROVIDING BENEFITS.—In any case in which—

''(i) a designated decision-maker described in paragraph (2) acts in bad faith in making a final determination denying a claim for benefits under section 503A(b);

''(ii) the denial described in clause (i) is reversed by an independent medical reviewer under section 503B(d); and

''(iii) the delay attributable to the failure described in clause (i) is the proximate cause of substantial harm to, or the wrongful death of, the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

''(2) DESIGNATED DECISION-MAKERS FOR PURPOSES OF LIABILITY.—An employer or plan

sponsor shall not be liable under any cause of action described in paragraph (1) if the employer or plan sponsor complies with the following provisions:

''(A) APPOINTMENT.—A group health plan may designate one or more persons to serve as the designated decision-maker for purposes of paragraph (1). Such designated decision-makers shall have the exclusive authority under the group health plan (or under the health insurance coverage in the case of a health insurance issuer offering coverage in connection with a group health plan) to make determinations described in section 503A with respect to claims for benefits and determination to approve coverage pursuant to written determination of independent medical reviewers under section 503B, except that the plan documents may expressly provide that the designated decision-maker is subject to the direction of a named fiduciary.

''(B) PROCEDURES.—A designated decision-maker shall—

''(i) be a person who is named in the plan or coverage documents, or who, pursuant to procedures specified in the plan or coverage documents, is identified as the designated decision-maker by—

''(I) a person who is an employer or employee organization with respect to the plan or issuer;

''(II) a person who is such an employer and such an employee organization acting jointly; or

''(III) a person who is a named fiduciary;

''(ii) agree to accept appointment as a designated decision-maker; and

''(iii) be identified in the plan or coverage documents as required under section 714(b)(14).

''(C) QUALIFICATIONS.—To be appointed as a designated decision-maker under this paragraph, a person shall be—

''(i) a plan sponsor;

''(ii) a group health plan;

''(iii) a health insurance issuer; or

''(iv) any other person who can provide adequate evidence, in accordance with regulations promulgated by the Secretary, of the ability of the person to—

''(I) carry out the responsibilities set forth in the plan or coverage documents;

''(II) carry out the applicable requirements of this subsection; and

''(III) meet other applicable requirements under this Act, including any financial obligation for liability under this subsection.

''(D) FLEXIBILITY IN ADMINISTRATION.—A group health plan, or health insurance issuer offering coverage in connection with a group health plan, may provide—

''(i) that any person or group of persons may serve in more than one capacity with respect to the plan or coverage (including service as a designated decision-maker, administrator, and named fiduciary); or

''(ii) that a designated decision-maker may employ one or more persons to provide advice with respect to any responsibility of such decision-maker under the plan or coverage.

''(E) FAILURE TO DESIGNATE.—In any case in which a designated decision-maker is not appointed under this paragraph, the group health plan (or health insurance issuer offering coverage in connection with the group health plan), the administrator, or the party or parties that bears the sole responsibility for making the final determination under section 503A(b) (with respect to an internal review), or for approving coverage pursuant to the written determination of an independent medical reviewer under section 503B, with respect to a denial of a claim for benefits shall be treated as the designated decision-maker for purposes of liability under this section.

''(3) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—Paragraph (1) shall apply only if a final determination denying a claim for benefits under section 503A(b) has been referred for independent medical review under section 503B(d) and a written determination by an independent medical reviewer to reverse such final determination has been issued with respect to such review.

''(4) LIMITATIONS ON RECOVERY OF DAMAGES.—

''(A) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—The aggregate amount of liability for noneconomic loss in an action under paragraph (1) may not exceed $350,000.

''(B) INCREASE IN AMOUNT.—The amount referred to in subparagraph (A) shall be increased or decreased, for each calendar year that ends after December 31, 2001, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2001.

''(C) JOINT AND SEVERAL LIABILITY.—In the case of any action commenced pursuant to paragraph (1), the defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the injury suffered by the participant or beneficiary. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

''(D) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

''(i) IN GENERAL.—In the case of any action commenced pursuant to paragraph (1), the total amount of damages received by a participant or beneficiary under such action shall be reduced, in accordance with clause (ii), by any other payment that has been, or will be, made to such participant or beneficiary to compensate such participant or beneficiary for the injury that was the subject of such action.

''(ii) AMOUNT OF REDUCTION.—The amount by which an award of damages to a participant or beneficiary for an injury shall be reduced under clause (i) shall be—

''(I) the total amount of any payments (other than such award) that have been made or that will be made to such participant or beneficiary to pay costs of or compensate such participant or beneficiary for the injury that was the subject of the action; less

''(II) the amount paid by such participant or beneficiary (or by the spouse, parent, or legal guardian of such participant or beneficiary) to secure the payments described in subclause (I).

''(iii) DETERMINATION OF AMOUNTS FROM COLLATERAL SOURCES.—The reduction required under clause (ii) shall be determined by the court in a pretrial proceeding. At the subsequent trial no evidence shall be admitted as to the amount of any charge, payments, or damage for which a participant or beneficiary—

''(I) has received payment from a collateral source or the obligation for which has been assured by a third party; or

''(II) is, or with reasonable certainty, will be eligible to receive from a collateral source which will, with reasonable certainty, be assumed by a third party.

''(5) AFFIRMATIVE DEFENSES.—In the case of any cause of action under paragraph (1), it shall be an affirmative defense that—

''(A) the group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, involved did not receive from the participant or beneficiary (or authorized representative) or the treating health care professional (if any), sufficient information regarding the medical condition of the participant or beneficiary that was necessary to make a final determination on a claim for benefits under section 503A(b);

''(B) the participant or beneficiary (or authorized representative)—

''(i) was in possession of facts that were sufficient to enable the participant or beneficiary (or authorized representative) to know that an expedited review under section 503A or 503B would have prevented the harm that is the subject of the action; and

''(ii) failed to notify the plan or issuer of the need for such an expedited review; or

''(C) the cause of action is based solely on the failure of a qualified external review entity or an independent medical reviewer to meet the timelines applicable under section 503B.

Nothing in this paragraph shall be construed to limit the application of any other affirmative defense that may be applicable to the cause of action involved.

''(6) WAIVER OF INTERNAL REVIEW.—In the case of any cause of action under paragraph (1), the waiver or nonwaiver of internal review under section 503A(b)(1)(D) by the group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, shall not be used in determining liability.

''(7) LIMITATIONS ON ACTIONS.—Paragraph (1) shall not apply in connection with any action that is commenced more than 1 year after—

''(A) the date on which the last act occurred which constituted a part of the failure referred to in such paragraph; or

''(B) in the case of an omission, the last date on which the decision-maker could have cured the failure.

