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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer: William James gives us a thought for today and a call to prayer:

We and God have business with each other. And in opening ourselves to His influence our deepest destiny is fulfilled. The universe, at those parts of it which our personal being constitutes, takes a turn genuinely for the worse or better in proportion as each one of us fulfills or evades God's demands.

Gracious God, we open ourselves to the influence of Your Spirit. Think Your thoughts through our minds; express Your love through our emotions; accomplish Your plans through our wills. We invite You to take control of our lives and use us today. Bless the Senators with an awareness of Your presence, an assurance of Your help, and an accountability to You for the work of this day. Help us all to fulfill our destiny as Your faithful servants today. Thank You for the privilege! You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON S. CORZINE led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 16, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

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

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

In my capacity as a Senator from the State of New Jersey, I suggest the absence of a quorum. Without objection, the time for the quorum call will be evenly divided.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MEETING THE SENATE CHALLENGES

Mr. THOMAS. Mr. President, let me take a couple of minutes to speak on a couple of subjects which I feel very strongly about and that we are facing.

First of all, I want to talk about energy. Certainly, during this whole year we have been giving consideration to and having some emphasis on energy. The public interest has been higher, and we have problems. When gas prices are higher, everybody recognizes the issue that we have with energy. But when those settle down a little, the problem is still there. We in the Congress have tried to deal with it for this whole year. Now we are in the process of having a conference committee try to come out with conclusions. I just wanted to urge that we move forward with the conference committee and that we finally come up with an energy policy in this country. We do not have one.

We find ourselves in the position of being nearly 60 percent dependent on importation of oil in order to meet our needs. We don't want to be in that position, particularly with the unrest in the Middle East from where much of our oil comes. We certainly need to find solutions that will make us less dependent. It is not only an energy issue, it affects our economy. I do not know of anything that affects our economy more than energy. We use energy when we turn on our lights, when we have heat, and when we have air-conditioning.

In terms of the economy itself, nothing is more important than energy.

I am hopeful that we can move forward. We have put together a conference committee. The House bill is somewhat less extensive than the Senate bill. On the other hand, certainly there are a great many things in which there is common interests. Someone reviewed it and found that there are probably 55 issues in which we have a common interest.

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



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We need to move forward. We are ready to do something. The committee has not yet actually met. Staff is meeting. I just can't say how important it is for us to move forward and complete that conference committee and bring those issues back to the Senate and the House before the September time expires.

We are talking, of course, not only about the idea of having increased production in our country, which we can have, we are also cognizant about renewables. We are talking about research to make coal cleaner for the air. We are talking about all kinds of issues with a balance between production and conservation. That is what we ought to be doing in policy.

I am really anxious that we find a way to move forward. Obviously, there are some issues on which there is disagreement: For example, an opportunity to have production in ANWR on the North Slope, which is part of the House bill and not part of the Senate bill. We ought to resolve that and come to a conclusion. That ought not be what holds up having an energy policy in this country. We can deal with the idea of having access to public lands so we can have production. And we can conserve and protect the environment at the same time. We have done that for a very long time in the West where most of the public land is located. We can do that.

There are those who try to make the point that if you have access to the land, it suddenly is going to be spoiled, and so on. That doesn't need to be the case. There are ways in which we can have effective production and at the same time have effective maintenance. Obviously, there are areas in which we don't want to have that kind of use, whether it be wilderness or the national parks or special parts of the forest. But, in general, half of Wyoming belongs to the Federal Government. The largest percentage of that is Bureau of Land Management lands. Those are lands that ought to be available under law for multiple use. Certainly, it should be used carefully. We want to do that.

There is also a great debate over what we do in terms of trying to get better efficiency out of our energy. And we can do that. There is a great debate on CAFE standards and mileage standards and whether that ought to be the best we can do or whether that ought to be put in law over a certain length of time. Again, we can resolve those issues.

The idea of using ethanol can also be resolved. We need to work at it.

The other issue that obviously is going to be on the floor right away is one that we have worked on in the Finance Committee for some time; that is, prescription drugs and pharmaceuticals, which we will be talking about today, and, as I understand it, from the leader's comments, probably for the next 2 weeks, which is fine. It is an issue that really needs to be re-

solved. Obviously, it impacts a great many people in this country, particularly those on Social Security, the elderly.

More and more, we find ourselves utilizing pharmaceuticals. Hopefully, that has been helpful to health care. Utilization is one of the reasons, of course, the costs per individual have gone up, in addition to the price of pharmaceuticals.

In the Finance Committee we worked on this bill, which is where the jurisdiction is. But I am disappointed that coming to the floor with a bill that has been approved by the committee is apparently not going to happen. The leader is going to go ahead and has already put a bill on the floor that has to do more with the patent rights than it does on the whole question of pharmaceuticals, and then to bring a bill as he chooses to do it as opposed to the committee approving a bill.

Interestingly enough, that is exactly what happened with energy. The bill was taken out of the Energy Committee by the leadership here, and then we dealt with it on the floor for I don't remember how many weeks. But that is not the way we are supposed to work.

We have committees and committees are supposed to report and bring their recommendations to the floor so that the great detail of these things has already been done. When you do not do that, then it comes to the floor, and we find ourselves, as we are now, frankly, behind in the work we ought to be doing towards the end of this session, and largely because of the idea of going around the committees and then bringing these controversial issues to the floor.

I do not think pharmaceuticals are controversial in terms of us wanting to deal with it, but there are lots of things in it. It is a very difficult issue. I am disappointed—if that is finally the way it works out—that we don't have a bill reported from the committee of jurisdiction.

It is a tough issue. There are lots of issues to talk about. Who should be the beneficiaries of a pharmaceuticals program of this kind? There are some who want it for everyone. There are some who want it simply as part of Medicare. And then, should the emphasis be on low-income individuals or should it be for everyone? I do not know the answer, but that is one of the issues that has to be talked about.

What can we do in terms of trying to get better prices, in terms of having prescription drugs available for people to buy? Or do we simply want to subsidize them at whatever price comes out? It is a very difficult issue, and one with which we have to deal.

Since we are talking about a kind of stand-alone situation with pharmaceuticals, we have to talk about a delivery system. How do you do this? How do you do this to allow for the local pharmaceutical, the local drug stores, the local pharmacies to be able

to participate, as well as mail distributors? I think that is very important, particularly for those of us in rural communities. We need to make sure the drug system—whatever we come up with—and the delivery system are available in rural areas. We find some problems with that generally in terms of health insurance. In low-population areas, there are not the choices available as in other places. We need to ensure that is the case.

And then there is the cost, of course. There are at least three proposals that will be before us. One of them—I think it is called the Graham bill—will be one that gives very extensive coverage but over a 10-year period costs nearly \$1 trillion, apparently. At least that is the best sort of pricing that we can get so far.