''(8) LIMITATION ON RELIEF WHERE DEFENDANT'S POSITION PREVIOUSLY SUPPORTED UPON EXTERNAL REVIEW.—In any case in which the court finds the defendant to be liable in an action under this subsection, to the extent that such liability is based on a finding by the court of a particular failure described in paragraph (1) and such finding is contrary to a previous determination by an independent medical reviewer under section 503B(d) with respect to such defendant, no relief shall be available under this subsection in addition to the relief otherwise available under subsection (a)(1)(B).

''(9) CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing a cause of action under paragraph (1) for—

''(A) the failure of a group health plan or health insurance issuer to provide an item or service that is specifically excluded under the plan or coverage; or

''(B) any denial of a claim for benefits that was not eligible for independent medical review under section 503B(d).

''(10) FEDERAL JURISDICTION.—In the case of any action commenced pursuant to paragraph (1) the district courts of the United States shall have exclusive jurisdiction.

''(11) DEFINITIONS.—In this subsection:

''(A) AUTHORIZED REPRESENTATIVE.—The term 'authorized representative' has the meaning given such term in section 503B(i).

''(B) CLAIM FOR BENEFITS.—The term 'claim for benefits' shall have the meaning given such term in section 503B(i), except that such term shall only include claims for prior authorization determinations (as such term is defined in section 503B(i)).

''(C) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given such term in section 733(a).

''(D) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1).

''(E) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2) (including health maintenance organizations as defined in section 733(b)(3)).

''(F) ORDINARY CARE.—The term 'ordinary care' means the care, skill, prudence, and diligence under the circumstances prevailing at the time the care is provided that a prudent individual acting in a like capacity and familiar with the care being provided would use in providing care of a similar character.

''(G) SUBSTANTIAL HARM.—The term 'substantial harm' means the loss of life, loss or significant impairment of limb or bodily function, significant disfigurement, or severe and chronic physical pain.

''(12) EFFECTIVE DATE.—The provisions of this subsection shall apply to acts and omissions occurring on or after the date of enactment of this subsection.''.

(b) IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsection (a), is further amended by adding at the end the following:

''(o) IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.—

''(1) IN GENERAL.—No liability shall arise under subsection (n) with respect to a participant or beneficiary against a group health plan (other than a fully insured group health plan) if such plan offers the participant or beneficiary the coverage option described in paragraph (2).

''(2) COVERAGE OPTION.—The coverage option described in this paragraph is one under which the group health plan (other than a fully insured group health plan), at the time of enrollment or as provided for in paragraph (3), provides the participant or beneficiary with the option to—

''(A) enroll for coverage under a fully insured health plan; or

''(B) receive an individual benefit payment, in an amount equal to the amount that would be contributed on behalf of the participant or beneficiary by the plan sponsor for enrollment in the group health plan, for use by the participant or beneficiary in obtaining health insurance coverage in the individual market.

''(3) TIME OF OFFERING OF OPTION.—The coverage option described in paragraph (2) shall be offered to a participant or beneficiary—

''(A) during the first period in which the individual is eligible to enroll under the group health plan; or

''(B) during any special enrollment period provided by the group health plan after the date of enactment of the Patients' Bill of Rights Plus Act for purposes of offering such coverage option.''.

(2) AMENDMENTS TO INTERNAL REVENUE CODE.—

(A) EXCLUSION FROM INCOME.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following:

''(d) TREATMENT OF CERTAIN COVERAGE OPTION UNDER SELF-INSURED PLANS.—No amount shall be included in the gross income of an individual by reason of—

''(1) the individual's right to elect a coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, or

''(2) the receipt by the individual of an individual benefit payment described in section 502(o)(2)(A) of such Act.''

(B) NONDISCRIMINATION RULES.—Section 105(h) of such Code (relating to self-insured medical expense reimbursement plans) is amended by adding at the end the following:

''(11) TREATMENT OF CERTAIN COVERAGE OPTIONS.—If a self-insured medical reimbursement plan offers the coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, employees who elect such option shall be treated as eligible to benefit under the plan and the plan shall be treated as benefiting such employees.''

(c) CONFORMING AMENDMENT.—Section 502(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(1)(A)) is amended by inserting ''or (n)'' after ''subsection (c)''.

SEC. 232. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

(a) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 231, is further amended by adding at the end the following:

''(p) LIMITATION ON CLASS ACTION LITIGATION.—A claim or cause of action under section 502(n) may not be maintained as a class action.''.

(b) RICO.—Section 1964(c) of title 18, United States Code, is amended—

(1) by inserting ''(1)'' after the subsection designation; and

(2) by adding at the end the following:

''(2) No action may be brought under this subsection, or alleging any violation of section 1962, against any person where the action seeks relief for which a remedy may be provided under section 502 of the Employee Retirement Income Security Act of 1974.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all civil actions that are filed on or after the date of enactment of this Act.

(2) PENDING CIVIL ACTIONS.—Notwithstanding section 502(p) of the Employee Retirement Income Security Act of 1974 and section 1964(c)(2) of title 18, United States Code, such sections 502(p) and 1964(c)(2) shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of this Act if such actions are substantially similar in nature to the claims or causes of actions referred to in such sections 502(p) and 1964(c)(2).

SEC. 233. SEVERABILITY.

If any provision of this subtitle, an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE III—WOMEN'S HEALTH AND CANCER RIGHTS

SEC. 301. WOMEN'S HEALTH AND CANCER RIGHTS.

(a) SHORT TITLE.—This section may be cited as the ''Women's Health and Cancer Rights Act of 2000''.

(b) FINDINGS.—Congress finds that—

(1) the offering and operation of health plans affect commerce among the States;

(2) health care providers located in a State serve patients who reside in the State and patients who reside in other States; and

(3) in order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in 1 State as well as health plans operating among the several States.

(c) AMENDMENTS TO ERISA.—

(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 section 211(a), is further amended by adding at the end the following:

''SEC. 715. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, 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 consultation with the patient, to be medically necessary and 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) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a).

''(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 2001;

whichever is earlier.

''(d) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(e) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (d).''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 714 the following new item:

''Sec. 715. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.''.

(d) AMENDMENTS TO PHSA RELATING TO THE GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following new section:

''SEC. 2707. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, 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 consultation with the patient, to be medically necessary and 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) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a).

''(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 2001;

whichever is earlier.

''(d) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(e) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (d).''.

(e) AMENDMENTS TO PHSA 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) (42 U.S.C. 300gg-51 et seq.) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

''SEC. 2753. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND SECONDARY CONSULTATIONS.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(f) AMENDMENTS TO THE IRC.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 202, is further amended by inserting after section 9813 the following:

''SEC. 9814. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan 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 consultation with the patient, to be medically necessary and 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) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan may not modify the terms and conditions of coverage based on the determination by a participant or beneficiary to request less than the minimum coverage required under subsection (a).

''(c) NOTICE.—A group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted—

''(1) in the next mailing made by the plan to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 2000;

whichever is earlier.

''(d) SECONDARY CONSULTATIONS.—

''(1) IN GENERAL.—A group health plan that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall

ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan.

''(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

''(e) PROHIBITION ON PENALTIES.—A group health plan may not—

''(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant or beneficiary in accordance with this section;

''(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

''(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan involved under subsection (d).''.

(2) CLERICAL AMENDMENT.—The table of contents for chapter 100 of such Code is amended by inserting after the item relating to section 9813 the following new item:

''Sec. 9814. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.''.

TITLE IV—GENETIC INFORMATION AND SERVICES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Genetic Information Nondiscrimination in Health Insurance Act of 1999''.

SEC. 402. 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 301(c), is further amended by adding at the end the following:

''SEC. 716. 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 716.''.

(B) TABLE OF CONTENTS.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974, as amended by section 301, is further amended by inserting after the item relating to section 715 the following new item:

''Sec. 716. 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. 403. 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 (42 U.S.C. 300gg-4 et seq.), as amended by section 301(d), is amended by adding at the end the following new section:

''SEC. 2708. 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 2708.''.

(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.''.

(e) AMENDMENTS TO PHSA 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) (42 U.S.C. 300gg-51 et seq.), as amended by section 301(e), is further amended by adding at the end the following:

''SEC. 2754. 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. 404. 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 301(f), is further amended by adding at the end the following:

''SEC. 9815. 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 9815.''.

(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 301(f), is further amended by adding at the end the following:

''Sec. 9815. 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.

TITLE V—PATIENT SAFETY AND ERRORS REDUCTION

SEC. 501. SHORT TITLE.

This title may be cited as the ''Patient Safety and Errors Reduction Act''.

SEC. 502. PURPOSES.

It is the purpose of this title to—

(1) promote the identification, evaluation, and reporting of medical errors;

(2) raise standards and expectations for improvements in patient safety;

(3) reduce deaths, serious injuries, and other medical errors through the implementation of safe practices at the delivery level;

(4) develop error reduction systems with legal protections to support the collection of information under such systems;

(5) extend existing confidentiality and peer review protections to the reports relating to medical errors that are reported under such systems that are developed for safety and quality improvement purposes; and

(6) provide for the establishment of systems of information collection, analysis, and dissemination to enhance the knowledge base concerning patient safety.

SEC. 503. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) by redesignating part C as part D;

(2) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(3) in section 938(1) (as so redesignated), by striking ''921'' and inserting ''931''; and

(4) by inserting after part B the following:

''PART C—REDUCING ERRORS IN HEALTH CARE

''SEC. 921. DEFINITIONS.

''In this part:

''(1) ADVERSE EVENT.—The term 'adverse event' means, with respect to the patient of a provider of services, an untoward incident, therapeutic misadventure, or iatrogenic injury directly associated with the provision of health care items and services by a health care provider or provider of services.

''(2) CENTER.—The term 'Center' means the Center for Quality Improvement and Patient Safety established under section 922(b).

''(3) CLOSE CALL.—The term 'close call' means, with respect to the patient of a provider of services, any event or situation that—

''(A) but for chance or a timely intervention, could have resulted in an accident, injury, or illness; and

''(B) is directly associated with the provision of health care items and services by a provider of services.

''(4) EXPERT ORGANIZATION.—The term 'expert organization' means a third party acting on behalf of, or in conjunction with, a provider of services to collect information about, or evaluate, a medical event.

''(5) HEALTH CARE OVERSIGHT AGENCY.—The term 'health care oversight agency' means an agency, entity, or person, including the employees and agents thereof, that performs or oversees the performance of any activities necessary to ensure the safety of the health care system.

''(6) HEALTH CARE PROVIDER.—The term 'health care provider' means—

''(A) any provider of services (as defined in section 1861(u) of the Social Security Act); and

''(B) any person furnishing any medical or other health care services as defined in section 1861(s)(1) and (2) of such Act through, or under the authority of, a provider of services described in subparagraph (A).

''(7) PROVIDER OF SERVICES.—The term 'provider of services' means a hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, renal dialysis facility, ambulatory surgical center, or hospice program, and any other entity specified in regulations promulgated by the Secretary after public notice and comment.

''(8) PUBLIC HEALTH AUTHORITY.—The term 'public health authority' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, and an Indian tribe that is responsible for public health matters as part of its official mandate.

''(9) MEDICAL EVENT.—The term 'medical event' means, with respect to the patient of a provider of services, any sentinel event, adverse event, or close call.

''(10) MEDICAL EVENT ANALYSIS ENTITY.—The term 'medical event analysis entity' means an entity certified under section 923(a).

''(11) ROOT CAUSE ANALYSIS.—

''(A) IN GENERAL.—The term 'root cause analysis' means a process for identifying the basic or contributing causal factors that underlie variation in performance associated with medical events that—

''(i) has the characteristics described in subparagraph (B);

''(ii) includes participation by the leadership of the provider of services and individuals most closely involved in the processes and systems under review;

''(iii) is internally consistent; and

''(iv) includes the consideration of relevant literature.

''(B) CHARACTERISTICS.—The characteristics described in this subparagraph include the following:

''(i) The analysis is interdisciplinary in nature and involves those individuals who are responsible for administering the reporting systems.

''(ii) The analysis focuses primarily on systems and processes rather than individual performance.

''(iii) The analysis involves a thorough review of all aspects of the process and all contributing factors involved.

''(iv) The analysis identifies changes that could be made in systems and processes, through either redesign or development of new processes or systems, that would improve performance and reduce the risk of medical events.

''(12) SENTINEL EVENT.—The term 'sentinel event' means, with respect to the patient of a provider of services, an unexpected occurrence that—

''(A) involves death or serious physical or psychological injury (including loss of a limb); and

''(B) is directly associated with the provision of health care items and services by a health care provider or provider of services.

''SEC. 922. RESEARCH TO IMPROVE THE QUALITY AND SAFETY OF PATIENT CARE.