There is one that is the tripartisan bill. That comes out to a price of about \$370 billion over 10 years. Again, it is difficult to get the scoring on these, but we have that.

And then, of course, there is another proposal out there. I think it is the Hagel bill. That is largely one in which there is a group purchasing process, and you would belong to the purchasing card arrangement and basically use the idea of volume to be able to have substantially less cost. I think it would cost about \$150 billion. I never thought I would be talking about \$150 billion being less, but that, nevertheless, is the way it is.

So we are faced with some tough decisions. Unfortunately, we will not have a committee-approved bill before us to deal with, I am afraid. The difficulty with that, of course, is that in the Senate we also do not have a budget; therefore, a point of order rises on anything that is above what was considered to be in the budget, which is \$300 billion. So a point of order can be raised on two of these three bills that I mentioned; and then it takes 60 votes to get those passed. If there are not 60 votes, they will not be successful.

I think we find ourselves in a real difficult situation in dealing with something that almost everyone wants to complete. Unfortunately, it now becomes something of a political issue in terms of what you can do during the election period to talk about what an advocate you were on the floor. That should not be the purpose. The purpose ought to be to come up with a workable program designed to deal with the people in most need of assistance, designed to have a delivery system that gives people some choices which comes through the private sector; and those choices would exist all around the country, not simply in cities and highly urbanized areas, with some control over cost.

We are finding ourselves, obviously, in a great spending spree. Part of it, of course, is the result of terrorism and some of the events that have happened, and partly as a result of less revenue coming in as a part of the economy.

So I guess on balance I am saying we find ourselves in a tough position. I

hope we can zero in on what it is we want to accomplish and find the best method of accomplishing that and get it done in the very near future.

So I think we have lots of challenges before us. I mentioned a couple: energy, pharmaceuticals. We ought to be able to get a budget so we have limitations on our spending. In the Senate, we obviously have not yet begun to deal with the 13 bills that we need on appropriations. We have not started on that.

So I think we have allowed ourselves to get into a pretty tight situation in terms of dealing with the issues. I am pleased that yesterday we were able to at least complete something in the accounting area that will deal with some of the problems we have seen in terms of corporate misbehavior. Hopefully, that will work. So I just wish we could move and get on with the work we know we have to do.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Illinois.

Mr. DURBIN. Madam President, I ask unanimous consent to be recognized in morning business.

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

14TH INTERNATIONAL CONFERENCE ON AIDS

Mr. DURBIN. Madam President, last Friday, July 12, the 14th International Conference on AIDS closed in Barcelona, Spain. This year's theme was "Knowledge and Commitment for Action."

More than 14,000 doctors, activists, and government officials gathered in Barcelona for the largest AIDS conference ever.

At the last conference, hosted in Durban, South Africa, in the year 2000, the concluding plan, by all the nations that assembled, was to take action on the following items: To spread the use of condoms as a means of avoiding infection; to curb mother-to-child transmission of AIDS and HIV; to empower women to choose their relationships and method of contraception freely; and, finally, to educate people about the risks.

The last 2 years have shown that all four of these activities can be done successfully.

Another success achieved in the past 2 years is the focus shift to providing treatment for all. This has been a result of lower drug costs and the realization that people will not get tested unless there is hope of treatment.

The opening session featured the Barcelona Declaration, which called for action on the following goals by the year 2004: Secure a donation of \$10 billion per year for Global AIDS—\$10 billion—provide 2 million people in the developing world with antiretroviral treatment; third, provide affordable drug treatment in the developed world and universal access to generic brand drugs in the developing world; and

fourth, develop a new global partnership between government and non-government organizations, recognizing the crucial roles that NGOs play in the fight against AIDS.

The Barcelona conference has brought a great deal of attention to HIV/AIDS. Newspapers daily provide America with devastating facts. UNAIDS warns that the AIDS epidemic is just starting. An estimated 5 million new HIV infections occurred worldwide during 2001. That is about 15,000 infections every single day. More than 95 percent of these occur in developing countries. In 2001, 5 infections each minute occurred in young people age 15 to 24, approximately 6,000 young people in total. Worldwide, 13.4 million children have lost at least 1 parent to AIDS. That number is expected to grow to more than 25 million by the year 2010.

We tend to view AIDS and its growth as a Third World problem. We hear the statistics: 40 million infected people in sub-Saharan Africa; 15 million AIDS orphans or more in sub-Saharan Africa; projections by the World Bank that there will be over 20 million infected people in India alone in the next 5 to 10 years; all of the talk about China and Russia.

Never should we overlook the problem in the United States. AIDS is still a problem; HIV infection is a reality. It is growing particularly among the African-American population in America. It is growing particularly among heterosexuals and among women. This is a problem we have not conquered. In fact, we have not confronted it honestly in the United States for too long a period of time.

UNAIDS has just issued a report on the situation in China. The report is called "China's Titanic Peril" because the U.N. agency said, if China doesn't act now, this boat will sink. The Chinese Government estimates 850,000 are infected. The U.N. report indicates the Chinese Government lacks political commitment and thus far has not provided sufficient resources to deal with it. Seventeen percent of the people in China have never heard of the disease. China, India, and Indonesia are on the brink of outbreaks that could dwarf the current epidemic.

AIDS is the leading cause of death in sub-Saharan Africa. More than 28 million Africans are infected with it. HIV/AIDS weakens economic and political stability, national security, and agricultural output, all necessary for continued development.

The cost of AIDS rises each minute that the epidemic grows. Without a drastic change in the global approach to the HIV/AIDS epidemic, it is expected that an additional 45 million people will be living with AIDS by 2010. From the facts reported in the daily newspapers, it is clear that current spending levels are grievously insufficient to address the global epidemic.

In 1993, experts asked the world for \$2 billion annually to slow the spread and

to save \$900 billion in associated costs. Only recently, the level of global spending has climbed to \$2.8 billion. Think of that, a 9-year period of time when we did not respond to this epidemic as it spun out of control. This is well below the actual need today of \$10 billion every year to fight this epidemic that is circling the globe.

A World Health Organization mathematical model estimates that only \$9 billion can be usefully spent per year: \$4.8 billion on prevention, \$4.2 billion on treatment. This number assumes the medical infrastructures in developing countries will remain at current capacities. Jeffrey Sachs, a well-known development economist based at Columbia University in New York, suggests that investing in infrastructures would raise the yearly cost to about \$15 billion.

I have been to some of these countries suffering with AIDS. Many of my colleagues have. You see that the medical infrastructure is virtually primitive. Not only do they not have clinics, they don't have water that is safe to drink. Imagine trying to treat an epidemic under those conditions. An investment in the public health infrastructures of these countries can mean we could put money into stopping and slowing this epidemic.