''(a) IN GENERAL.—To improve the quality and safety of patient care, the Director shall—

''(1) conduct and support research, evaluations and training, support demonstration projects, provide technical assistance, and develop and support partnerships that will identify and determine the causes of medical errors and other threats to the quality and safety of patient care;

''(2) identify and evaluate interventions and strategies for preventing or reducing medical errors and threats to the quality and safety of patient care;

''(3) identify, in collaboration with experts from the public and private sector, reporting parameters to provide consistency throughout the errors reporting system;

''(4) identify approaches for the clinical management of complications from medical errors; and

''(5) establish mechanisms for the rapid dissemination of interventions and strategies identified under this section for which there is scientific evidence of effectiveness.

''(b) CENTER FOR QUALITY IMPROVEMENT AND PATIENT SAFETY.—

''(1) ESTABLISHMENT.—The Director shall establish a center to be known as the Center for Quality Improvement and Patient Safety to assist the Director in carrying out the requirements of subsection (a).

''(2) MISSION.—The Center shall—

''(A) provide national leadership for research and other initiatives to improve the quality and safety of patient care;

''(B) build public-private sector partnerships to improve the quality and safety of patient care; and

''(C) serve as a national resource for research and learning from medical errors.

''(3) DUTIES.—

''(A) IN GENERAL.—In carrying out this section, the Director, acting through the Center, shall consult and build partnerships, as appropriate, with all segments of the health care industry, including health care practitioners and patients, those who manage health care facilities, systems and plans, peer review organizations, health care purchasers and policymakers, and other users of health care research.

''(B) REQUIRED DUTIES.—In addition to the broad responsibilities that the Director may assign to the Center for research and related activities that are designed to improve the quality of health care, the Director shall ensure that the Center—

''(i) builds scientific knowledge and understanding of the causes of medical errors in all health care settings and identifies or develops and validates effective interventions and strategies to reduce errors and improve the safety and quality of patient care;

''(ii) promotes public and private sector research on patient safety by—

''(I) developing a national patient safety research agenda;

''(II) identifying promising opportunities for preventing or reducing medical errors; and

''(III) tracking the progress made in addressing the highest priority research questions with respect to patient safety;

''(iii) facilitates the development of voluntary national patient safety goals by convening all segments of the health care industry and tracks the progress made in meeting those goals;

''(iv) analyzes national patient safety data for inclusion in the annual report on the quality of health care required under section 913(b)(2);

''(v) strengthens the ability of the United States to learn from medical errors by—

''(I) developing the necessary tools and advancing the scientific techniques for analysis of errors;

''(II) providing technical assistance as appropriate to reporting systems; and

''(III) entering into contracts to receive and analyze aggregate data from public and private sector reporting systems;

''(vi) supports dissemination and communication activities to improve patient safety, including the development of tools and methods for educating consumers about patient safety; and

''(vii) undertakes related activities that the Director determines are necessary to enable the Center to fulfill its mission.

''(C) LIMITATION.—Aggregate data gathered for the purposes described in this section shall not include specific patient, health care provider, or provider of service identifiers.

''(c) LEARNING FROM MEDICAL ERRORS.—

''(1) IN GENERAL.—To enhance the ability of the health care community in the United States to learn from medical events, the Director shall—

''(A) carry out activities to increase scientific knowledge and understanding regarding medical error reporting systems;

''(B) carry out activities to advance the scientific knowledge regarding the tools and techniques for analyzing medical events and determining their root causes;

''(C) carry out activities in partnership with experts in the field to increase the capacity of the health care community in the United States to analyze patient safety data;

''(D) develop a confidential national safety database of medical event reports;

''(E) conduct and support research, using the database developed under subparagraph (D), into the causes and potential interventions to decrease the incidence of medical errors and close calls; and

''(F) ensure that information contained in the national database developed under subparagraph (D) does not include specific patient, health care provider, or provider of service identifiers.

''(2) NATIONAL PATIENT SAFETY DATABASE.—The Director shall, in accordance with paragraph (1)(D), establish a confidential national safety database (to be known as the National Patient Safety Database) of reports of medical events that can be used only for research to improve the quality and safety of patient care. In developing and managing the

National Patient Safety Database, the Director shall—

''(A) ensure that the database is only used for its intended purpose;

''(B) ensure that the database is only used by the Agency, medical event analysis entities, and other qualified entities or individuals as determined appropriate by the Director and in accordance with paragraph (3) or other criteria applied by the Director;

''(C) ensure that the database is as comprehensive as possible by aggregating data from Federal, State, and private sector patient safety reporting systems;

''(D) conduct and support research on the most common medical errors and close calls, their causes, and potential interventions to reduce medical errors and improve the quality and safety of patient care;

''(E) disseminate findings made by the Director, based on the data in the database, to clinicians, individuals who manage health care facilities, systems, and plans, patients, and other individuals who can act appropriately to improve patient safety; and

''(F) develop a rapid response capacity to provide alerts when specific health care practices pose an imminent threat to patients or health care practitioners, or other providers of health care items or services.

''(3) CONFIDENTIALITY AND PEER REVIEW PROTECTIONS.—Notwithstanding any other provision of law any information (including any data, reports, records, memoranda, analyses, statements, and other communications) developed by or on behalf of a health care provider or provider of services with respect to a medical event, that is contained in the National Patient Safety Database shall be confidential in accordance with section 925.

''(4) PATIENT SAFETY REPORTING SYSTEMS.—The Director shall identify public and private sector patient safety reporting systems and build scientific knowledge and understanding regarding the most effective—

''(A) components of patient safety reporting systems;

''(B) incentives intended to increase the rate of error reporting;

''(C) approaches for undertaking root cause analyses;

''(D) ways to provide feedback to those filing error reports;

''(E) techniques and tools for collecting, integrating, and analyzing patient safety data; and

''(F) ways to provide meaningful information to patients, consumers, and purchasers that will enhance their understanding of patient safety issues.

''(5) TRAINING.—The Director shall support training initiatives to build the capacity of the health care community in the United States to analyze patient safety data and to act on that data to improve patient safety.

''(d) EVALUATION.—The Director shall recommend strategies for measuring and evaluating the national progress made in implementing safe practices identified by the Center through the research and analysis required under subsection (b) and through the voluntary reporting system established under subsection (c).

''(e) IMPLEMENTATION.—In implementing strategies to carry out the functions described in subsections (b), (c), and (d), the Director may contract with public or private entities on a national or local level with appropriate expertise.

''SEC. 923. MEDICAL EVENT ANALYSIS ENTITIES.

''(a) IN GENERAL.—The Director, based on information collected under section 922(c), shall provide for the certification of entities to collect and analyze information on medical errors, and to collaborate with health care providers or providers of services in collecting information about, or evaluating, certain medical events.

''(b) COMPATIBILITY OF COLLECTED DATA.—To ensure that data reported to the National Patient Safety Database under section 922(c)(2) concerning medical errors and close calls are comparable and useful on an analytic basis, the Director shall require that the entities described in subsection (c) follow the recommendations regarding a common set of core measures for reporting that are developed by the National Forum for Health Care Quality Measurement and Reporting, or other voluntary private standard-setting organization that is designated by the Director taking into account existing measurement systems and in collaboration with experts from the public and private sector.

''(c) DUTIES OF CERTIFIED ENTITIES.—

''(1) IN GENERAL.—An entity that is certified under subsection (a) shall collect and analyze information, consistent with the requirement of subsection (b), provided to the entity under section 924(a)(4) to improve patient safety.

''(2) INFORMATION TO BE REPORTED TO THE ENTITY.—A medical event analysis entity shall, on a periodic basis and in a format that is specified by the Director, submit to the Director a report that contains—

''(A) a description of the medical events that were reported to the entity during the period covered under the report;

''(B) a description of any corrective action taken by providers of services with respect to such medical events or any other measures that are necessary to prevent similar events from occurring in the future; and

''(C) a description of the systemic changes that entities have identified, through an analysis of the medical events included in the report, as being needed to improve patient safety.

''(3) COLLABORATION.—A medical event analysis entity that is collaborating with a health care provider or provider of services to address close calls and adverse events may, at the request of the health care provider or provider of services—

''(A) provide expertise in the development of root cause analyses and corrective action plan relating to such close calls and adverse events; or

''(B) collaborate with such provider of services to identify on-going risk reduction activities that may enhance patient safety.

''(d) CONFIDENTIALITY AND PEER REVIEW PROTECTIONS.—Notwithstanding any other provision of law, any information (including any data, reports, records, memoranda, analyses, statements, and other communications) collected by a medical event analysis entity or developed by or on behalf of such an entity under this part shall be confidential in accordance with section 925.

''(e) TERMINATION AND RENEWAL.—

''(1) IN GENERAL.—The certification of an entity under this section shall terminate on the date that is 3 years after the date on which such certification was provided. Such certification may be renewed at the discretion of the Director.

''(2) NONCOMPLIANCE.—The Director may terminate the certification of a medical event analysis entity if the Director determines that such entity has failed to comply with this section.

''(f) IMPLEMENTATION.—In implementing strategies to carry out the functions described in subsection (c), the Director may contract with public or private entities on a national or local level with appropriate expertise.

''SEC. 924. PROVIDER OF SERVICES SYSTEMS FOR REPORTING MEDICAL EVENTS.

''(a) INTERNAL MEDICAL EVENT REPORTING SYSTEMS.—Each provider of services that elects to participate in a medical error reporting system under this part shall—

''(1) establish a system for—

''(A) identifying, collecting information about, and evaluating medical events that occur with respect to a patient in the care of the provider of services or a practitioner employed by the provider of services, that may include—

''(i) the provision of a medically coherent description of each event so identified;

''(ii) the provision of a clear and thorough accounting of the results of the investigation of such event under the system; and

''(iii) a description of all corrective measures taken in response to the event; and

''(B) determining appropriate follow-up actions to be taken with respect to such events;

''(2) establish policies and procedures with respect to when and to whom such events are to be reported;

''(3) take appropriate follow-up action with respect to such events; and

''(4) submit to the appropriate medical event analysis entity information that contains descriptions of the medical events identified under paragraph (1)(A).

''(b) PROMOTING IDENTIFICATION, EVALUATION, AND REPORTING OF CERTAIN MEDICAL EVENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law any information (including any data, reports, records, memoranda, analyses, statements, and other communications) developed by or on behalf of a provider of services with respect to a medical event pursuant to a system established under subsection (a) shall be privileged in accordance with section 925.

''(2) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting—

''(A) disclosure of a patient's medical record to the patient;

''(B) a provider of services from complying with the requirements of a health care oversight agency or public health authority; or

''(C) such an agency or authority from disclosing information transferred by a provider of services to the public in a form that does not identify or permit the identification of the health care provider or provider of services or patient.

''SEC. 925. CONFIDENTIALITY.

''(a) CONFIDENTIALITY AND PEER REVIEW PROTECTIONS.—Notwithstanding any other provision of law—

''(1) any information (including any data, reports, records, memoranda, analyses, statements, and other communications) developed by or on behalf of a health care provider or provider of services with respect to a medical event, that is contained in the National Patient Safety Database, collected by a medical event analysis entity, or developed by or on behalf of such an entity, or collected by a health care provider or provider or services for use under systems that are developed for safety and quality improvement purposes under this part—

''(A) shall be privileged, strictly confidential, and may not be disclosed by any other person to which such information is transferred without the authorization of the health care provider or provider of services; and

''(B) shall—

''(i) be protected from disclosure by civil, criminal, or administrative subpoena;

''(ii) not be subject to discovery or otherwise discoverable in connection with a civil, criminal, or administrative proceeding;

''(iii) not be subject to disclosure pursuant to section 552 of title 5, United States Code (the Freedom of Information Act) and any other similar Federal or State statute or regulation; and

''(iv) not be admissible as evidence in any civil, criminal, or administrative proceeding;

without regard to whether such information is held by the provider or by another person to which such information was transferred;

''(2) the transfer of any such information by a provider of services to a health care oversight agency, an expert organization, a medical event analysis entity, or a public health authority, shall not be treated as a waiver of any privilege or protection established under paragraph (1) or established under State law.

''(b) PENALTY.—It shall be unlawful for any person to disclose any information described in subsection (a) other than for the purposes provided in such subsection. Any person violating the provisions of this section shall, upon conviction, be fined in accordance with title 18, United States Code, and imprisoned for not more than 6 months, or both.

''(c) APPLICATION OF PROVISIONS.—The protections provided under subsection (a) and the penalty provided for under subsection (b) shall apply to any information (including any data, reports, memoranda, analyses, statements, and other communications) collected or developed pursuant to research, including demonstration projects, with respect to medical error reporting supported by the Director under this part.

''SEC. 926. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part, $50,000,000 for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.''.

SEC. 504. EFFECTIVE DATE.

The amendments made by section 503 shall become effective on the date of the enactment of this Act.

This Act may be cited as the ''Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001.''.

SCHUMER AMENDMENT NO. 3695

(Ordered to lie on the table.)

Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill, H.R. 4577, supra; as follows:

On page 27, line 24, before the period insert the following: '': *Provided further,* That in addition to amounts made available under this heading for the National Program of Cancer Registries, an additional $15,000,000 shall be made available for such Program and special emphasis in carrying out such Program shall be given to States with the highest number of the leading causes of cancer mortality: *Provided further,* That amounts made available under this Act for the administrative and related expenses of the Centers for Disease Control and Prevention shall be reduced by $15,000,000''.