The United States spends more than \$10 billion domestically to fight the disease, but we contribute only \$1.1 billion to fight AIDS abroad. A few weeks ago, I brought an amendment to the floor asking that we make a commitment on an emergency basis to put \$500 million more into fighting the AIDS epidemic. I am sorry to report my colleagues would not support me on that amendment. It is unfortunate. I believe, sadly, that in years to come we will look back on this as a missed opportunity to do something about an epidemic that will literally affect the lives of all of our children and grandchildren and affect the stability of the world.

What are the contributing causes to the global epidemic? No. 1 is lack of education. Eighty percent of those most at risk receive no information or any help with prevention. Just a few years back, 10 or 12 years ago, 30 percent of the pregnant women in Uganda were HIV positive. That number is now down to 11 percent. Was there a massive infusion of money into Uganda? There was, a selective infusion of money into public education. It worked. They preached ABC, which is very basic: Abstinence, which is the first advice to be given; make certain that if you are going to be sexually active, you are monogamous; and third, make certain you rely on condoms for protection if you don't accept the other two as a premise for your lifestyle. It is very fundamental, but it worked. It dramatically reduced the HIV infection rate among those who were pregnant.

We need programs that are going to change the habits of people. We have to understand poverty creates desperation. There is something we have to

understand, which the Presiding Officer made a point of in the city of Chicago many years ago after she had returned from a trip to South Asia—I heard her speech; I remember it well—in which she said, the biggest single indicator of the likelihood of progress in a developing nation is the way they treat their women. If women are treated with respect, if they are given a voice in the society, if they can help decide their fate, you will have a more progressive society; you will find a country able to respond to many crises, not just the health crisis.

We in the United States have to understand that though we don't lead the world in foreign aid, per capita, we certainly want to make certain that our investment in foreign aid focuses on improving the role and voice of women in developing countries. Women who are not treated as slaves or chattel can make life decisions that will save their lives, enrich their children's lives, and give them a marital situation with hope instead of despair. That should be part of our approach in dealing with AIDS as well.

This epidemic is going to get worse before it gets better. We have to understand that the United States has, beyond a moral responsibility, a political responsibility in terms of this HIV/AIDS epidemic. There was a time a century ago when the problems around the world were in fact on the other side of the world; they couldn't, frankly, make it to the United States; many of these people who were sick would die on the way. We now know that any problem on the other side of the world is a 10- or 12-hour airplane flight from being our problem.

Let us understand we cannot take the current course that is being suggested by this administration. To give a symbolic amount of money this year to the global AIDS effort is in fact to invite further disaster on the people around the world and on the people of the United States. To go, as the administration has said, along the route that would suggest next year we would make no contribution to the global AIDS fund suggests perhaps that they believe the epidemic is going to wait for us to catch up with it. It won't. Then finally to say that maybe 2 years from now we will put another \$300 million in, that kind of halfhearted, weak attempt to meet our moral and political obligation will mean the AIDS epidemic will continue to grow, not just in Africa, not just in Asia, but around the world.

Taking a meaningful, positive step forward in supporting prevention of AIDS research and education is in the best interest of the United States.

I note that major donor organizations such as the Gates Foundation and the Kaiser Foundation and others have made a commitment to this. The United States has to meet and exceed that commitment as well. We have to make certain that the Senate reverses the sad, terrible vote we cast just a few

weeks ago, saying that we are not going to put more money on an emergency basis to fight the AIDS epidemic. I hope my colleagues in the Senate, as they reflect on the Barcelona conference and the commitment of thousands of leaders around the world, the HIV/AIDS epidemic, will put pressure on this administration to go beyond the rhetoric, beyond juggling the books, about \$500 million over a 3-year period of time, and make a meaningful commitment that will save lives.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

PRESCRIPTION DRUG COVERAGE

Ms. STABENOW. Madam President, I first commend my friend from Illinois for his advocacy on this critical issue. He has been here time and again with amendments to do what needs to be done. I thank him for his advocacy and concern, deep concern, about this issue.

In a related issue—relating to health care—this morning I am in the Chamber with my colleague from Florida to urge our colleagues on the other side of the aisle to join us in proceeding to the critical debate on the issue of prescription drugs. I cannot think of a more important issue facing our country than making sure that lifesaving medicines are available to our seniors, to our families, to anyone who needs them, and that we are lowering prices so that our small businesses can see their health care premiums go down to a reasonable level.

Large manufacturers, such as the big three automakers, that are in Michigan, and others all across the country who are seeing explosions in their health care costs need to know there is some relief in sight, there is a way to get this into a manageable situation. We have plans to address that, to provide Medicare coverage for our seniors—it is long overdue for prescription drugs—and to lower prices to everybody through increased competition and making sure our laws work and the opportunities for competition exist.

I was concerned to come to the floor last evening and find that a simple motion to proceed to debate the bill was objected to by our friend from New Hampshire and by others on the other side of the aisle—just to proceed to the debate. The leader told us we will have a full 2 weeks in a very crowded schedule to focus on this issue because it is so incredibly important. There is nothing more important to the quality of life of our citizens, to the cost to the economy, and there is nothing more important right now than addressing this issue of lowering prices and the issue of corporate responsibility, quite frankly, with the drug companies and how we make sure that lifesaving medicine is available to all of our citizens at an affordable price and that our seniors have a real promise of Medicare caps, because without covering outpatient prescriptions, we are no longer keeping the promise of Medicare.

So I come to the floor today to urge our colleagues to take away their objection and allow us to proceed to the debate. We have 2 weeks to work out the specifics, to work together on the right kind of plan. But we need to get to that debate.

The Governors of the country are meeting right now, and in fact the Governor from Michigan leads that organization. The Governors' conference, according to the paper, focuses on health costs. This morning, I tuned in to C-SPAN to listen to some of the discussion they were having on prescription drug prices and the costs to our Governors. It says in the paper:

Despite signs of a gradual national recovery, the State's woes are expected to persist well into the current fiscal cycle. Their biggest problems are the ballooning costs of prescription drugs and Medicare.

We in the Senate have an opportunity to do something about that right now. The Governors are asking us to do that. Businesses are asking us, as are families, seniors, and workers. Every worker who has had to have their salary capped or frozen so that the employer can afford the rising cost of their health care plans has asked us to do something about this.

I want to take just a moment to bring forward the urgency of this issue by sharing some stories that have come into my Web site. I have set up something called a prescription drug people's lobby, asking people in Michigan to share their stories and join with us. We know the reason this is being held up, unfortunately, in the Senate is that there are far more drug company lobbyists than there are people's voices talking about what is affecting them and their families. There are six lobbyists for every one Member of the Senate. So we have a responsibility to speak for them and make sure their stories are told.