BINGAMAN AMENDMENT NO. 3696

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. JOHNSON, Mr. MCCAIN, Mr. CONRAD, Mrs. MURRAY, Mr. LEAHY, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill, H.R. 4577, supra; as follows:

At the end of title III, insert the following:

SEC. ___. CONSTRUCTION AND RENOVATION PROJECTS.

Notwithstanding any other provision of this Act—

(1) the amount made available under this title under the heading ''OFFICE OF POSTSECONDARY EDUCATION'' under the heading ''HIGHER EDUCATION'' to carry out section 316 of the Higher Education Act of 1965 is increased by $6,000,000, which increase shall be used for construction and renovation projects under such section; and

(2) the amount made available under this title under the heading ''OFFICE OF POSTSECONDARY EDUCATION'' under the heading ''HIGHER EDUCATION'' to carry out part B of title VII of the Higher Education Act of 1965 is decreased by $5,000,000.

HELMS AMENDMENT NO. 3697

Mr. HELMS proposed an amendment to the bill, H.R. 4577, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) None of the funds appropriated under this Act to carry out section 330 or title X of the Public Health Service Act (42 U.S.C. 254b, 300 et seq.), title V or XIX of the Social Security Act (42 U.S.C. 701 et seq., 1396 et seq.), or any other provision of law, shall be used for the distribution or provision of postcoital emergency contraception, or the provision of a prescription for postcoital emergency contraception, to an unemancipated minor, on the premises or in the facilities of any elementary school or secondary school.

(b) This section takes effect 1 day after the date of enactment of this Act.

(c) In this section:

(1) The terms ''elementary school'' and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) The term ''unemancipated minor'' means an unmarried individual who is 17 years of age or younger and is a dependent, as defined in section 152(a) of the Internal Revenue Code of 1986.

WELLSTONE (AND JOHNSON) AMENDMENT NO. 3698

Mr. WELLSTONE (for himself and Mr. JOHNSON) proposed an amendment to the bill, H.R. 4577, supra; as follows:

On page 92, between lines 4 and 5, insert the following:

SEC. ___. (a) LIMITATION ON USE OF FUNDS FOR CERTAIN AGREEMENTS.—Except as provided in subsection (b), none of the funds made available under this Act may be used by the Secretary of Health and Human Services to enter into—

(1) an agreement on the conveyance or licensing of a patent for a drug, or on another exclusive right to a drug;

(2) an agreement on the use of information derived from animal tests or human clinical trials that are conducted by the Department of Health and Human Services with respect to a drug, including an agreement under which such information is provided by the Department to another Federal agency on an exclusive basis; or

(3) a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) pertaining to a drug, excluding cooperative research and development agreements between the Department of Health and Human Services and a college or university.

(b) EXCEPTIONS.—Subsection (a) shall not apply to an agreement where—

(1) the sale of the drug involved is subject to a price agreement that is reasonable (as defined by the Secretary of Health and Human Services); or

(2) a reasonable price agreement with respect to the sale of the drug involved is not required by the public interest (as defined by such Secretary).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to any agreement entered into by a college or university and any entity other than the Secretary of Health and Human Services or an entity within the Department of Health and Human Services.

HARKIN (AND WELLSTONE) AMENDMENT NO. 3699

Mr. HARKIN (for himself and Mr. WELLSTONE) proposed an amendment to the bill, H.R. 4577, as follows:

On page 60, line 16, strike ''$7,352,341,000'' and insert ''$15,800,000,000.''

On page 60, line 19, strike ''$4,624,000,000'' and insert ''$13,071,659,000.''

NOTICE OF HEARING

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on S. 2294, a bill to establish the Rosie the Riveter-World War II Home Front National Historical Park in the State of California, and for other purposes; S. 2331, a bill to direct the Secretary of the Interior to recalculate the franchise fee owned by Fort Sumter Tours, Inc., a concessioner providing service to Fort Sumter National Monument, South Carolina; S. 2598, a bill to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes; and S. Con. Res. 106, a resolution recognizing the Hermann Monument and Herman Heights Park in New Ulm, Minnesota, as a national symbol of the contributions of Americans of German heritage.

The hearing will take place on Thursday, July 13, 2000, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole or Kevin Clark of the Committee staff at (202) 224–6969.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, June 29, 2000. The purpose of this meeting will be to mark up new legislation.

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

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 29, 2000, at 9:15 a.m., in closed session to mark up the Fiscal Year 2001 Intelligence Authorization Act.

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

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 29, 2000, at 10 a.m., in open and closed session to receive testimony on the report of the National Missile Defense Independent Review Team.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, June 29, 2000, at 1 p.m., for a hearing regarding Oversight of Rising Oil Prices and the Efficiency and Effectiveness of Executive Branch Response—Part II.

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

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 29, 2000, at 10 a.m., in SD226.

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

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet during the session of the Senate on Thursday, June 29, at 9:30 a.m., to conduct a hearing to receive testimony on pending issues in the implementation of the Safe Drinking Water Act.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands be authorized to meet during the session of the Senate on Thursday, June 29, at 10 a.m., to conduct an oversight hearing. The subcommittee will receive testimony on the United States Forest Service's Draft Environmental Impact Statement for the Sierra Nevada Forest Plan Amendment, and Draft Supplemental Environmental Impact Statement for the Interior Columbia Basin Ecosystem Management Plan.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet during the session of the Senate on Thursday, June 29, 2000, 9:30 a.m., for a hearing entitled ''HUD's Government Insured Mortgages: The Problem of Property 'Flipping.'''

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

SUBCOMMITTEE ON NATIONAL PARKS HISTORIC PRESERVATION AND RECREATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation be authorized to meet during the session of the Senate on Thursday, June 29, at 2:30 p.m., to conduct a hearing. The subcommittee will receive testimony on S. 134, a bill to direct the Secretary of the Interior to study whether the Apostle Islands National Lakeshore should be protected as a wilderness area; S. 2051, a bill to revise the boundaries of the Golden Gate National Recreation Area, and for other purposes; S. 2279, a bill to authorize the addition of land to Sequoia National Park, and for other purposes; S. 2512, a bill to convey certain Federal properties on Governors Island, New York.

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

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL, AND RISK ASSESSMENT

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be authorized to meet during the session of the Senate on Thursday, June 29, at 2 p.m., to conduct a hearing to receive testimony on S. 2700, the Brownfields Revitalization and Environmental Restoration Act of 2000.

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

PRIVILEGES OF THE FLOOR

Mr. JOHNSON. Mr. President, I ask unanimous consent that Sharon Boysen of my office be granted floor privileges for the remainder of the day.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar, nominations en bloc: 560 through 563.

I further ask unanimous consent the nominations be confirmed, the motion to consider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Daniel G. Webber, Jr., of Oklahoma, to be United States Attorney for the Western District of Oklahoma.

James L. Whigham, of Illinois, to be United States Marshal for the Northern District of Illinois for the term of four years.

Russell John Qualliotine, of New York, to be United States marshal for the Southern District of New York for the term of four years.

Julio F. Mercado, of Texas, to be Deputy Administrator of Drug Enforcement.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 148), to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 148) entitled ''An Act to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Neotropical Migratory Bird Conservation Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean;

(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;

(3)(A) many neotropical migratory bird populations, once considered common, are in decline, and some have declined to the point that their long-term survival in the wild is in jeopardy; and

(B) the primary reason for the decline in the populations of those species is habitat loss and degradation (including pollution and contamination) across the species' range; and

(4)(A) because neotropical migratory birds range across numerous international borders each year, their conservation requires the commitment and effort of all countries along their migration routes; and

(B) although numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to perpetuate healthy populations of neotropical migratory birds;

(2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Latin America, and the Caribbean; and

(3) to provide financial resources and to foster international cooperation for those initiatives.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACCOUNT.—The term ''Account'' means the Neotropical Migratory Bird Conservation Account established by section 9(a).

(2) CONSERVATION.—The term ''conservation'' means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) protection and management of neotropical migratory bird populations;

(B) maintenance, management, protection, and restoration of neotropical migratory bird habitat;

(C) research and monitoring;

(D) law enforcement; and

(E) community outreach and education.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 5. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—A project proposal may be submitted by—

(1) an individual, corporation, partnership, trust, association, or other private entity;

(2) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;

(3) a State, municipality, or political subdivision of a State;

(4) any other entity subject to the jurisdiction of the United States or of any foreign country; and

(5) an international organization (as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288)).

(c) PROJECT PROPOSALS.—To be considered for financial assistance for a project under this Act, an applicant shall submit a project proposal that—

(1) includes—

(A) the name of the individual responsible for the project;

(B) a succinct statement of the purposes of the project;

(C) a description of the qualifications of individuals conducting the project; and

(D) an estimate of the funds and time necessary to complete the project, including sources and amounts of matching funds;

(2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in the United States, Latin America, or the Caribbean;

(3) includes mechanisms to ensure adequate local public participation in project development and implementation;

(4) contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) PROJECT REPORTING.—Each recipient of assistance for a project under this Act shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information required by the Secretary for evaluating the progress and outcome of the project.

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than 25 percent.

(2) NON-FEDERAL SHARE.—

(A) SOURCE.—The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(B) FORM OF PAYMENT.—

(i) PROJECTS IN THE UNITED STATES.—The non-Federal share required to be paid for a project carried out in the United States shall be paid in cash.

(ii) PROJECTS IN FOREIGN COUNTRIES.—The non-Federal share required to be paid for a project carried out in a foreign country may be paid in cash or in kind.

SEC. 6. DUTIES OF THE SECRETARY.

In carrying out this Act, the Secretary shall—

(1) develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 5;

(2) encourage submission of proposals for projects eligible for financial assistance under section 5, particularly proposals from relevant wildlife management authorities;

(3) select proposals for financial assistance that satisfy the requirements of section 5, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by relevant wildlife management authorities; and

(4) generally implement this Act in accordance with its purposes.

SEC. 7. COOPERATION.

(a) IN GENERAL.—In carrying out this Act, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

(A) facilitating meetings among persons involved in such efforts;

(B) promoting the exchange of information among such persons;

(C) developing and entering into agreements with other Federal agencies, foreign, State, and local governmental agencies, and nongovernmental organizations; and

(D) conducting such other activities as the Secretary considers to be appropriate; and

(2) coordinate activities and projects under this Act with existing efforts in order to enhance conservation of neotropical migratory bird species.

(b) ADVISORY GROUP.—

(1) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of neotropical migratory birds.

(2) PUBLIC PARTICIPATION.—

(A) MEETINGS.—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(B) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(C) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(3) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 8. REPORT TO CONGRESS.

Not later than October 1, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund of the Treasury a separate account to be known as the ''Neotropical Migratory Bird Conservation Account'', which shall consist of amounts deposited into the Account by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE ACCOUNT.—The Secretary of the Treasury shall deposit into the Account—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Account.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Account, without further Act of appropriation, to carry out this Act.

(2) ADMINISTRATIVE EXPENSES.—Of amounts in the Account available for each fiscal year, the Secretary may expend not more than 3 percent or up to $80,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Account.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Account to carry out this Act $5,000,000 for each of fiscal years 2001 through 2005, to remain available until expended, of which not less than 75 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

Mr. ABRAHAM. Mr. President, the Migratory Bird Conservation Act which I introduced with the Minority Leader, Senator DASCHLE, and our late colleague Senator Chafee, is designed to protect the habitat of the over 90 endangered species of migratory birds which spend the spring and summer months in the United States and the winter months in other Western Hemisphere nations.

This will be the third time this bill has passed the Senate. It previously cleared the Senate in 1998 and early 1999, but, until Monday's 384–22 House vote, the legislation was stalled in the other chamber.

Despite taking almost three years, this legislation remains very timely. Many bird species of birds are threatened despite the growing popularity of birdwatching.

Every year approximately 25 million Americans travel to observe birds, and 60 million American adults watch and feed birds at home. According to the Fish and Wildlife Service, bird watching and feeding generates fully $20 billion every year in revenue across America.

Protecting the various species of birds benefits the nation in a variety of ways. The increased popularity of birdwatching is increasingly reflected in the new tourist dollars being spent in small, rural communities. Healthy bird communities also prevent crop failures and infestations by controlling insect populations, thus saving hundreds of millions of dollars in economic losses each year to farming and timber interests. And yet, despite the enormous benefits we derive from our bird populations, many of them are struggling to survive.

In my own State we are working to bring the Kirtland's Warbler back from the brink of extinction. A few years ago, the population of this distinctive bird has been estimated at approximately 200 nesting pairs. Since then, a great deal of work has been done by

Michigan DNR employees to preserve the Kirtland's Warbler habitat in the Bahamas, where they winter. Thanks in large part to this effort, the number of breeding pairs has recently increased to an estimated 800.

The problem we face in Michigan is simple. Since the entire species spends half of the year in the Bahamas, the significant efforts made by Michigan's Department of Natural Resources and concerned residents of Michigan will not be enough to save this bird if its winter habitat is destroyed. The same story is likely true for at least one bird species in every other state.