I start with Melissa Askin from Romulus, MI, who was the first person to sign up for our Michigan prescription drug people's lobby on May 22. I thank Melissa for that. She wrote in her story:

I guess my story is no different from the many Americans, when it comes to deciding if I can afford food to live or medications. It boils down to a choice these days: what can I afford to keep myself alive once I pay my bills.

I am 68 years old, my husband is deceased, and I have no family. I have had a heart bypass, both carotid arteries in my neck cleaned out, and now in April I was operated on for cancer, not to mention several other surgeries. I am supposed to be on nine medications, however, at the price of these meds, I can only afford three.

I don't know what will happen with me by not being able to be on the meds I can't afford, but it makes me wonder what I'm living for. I feel like nobody cares.

Melissa needs to know that we care, we in the Senate care—not by our

words, because people have heard enough words, but by our actions. That is what this is about right now. Are we going to proceed to this debate? Are people going to use procedural motions to stop us from even getting to the debate, or are we going to move forward together, find ways and common ground in a bipartisan way to do what needs to be done? Will we do that so that Melissa Askin, 68 years old, of Romulus, MI, knows that someone cares? When she needs nine medications in order to live and have quality of life, she should be able to get all nine medications and not have to settle for three. That is what this is about.

Let me share a story from a young woman, Shawn Somerville, from Ypsilanti, MI, who e-mailed me:

Just this last Christmas, my grandmother was hospitalized because she stopped taking her prescription so that she could afford presents for all of us grandkids. She later died from an undiagnosed ulcer. It was very sad to me that these drugs are so expensive. Do they need to be?

Well, Shawn, no, they don't need to be. We as American taxpayers underwrite the cost of research and invest in and support the companies and provide patents so they can recover costs, and work with them in one of the most subsidized industries certainly in the country and in the world, because we want to make sure your grandmother has access to her medicine. We want to make sure the grandmothers and grandfathers of this country don't have to stop taking their medicine in order to have Christmas with their grandkids.

Unfortunately, today this system is just plain out of control. When we see prices rising three times the rate of inflation in the most profitable industry in the world and we see people who cannot afford their medicines, I argue that this is a debate about corporate responsibility.

We just finished an important debate last night in a unanimous vote to improve the oversight of publicly held corporations in this country so that in fact we can guarantee corporate responsibility, information for investors so that people's pensions will be protected. It was an important, bipartisan effort that ended up in a good result for the American people.

This is also about corporate responsibility. That is what this is about. I believe it is about corporate responsibility and ethics and, in fact, even morality. We can do better in the greatest country in the world than we are doing now as it relates to the affordability of lifesaving prescription drugs and the spiraling, out-of-control costs of our health care system as a result.

I urge people to get involved with us today. If someone is listening to what we are debating now on the Senate floor, I urge you to get involved right now. We need you to call your Senator. We need all of us to be engaged in this battle, and we welcome you to come to

a Web site that has been set up—fairdrugprices.org.

We are asking people to share their stories. We are asking people to sign an online petition drive sending a message to the House, the Senate, and the President to act now. We do not need one more Christmas to go by with grandmas and grandpas trying to decide whether or not they can buy Christmas presents for their grandchildren or take their medicine.

Fairdrugprices.org is about getting involved and together getting our voices heard, and then through my colleagues and me, we will bring those stories that are shared through this Web site to the Chamber of the Senate and continue to make the case that this is real, it is about real people. We are not making this up. This is one of the most critical, if not the most critical, issues we will debate this year in terms of touching people's lives. The bill we just finished on corporate responsibility certainly is right up there with it, making sure we have confidence in the markets and people's pensions are protected, but if they have to take every single dime of that pension to pay for prescription drugs, they will still have a very difficult time in their retirement.

It is my pleasure right now to yield to my colleague from Florida who has been an outspoken advocate. I know he has been working with people as well and sharing stories and hearing from his constituents about this issue.

I simply say, as I yield to my colleague, that we are out of time. Now is the time to act. Now is the time for us to at least get started on the debate. We have the next 2 weeks to work together to figure out the specifics and bring it to a close.

I yield to my colleague and good friend from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, I am delighted to join my colleague from Michigan, who has given such tremendous leadership on this issue. It is very important that in the next couple of weeks, before we break for the August recess—and my colleague from Michigan will certainly agree with this—that we in the Senate pass a prescription drug benefit.

The problem is, under Senate rules, we do not have the opportunity to pass something unless we get 60 votes. It is not the typical majority plus one, otherwise 51 votes, but under the rules of the Senate, we have to get an extraordinary majority of 60 votes to prevent a filibuster in a parliamentary procedure that is known as a cloture motion, to cut off debate. That takes 60 votes.

Therefore, on one particular plan that is proposed for a prescription drug benefit, it makes it extra difficult for us to get those extra votes because out of every plan, there is going to be something in the plan with which somebody disagrees.

I wish to talk about one of those plans and talk about the reason why it is so important for us to modernize Medicare.

If we were designing a health insurance system for senior citizens today, would we design it to include prescription drugs? The obvious answer to that question is yes, because every day lives are benefited by virtue of an increased quality of life, an enhanced quality of life, enhanced health with the miracles of modern medicine that we know as prescription drugs. But Medicare, the health insurance system for senior citizens, was not designed today. It was designed 37 years ago.

In 1965, when state-of-the-art health care was centered around the hospital and acute care, the health care system, supported by the Federal Government, for senior citizens did not include prescription drugs unless they were attendant to the care of someone who was in the hospital. Thirty-seven years later, we must update that health insurance system for senior citizens. I want to give an example.

There is a lady in my constituency in Parrish, FL. Obviously, her name shall remain confidential, but for these purposes, I will refer to her as Mrs. Smith. Mrs. Smith is 69 years old and she suffers from a variety of medical conditions, including a painful muscle disorder. Because the cost of her prescription drugs is not covered by Medicare, on a monthly basis, her out-of-pocket expenditures are over \$300 just for prescription drugs.

Let's look at her financial condition. She lives alone. She has no family members to help her. Sons and daughters often help their moms and dads, but Mrs. Smith does not have immediate family members to help her with her daily cost of living, including those costs of over \$300 a month for prescription drugs.

What does she receive from Social Security? This is the only income she has—a \$1,030 per month benefit from Social Security.

Of that \$300 that she has to take out of that \$1,000 Social Security payment, she has some big expenses. She has a drug called Neurontin. It is at a cost of 125 bucks a month. She has a drug called Ultram. It is at a cost of 150 bucks a month. She cannot afford, out of her Social Security benefits, to take the daily dosage of those drugs that her doctor has prescribed for her painful muscle disorder. What does it come down to? It comes down to groceries or prescriptions.

Can you imagine that in America in the year 2002 we have senior citizens all across this land who are having to make a choice between whether they are going to eat or whether they are going to get their medicine, as in the case of Mrs. Smith in Parrish, FL? I cannot imagine it, but it is happening, and that is what brings us to the Senate Chamber now as we take up this prescription drug bill.

Mrs. Smith is obviously frustrated that in her golden years she has enormous anxiety because of the high cost of the prescriptions. Under one version of the prescription drug bill, the version that I am a cosponsor of with my colleague from Florida, BOB GRAHAM, Mrs. Smith would only have to pay \$25 a month premium for a Medicare prescription drug benefit. If she chose to have a brand name prescription, she would pay a copay of \$40, but if she wanted a generic prescription, Ultram—that drug that I mentioned she takes at 150 bucks a month—it does have a generic alternative so she would only have to pay \$10 for the prescription for the generic. That coverage for Mrs. Smith would begin upon enrollment, and Mrs. Smith would not be subject to any initial deductible, as is the case in the legislation that passed in the House.

It is another personal example, a real-life example, of why we ought to have a prescription drug benefit enacted to modernize Medicare.

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

The Senator from Minnesota.

Mr. WELLSTONE. I thank the minority leader for his courtesy. I ask unanimous consent that I be allowed to follow the minority leader.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, is the Senator going to be debating the drug issue?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. GREGG. Yes, but I believe the Senator from Minnesota wishes to proceed after the minority leader.

Mr. WELLSTONE. That is correct.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 812, which the clerk will report.

Mr. WELLSTONE. I say to my colleague, I would like to speak for about 10 minutes.

The PRESIDING OFFICER. If the Senator will withhold.

The assistant legislative clerk read as follows:

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

Mr. LOTT. Madam President, what is the parliamentary situation at this time?

The PRESIDING OFFICER. The Senate is on the motion to proceed to S. 812.

Mr. LOTT. Madam President, I ask unanimous consent that I be allowed to

speak under my leader time, probably for 8 or 10 minutes, on the issue that is related to this motion, and others may want to add to it.

Mr. WELLSTONE. Madam President, with the indulgence of the Senator from Massachusetts, I wonder if I could have 10 minutes after the minority so I could go back to a markup?

The PRESIDING OFFICER. The Republican leader has the right to speak at this time.

Mr. LOTT. Madam President, I know others are going to want to speak on the pending motion.

Mr. KENNEDY. Will the Senator yield so I can respond?

Mr. LOTT. I yield to Senator KENNEDY if he wants to make some clarification.

Mr. KENNEDY. We were going to get started. We all are under pressure, but I would be glad to have the Senator from Minnesota speak.

Mr. WELLSTONE. I thank my colleague.

Mr. KENNEDY. Then we will move on the regular order with the presentation of the legislation.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, I understand there was discussion last night, and in the HELP Committee, about how to proceed on the substantive issue, and there was some understanding that some language would be worked out. I do not know the details of it, but I am hoping that whatever was agreed to in committee can be resolved in a satisfactory way.

Without getting into how it was reported out of the committee and how we will proceed once that is clarified, I want to talk about the overall situation that causes me major concern. The Finance Committee has been meeting off and on for probably 5 years trying to decide the best way to proceed on prescription drugs. We have had repeated bipartisan meetings of the full committee, even this year. I have met, I think five times for as much as a couple of hours talking about the substance but it has always been a general discussion with no markup.

Last week, even though we did two minor bills, there was no markup on prescription drugs in the Finance Committee. This week we were scheduled to take up another bill, but the meeting at 10 was cancelled and now the meeting at 2 was cancelled because I assume the chairman realized that the so-called tripartisan bill was going to be offered in the Finance Committee to whatever bill might have been brought up.

This is legislation that has been developed by Senator BREAUX, Senator SNOWE, Senator GRASSLEY, Senator JEFFORDS, and Senator HATCH. It is truly a bipartisan bill and tripartisan because it does have the support of Senator JEFFORDS.

There is a determination not to allow the Finance Committee to act on this

bill. The Finance Committee, for years, has been known as one of the most effective and bipartisan committees, whether it is welfare reform or trade legislation, Medicare, whatever it may be, but in this instance the Finance Committee is basically being told if they cannot get the votes for the so-called Kennedy-Graham-Miller proposal, they cannot act.

I think we are beginning to debate once again in the wrong way on the Senate floor on a very important issue. The majority leader has twice before tried to ignore the Finance Committee and basically come straight to the floor. We saw what has happened, how long it takes for us to work through a bill that has not gone through a committee markup. That is why I continue to urge that the homeland security issue go to a regular markup in the Governmental Affairs Committee, and I am being told that is what is going to happen, because so many of the problems can be resolved at the committee level. If we bring these important issues to the Senate floor without them having been worked through committee, it is a prescription for a real problem, long debate and in this case likely no result.

Last fall the majority leader and the Finance Committee chairman rammed a partisan stimulus bill through the Finance Committee. We told them at that time that process would fail because it set up a situation where we had to get 60 votes and we more than likely could not do that.

Two months ago, the majority leader used a flawed process to bring trade legislation to the Senate floor, and we saw as a result of that it took us, I think, about a month to get it done, even though it was a bill that had bipartisan support on both sides. Four bills were brought together, the trade promotion authority, the Andean trade provisions, the GSP provisions, as well as trade adjustment assistance. It was very difficult to get that work done.

But what we have today worries me even more. We are calling up the drug pricing and patents bill out of the HELP Committee. Then I understand at some point, a prescription drug bill, or bills, will be offered. No matter what is offered, it will have to get 60 votes.

Prescription drugs would have to get 60 votes in the Senate. Why is that? One, we do not have a budget resolution, so we are going under the existing law which says a prescription drug bill cannot be brought up that exceeds, I believe it is \$300 billion. If it does, it takes 60 votes. Also, a bill that is brought to the floor without going to the Finance Committee requires 60 votes.

So we have two things that are happening with no budget resolution: we have a limit with the amount. If a bill exceeds \$300 billion, it takes 60 votes. If it has not come through the Finance Committee, it will have to have 60 votes.

I do not know what the scoring is on the so-called Kennedy-Graham bill. As

of last Friday, or even yesterday, it was not clear. I am under the impression that it is well in excess of \$800 billion, probably closer to a trillion over 10 years. It is a universal coverage provision, without being targeted to catastrophic problems or the elderly poor. We do not know for sure what the costs will be. I am being told that the costs might be less because, instead of it being for 10 years, it will be for 5 years, or maybe even 4 years.

So we are setting up a situation where we cannot act. I think that is a tragedy. It is time we provide the elderly poor who are sick an opportunity to get help with their prescription drugs.

Some States are dealing with this issue, but they are to the limit of what they can do. Others have not been able to deal with it.

I certainly do not agree with this strategy, and the tragedy is that we are going to wind up without getting a result once again. Why not allow the Finance Committee to act?

Let us see what is reported out. Maybe it would not be the tripartisan bill or the Kennedy bill. Maybe it would be something more along the lines of what Senator HAGEL and Senator ENSIGN have proposed. I understand there are other Senators on both sides who will try to work together to find a way to get a result, something that can get 60 votes that would produce a result in this very critical issue.

Senator GRASSLEY has always worked to get bills out of the Finance Committee. They have always been bipartisan bills. I know he is disturbed by this and I believe Senator BAUCUS is disturbed that the Finance Committee has been cut out once again and that we are going with this convoluted process which, I guess, will provide some action on the pricing and patent bill.

That is fine. If we want to bring up that bill and have debate and have some action on it, I think we ought to have debate and some votes and we could get to conclusion of that. But I think to use this as a vehicle to avoid the Finance Committee is a very big mistake. It is not just about politics, it is about results.

Do we want to get a prescription drug provision through the Senate? If we want to do this, we can do it. But what we have before us will not produce a result, a product.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Madam President, I have just very brief remarks. I thank my colleagues. I have to go back to a committee hearing. I will be back for

this debate day after day after day for the next 2 weeks because it is so important to the people of Minnesota.

I take exception to the remarks of the minority leader, as is quite often the case. I think it is an honest disagreement. I think, whether it be 50 votes or 60 votes, if we have a will there is a way. We voted 97 to 0 for a piece of legislation last night. We should have passed it. It was extremely important security reform legislation that was critical for people in the country.

Frankly, affordable prescription drug coverage is also critical for people in the country, for senior citizens, and others as well.

So if there is a will there is a way. We need to get started with this debate. I don't think we should be putting it off at all. It is a compelling interest, a compelling issue in people's lives.

In Minnesota, 40 percent of senior citizens have no coverage whatsoever. I remember a couple of months ago, actually, Helen Dewar from the Washington Post came out to Minnesota to cover the campaign. She spent time with different people. I wanted her to go to Northfield, which was really our home where I taught college, because I wanted her to go to the Quality Bakery—just a great place, a family-run bakery.

We were sitting in there talking and she was meeting with people and this man came in. I don't remember his name. I should have, but I did not remember his name, but I recognized him. It was a small town. We shook hands, and as soon as we shook hands I knew he had Parkinson's disease. I know that disease like the palm of my hand. Both my parents had Parkinson's. I could feel the shaking.

We were talking and I said: Are you on Sinemet?

He said: Yes, but there is another drug people are talking about that would be more helpful.

And I said: What about that?

And he looked at me and he said: I can't afford it.

This is unconscionable.

I want to say just a couple of things. These are the principles. Everybody is talking about getting together. That is absolutely critically important, but these are the principles.

No. 1, it ought to be affordable. You can't have the premiums too high. If you are going to talk about a premium or a deductible, we can't just suggest it. People have to make sure it is there. That is the problem with the House. There are suggestions about a deductible, but it is not part of Medicare, not a defined benefit. People don't know for sure.

No. 2, you bet it has to be catastrophic expenses. But if you have, for example, like on the House side it is between \$2,000 and \$3,700—no coverage at all. People are saying it will not make sense. We are paying premiums and you are not going to help us when

we have bills over \$2,000 a year—that is when we need the most help.

No. 3, absolutely make sure, for low-income seniors, they are not having to pay a lot or maybe anything. But if you are going to say that, then don't have stingy means tests where you say if they have a car worth more than \$4,500, or a burial fund worth more than \$1,500, they could be disqualified. Don't do that. Don't do that. Make sure it is affordable.

Finally, make sure as a matter of fact there is some way that people know this is really, again, going to be a benefit for them, and it will make a real difference.

I think that is why you put it on Medicare.

I understand what is going on here. The pharmaceutical industry—any bill that sort of meets their test is a little bit suspect. I know they are not interested in having the affordable coverage. I know they are not interested in broad coverage. And they are also, of course, not interested in any potential cost containment. If it becomes a part of Medicare, it is absolutely true that at a certain point in time we may very well say: Look, what we are doing here is giving a blank check to the industry, and you are filling in the amount and it is exorbitant prices and there has to be some cost containment.

I want to make a humble suggestion. It is a bill I will be bringing out with Senator DORGAN, Senator STABENOW, and others. Here is one thing we could do that could be a part of our overall getting the work done for people right here in the Senate. We could pass a provision which would say that our citizens, American citizens, can re-import back from Canada these prescription drugs meeting the strictest, same FDA guidelines, consumer protection guidelines. They ought to be able to do so. That not only helps senior citizens, it helps all the citizens.

Do you know what is interesting? You are talking about widely used drugs for depression, for cancer, for heart disease, at 30, 40, 50 percent discount. This is a winner, colleagues, and I believe that ought to be part of the mix as well.

I think the minority leader is wrong. Time is not neutral. I think people are expecting us to do the work. I think we should. If we believe we ought to do this, there ought to be a strong vote for it. I think the Graham and Miller and Kennedy bill is an extremely important start. I think there will be other amendments to strengthen it. But the main thing is we make this part of Medicare. It is not a suggestion. It is a benefit people can count on. We make sure it is affordable in terms of the premiums and the payments, and we make sure it covers the catastrophic bills that put people under.

I don't want to talk about the problems anymore. We have been talking about the problems forever. Let us talk about the solution. Let us get going. Let us start the debate. We should

start. We should not delay anymore. We should have amendments out here. I am ready with an amendment and a provision which I have worked on for years on drug reimportation. Other Senators have amendments. We should get this work done.

My last point is that I think people are counting on us. There is a critically important issue. There is important work to be done. No more delay; let us all come out here and have the debate. Let us be accountable.

I yield the floor.

THE PRESIDING OFFICER (Mr. REED). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, today is a very important day for all American families, and certainly for families who have suffered and have been diminished in a very important and significant personal way because of the high cost of prescription drugs. The Senate of the United States is debating an issue introduced by our colleagues and friends, Senator SCHUMER and Senator MCCAIN, to reach out a helping hand to the families of this country in order to get a handle on the cost of prescription drugs.

The cost of prescription drugs as well as the accessibility and the availability of prescription drugs are very closely related. We will have an opportunity to debate that issue later in the week. We are hopeful we will be able to work through this process in a way that will command broad bipartisan support on the floor of the Senate.

We invite the American people to give focus and attention to this debate. Certainly for me, this is most important because it is related to a commitment that we as a country made to our senior citizens back in 1964 and 1965 when we enacted Medicare. It is an issue which is front and center to every family in America today. It was an issue to families early this morning when many of our seniors went to their drugstores and tried to get the prescription drugs which are absolutely necessary for them and found that the costs have been continuing to escalate and wondered whether they could afford the prescription drugs and the food they need. It will be there this afternoon, at noontime, or this evening when workers return and they need prescription drugs to try to help a sick child.

The issues are front and center for every family. I don't think we will debate an issue which is of such central importance to every American family as this one. This issue is not a new issue for this body, but it is a new issue by the fact that we are debating this or have an opportunity to debate it on the floor of the Senate today.

Prescription drug legislation has been introduced and referred to committees over the last 5 years which has never emerged from those committees. I won't take the time of the Senate to go back prior to even 5 years ago. In 1978, Senator THURMOND and I intro-

duced prescription drug legislation. We were never able to get it to the floor of the Senate. Now we will have a debate on this.

I take a moment of time to respond very quickly to the comments of my friend, the Republican leader, about the process of procedure.

Legislation is now before the Senate. It was voted on in our committee 16 to 5. We had a very similar vote on the legislation we just concluded, as a matter of fact. We found after the debate and discussion that we were able to get a unanimous vote on that legislation. We might not end up with a unanimous vote on this, but let us not discount the possibility that we can do something that is important for our seniors.

The point has been made about whether this procedure is consistent with the Senate rules. Clearly, it is. The legislation we are considering was reported out in a bipartisan way. I am hopeful and confident that we will consider other legislation to expand the access to prescription drugs.

I will not take much time to remind our Republican friends about actions they have taken on important legislation that also circumvented committee action. There were a number of instances. I think that is important. I think the needs of families in this country are by far more important.

I regret very deeply that we are going to have to take the Senate's time before we are permitted to actually get consideration of the bill. All Members know we are facing effectively a filibuster on the motion to proceed to this legislation. It is under the guise that some technical language wasn't satisfactory to the members of the committee. I reviewed last night the history on that technical language indicating that if it was just technical in nature, we would be glad to consider those proposals this morning and to clarify the language. If it is substantive, let us get on to the debate and let us get on to amendments. Why delay the Senate of the United States from considering this legislation?

We shouldn't be surprised that there are powerful financial interests that do not want this legislation, that are strongly opposed to this legislation, and that want Members in this body to filibuster to their last breath. This is because they have been taking advantage of the existing legislation to expand their profits at the expense of consumers in ways which we will describe during the course of this debate—the greed and collusion with other companies in order to deny quality drugs and generics being available at cheaper prices.

What this debate is about in many respects is corporate greed by those companies that are ripping off the public. They are able to get, in effect, a delay by this body in considering this important legislation. Let us make no mistake about what is going on. We will see it over the continuation of this debate.

There was a strong belief that we would never have the opportunity to report this legislation out of Committee. We were successful in doing it in a strong bipartisan way. We are grateful to our Republican friends for their support. But we don't underestimate the strong opposition that has been voiced by drug company after drug company that are abusing the process under the old Hatch-Waxman. As a result of that, they are experiencing incomes of billions of dollars more than they ever should, and they are receiving that at the cost of the American consumer. They do not want to lose that privileged position. As a result, they are in support of delay, delay, delay, delay, delay. That is what is happening. Prescription drug legislation is going to be opposed by those that are profiteering.

There are many within the drug industry who support our efforts to try to work through a process because they understand the importance of the health factors that are involved in this. We are grateful to them. We hope we can work with them in trying to come up with real legislation that can benefit people. But we should not have to spend a great deal of time in reviewing what has been happening in terms of the escalation of the costs of prescription drugs.

The cost of prescription drugs has been escalating and far exceeding the average cost of living. It has been going up at the most extraordinary levels.

We see from this chart the fact that the increase in the cost of prescription drugs has been going up and exceeding the cost of living by about three or four times in recent years.

In 1996, we had a 3.23-percent rate of inflation, CPI, and the increase in the cost of prescription drugs was 10 percent. The increase in the cost of prescription drugs was 14 percent in 1997, 15 percent in 1998, 16 percent in 1999, 17 percent in 2000, and 17 percent in 2001. Look at the yellow bars that indicate the rate of inflation.

Why is it so important? It is important, obviously, for the health and consideration of our fellow citizens. But the fact remains, in 1965, when we passed the Medicare legislation, we went on record—the Congress went on record—with a solid commitment to our seniors and to the American people: Work hard, pay into the system, and at the time you are 65 years of age, you will have health security in this country. That was our commitment, and we did it. We have done it with regard to physician services, and we have done it with regard to hospitalization.

But what we have not done this with is prescription drugs. Every single day we fail to enact a prescription drug benefit program that is affordable, accessible, and available to seniors we are violating that solemn commitment and promise to our seniors—every day, every day; today, tomorrow. And that is a solemn commitment.

We will hear: We have X provision or Y provision that isn't clarified. The seniors understand what is out there. They understand what is important. We have a responsibility to meet the needs of our senior citizens, and to do it in a way that is affordable and accessible.

This legislation that is before the Senate now will have a significant impact in terms of the escalation of costs, make no mistake about it—if we are able to, and when we are able to, get a debate for the consideration of it. But what we are being told now, with only 3 weeks left before the August recess, is: No, we are not satisfied. No, we are not going to be able to take this up. No, we are not going to be able to consider this legislation.

If they have differences, let's hear those differences. Let's consider those amendments. Let's debate those amendments this afternoon. Let's vote on those amendments. But let's not just hide behind the questions about clarifications of language.

We have seen what has happened in terms of our senior citizens with regard to the coverage on prescription drugs. If you look at this particular chart, you will see where our seniors are now with regard to prescription drugs.

Thirteen million of our senior citizens have virtually no coverage whatsoever in the United States today. Ten million have employer-sponsored plans. We will come back to that. But keep that in mind: 10 million have employer-sponsored plans. Five million are under Medicare/HMO. Two million are under Medigap. Three million are under Medicaid.

The only Americans who can be guaranteed prescription drug coverage that will be available and accessible are those under Medicaid. Those are the only Americans who are not at risk today. We are trying to do something about it. But the drug companies say no. They will not even let us begin the debate on it. They say, no, we are not going to permit you to even proceed to the debate on this issue, even though we are finding out what is happening to our seniors.

We have 10 million who have employer-sponsored plans. Let's take a look at what happens to those who have employer-sponsored plans. If you take the employer-sponsored plans, the firms that have offered the prescription drug program for our seniors, look what has happened to those 10 million people. These individuals have retired. Let's look at what is happening to their coverage. It is dropping like a stone in a pond. It was 40-percent coverage in 1994; and it is going right on down and dramatically being reduced. That is as a result of the employers cutting that program out.

And 13 million do not have any coverage. As I said, 10 million have employer-sponsored plans. And this is what is happening to the employer-sponsored retirement coverage: The coverage is dropping like a stone in a pond.

Let's look at what is happening in terms of the HMOs. We said we had about 5 million who were covered by the HMOs. Take a good look at this particular part of the chart. This is Medicare coverage. HMO drug coverage is inadequate and unreliable. A drug benefit is offered only as an option, and 30 percent offer no drug coverage. And 5 percent of Medicare beneficiaries in rural areas have it.

But look at this bullet line: Medicare/HMOs are reducing the level of drug coverage. Seventy percent of Medicare/HMOs limit their drug coverage to \$750 or less—\$750 or less.

Fifty percent of the Medicare/HMOs with drug coverage only pay for the generic drugs.

So you can say we have all of those who are covered by employers. That is phony because the bottom is falling out for them. You can say you have 4.5 million of them covered by HMOs. This is increasingly phony because they have a limitation of \$750. And about 18 percent of all of the seniors will benefit under that particular program.

So we go on and see what happens in terms of the next group, which would be the Medicaid coverage. We will find out that some 3 million have that program. And then, finally, you have those who are involved in what they call Medigap, where the average cost has gone up so high that it is increasingly out of range.

Our seniors are in a crisis. Our seniors are in crisis with the explosion of drug costs and the failure of coverage, and we are being told out here on the floor of the Senate we cannot even bring up the bill, even though there has been a prescription drug bill for 5 years in the Senate, and we have not had a debate on these issues.

So the question is, which way is the Senate going to go? Is the Senate going to go with the drug companies and the wealthy corporations that today are abusing and colluding with some generic companies to deny the lower prices for families in this country? Or are they going to stand up and say: We want to get this legislation passed that can make a real difference in the cost of their drugs?

If that is what they want, they should be letting those forces know here in the Senate—the Republican leadership on down—that this is the time for debate and action on this. We do not accept the fact that it is going to be complicated, it is going to be difficult, it is going to be hard to try to reach a coalition.

We are committed to getting something done. We believe we have the way to be able to do it.

I want to also mention another feature. We know that the House of Representatives took some action recently in order to try to address this issue. We welcome the fact that at least they passed some legislation. We would not be able to get legislation unless, obviously, the House passed it and the Senate passed it. We would not be able to

get legislation unless we were able to have the House of Representatives pass legislation.

But I want to just review, very quickly, with the Members about what happens in the Republican proposal in the House of Representatives.

First of all, there is an assets test. What they have is an assets test. You will hear: The Republican program really covers and reaches out and covers individuals in the lower income levels. That is where the real need is.

Right, that is where the real need is. There is a great need when you figure two-thirds of seniors have incomes below \$25,000. The average income is less than \$14,000.

We talk about individuals, wealthy seniors. When two-thirds of them have an income of less than \$25,000 and the average income is \$13,000, certainly our seniors are hard pressed to be able to do this.

It is interesting. It has been suggested that for low-income people, they won't have any premiums. They won't have deductibles. They will not have any copays. That sounds good, but just take a look at the print. There is the assets test. Any senior can't have any more than \$4,000 in savings. You can't have a car that is worth more than \$4,500 or you are out. You are telling seniors who might be driving around in the cold of winter that they can't have a dependable car in order to go to the drugstore to get their prescription drugs or have a car in the heat of the summer, in the areas of this country that are scorching hot and have a decent car to be able to make sure they get to the drugstores. If they do, they will lose eligibility.

Burial expenses worth more than \$1,500— isn't this wonderful? If it is more than \$1,500, it moves against the assets test and moves to disqualify them. Personal property, a wedding ring, no more than \$2,000 in furniture or personal property. A wedding ring counts as personal property. Let alone if it goes over that \$2,000, it counts in the assets test, as does \$4,000 in savings. In other words, you have to just burn every nickel and dime that you have been able to save over your lifetime in order to qualify for this.

Not only is this process unconscionable and it has been rejected by Senator GRAHAM and Senator MILLER in their particular proposal, but it is a very important part of the Republican program in the House of Representatives. It is not only that this is demeaning, but what do we ask our elderly people to do? Go in to fill out a little form. Can you imagine how demeaning that is? People who need that prescription drug as a lifesaver have to go in there to try to qualify. They have to count their wedding ring, their furniture, personal property, and whatever is in their savings when they go to qualify for this program. That is when we know from a financial statement that they are individuals in need.

Beyond this, you have the paltry coverage benefits under the Republican

plan. On this left side you have the percent of seniors that purchase, for example, 18 percent spend \$250 or less on drugs; 18 percent spend \$250 to \$1,000; 17 percent spend \$1,000 to \$2,000; 23 percent spend \$2,000 to \$4,000; and 7 percent spend \$4,000 to \$5,000. The beneficiary payments and the Medicare benefits, if you are spending \$250 on drugs costs, you are still going to pay \$658 because you are going to pay the premium and the deductible. So virtually we are telling these 18 percent of the Americans under the Republican program, no benefit, none. You don't get any at all.

If you are at 18 percent and you have drug costs of \$1,000, you pay the payments and you pay the deductible. You pay your premiums and you pay your copay. That is \$808. The Medicare payment is \$192. The cost paid by the senior citizen is 81 percent. Some help and assistance that is.

The list goes on. The 17 percent with drug costs of \$2,000 pay 65 percent of the cost themselves. Those with drug costs of \$4,000 pay 83 percent; and the 7 percent with drug costs of \$5,000 pay 82 percent. Some drug benefit that is.

It is important we have a debate to find out exactly what program does what. But we are denied that opportunity. We are denied that opportunity in the Senate to get on to what is happening with costs. We are strongly committed on our side to try to do something about one aspect of it, and that is the escalation in the drug costs to the American consumer.

We have a strong bipartisan proposal sponsored by our friends and colleagues, Senator SCHUMER and Senator McCAIN, strong bipartisan legislation that came out of our committee and can save as much as \$71 billion over the next 10 years and make a real difference. There are other ideas that our colleagues have in the Senate that can show how the consumers can get an additional break in terms of the high cost of prescription drugs. We ought to have the opportunity to debate them.

But no, we can't do that. We can't do it today. We are prepared to get into the debate. We are prepared to get into amendments. We are prepared to have votes in the Senate. But, no, we are told by our colleagues from the other side of the aisle that we can't because there are language changes in here that are not satisfactory. If it is not language, it is substance. I might say that we are