Because migratory birds range across a number of international borders every year, we must work to establish safeguards at both ends of their migration routes, as well as at critical stopover areas along their way. Only in this case can conservation efforts prove successful.

That is why Senator DASCHLE, Senator Chafee, and I introduced the Neotropical Migratory Bird Conservation Act. This legislation will protect bird habitats across international boundaries by teaming businesses with conservation groups, thus combining capital with know-how.

These entities will then partner with local organizations in countries where bird habitat is endangered to help teach the local people how to preserve and maintain their critical natural habitat.

The 5 year demonstration project created by this Act will provide $5 million each year to help establish cost-sharing, habitat conservation programs in the United States, Latin America and the Caribbean.

This legislation is proactive, avoids complicated and expensive bureaucratic structures and will bring needed focus and expertise to areas now receiving relatively little attention in the area of environmental degradation. And it has wide support in the environmental and conservation communities.

This legislation is endorsed by the National Audubon Society, Ducks Unlimited, the Nature Conservancy, the American Bird Conservancy, Defenders of Wildlife, the American Forest and Paper Association and the Conservation Fund. These organizations agree that establishing partnerships between business, government and nongovernmental organizations both here and abroad can greatly enhance the protection of migratory bird habitat.

I want to thank the distinguished minority leader, my original partner for the past two and one half years, for his hard work and efforts on behalf of this legislation. His involvement and perserverance—long with those of Peter Hanson and Eric Washburn of his staff—helped us overcome a variety of obstacles and pave the way for this bill to become law.

I also want to thank Senator BOB SMITH, Chairman of the Environment and Public Works Committee, for his efforts to move this legislation forward. The continuing commitment of the Senate Environment Committee was essential to bringing this bill to the finish line.

And let me recognize the efforts of Kevin Kolevar of my staff, who began the work on this bill back in February of 1998.

Finally, Mr. President, I want to recognize the efforts of our former colleague and friend, Senator John Chafee, who passed away earlier this year. As chairman of the Environmental Committee, Senator Chafee was a driving force behind this legislation. Senator Chafee and his committee staffer, Jason Patlis, shepherded this bill through the Senate twice.

This legislation is yet another addition to the long list of contributions made by Senator John Chafee to protect our natural resources for generations.

I can think of no better tribute to Senator Chafee than to send this bill to the President with a resounding bipartisan vote by the Senate.

Mr. STEVENS. I ask unanimous consent the Senate agree to the amendment of the House.

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

—

AUTHORIZING TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN UNITED STATES V. ELLEN ROSE HART

Mr. STEVENS. Mr. President, I now ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 331, submitted earlier by Senator LOTT and Senator DASCHLE.

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

The legislative clerk read as follows:

A resolution (S. Res. 331), to authorize testimony, document production, and legal representation in United States v. Ellen Rose Hart.

The Senate proceeded to consider the concurrent resolution.

Mr. LOTT. Mr. President, this resolution concerns a request for testimony in a criminal action in the United States District Court for the Eastern District of California. In a federal indictment, the defendant has been charged with making a false statement on a passport application and possessing a false identification document in violation of federal law.

In connection with the passport application that is the subject of the indictment, the defendant sought constituent casework assistance from the offices of Senator BARBARA BOXER and Senator DIANE FEINSTEIN. At the request of the U.S. attorney who is prosecuting this case, this resolution authorizes employees in both Senators' offices who worked on this constituent casework matter to testify and produce documents at trial, with representation by the Senate Legal Counsel.

Mr. STEVENS. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 331) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 331

Whereas, in the case of United States v. Ellen Rose Hart, CR–F 99–5275 AWI, pending in the United States District Court for the Eastern District of California, testimony has been requested from Eric Vizcaino, an employee in the office of Senator Boxer, and Monica Borvice, an employee in the office of Senator Feinstein;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Eric Vizcaino, Monica Borvice, and any other employee of the Senate from whom testimony or document production may be required are authorized to testify and produce documents in the case of United States v. Ellen Rose Hart, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Eric Vizcaino, Monica Borvice, and any Member or employee of the Senate in connection with the testimony and document production authorized in section one of this resolution.

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MEASURE READ THE FIRST TIME—H.R. 4680

Mr. STEVENS. Mr. President, I understand H.R. 4680 is at the desk. I ask for its first reading.

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

The legislative clerk read as follows:

A bill (H.R. 4680) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, and for other purposes.

Mr. STEVENS. I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the following legislative day.

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ORDERS FOR FRIDAY, JUNE 30, 2000

Mr. STEVENS. I now ask unanimous consent when the Senate completes its business today it stand in adjournment

until 9:30 a.m. on Friday, June 30, 2000. I further ask that on Friday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 4577, the Labor, Health and Human Services, and Education appropriations bill under the previous order.

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

Mr. STEVENS. Mr. President, I further ask consent that following the votes, Senator DOMENICI be recognized as in morning business.

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

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PROGRAM

Mr. STEVENS. For the information of all Senators, on Friday the Senate will resume consideration of the Labor, Health and Human Services, and Education bill at 9:30 a.m. Under the previous order, there will be several votes on the remaining amendments, which include the Wellstone amendment regarding drug pricing, the Helms amendment regarding school facilities, the Harkin amendment regarding IDEA, the Baucus amendment regarding the impact aid, any amendment that is not cleared within the managers' package, disposition of the point of order that is pending, final passage of the Labor, Health and Human Services, and Education appropriations bill, and possibly a vote on adoption of the conference report to accompany the military construction appropriations bill.

Mr. President, I hope that ''possibly'' is not possibly but it is a fact tomorrow.

I do want to say on my own behalf that the enactment of this bill that we have just brought out of conference is absolutely essential to the well-being of the men and women of the armed services of this country. If it is not passed tomorrow and signed by the President before the Fourth of July, there will be severe repercussions in the military services of this country. We have worked day and night to get this bill done, and I congratulate the Members of the House in accomplishing passage of it earlier this evening. I do encourage our colleagues to remain in the Chamber during the series of votes that will come about in the morning hours tomorrow.

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ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. STEVENS. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:30 p.m., adjourned until Friday, June 30, 2000, at 9:30 a.m.

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CONFIRMATIONS

Executive nominations confirmed by the Senate June 29, 2000:

DEPARTMENT OF JUSTICE

DANIEL G. WEBBER, JR., OF OKLAHOMA, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF OKLAHOMA.

JAMES L. WHIGHAM, OF ILLINOIS, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF ILLINOIS FOR THE TERM OF FOUR YEARS.

RUSSELL JOHN QUALLIOTINE, OF NEW YORK, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

JULIO F. MERCADO, OF TEXAS, TO BE DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT.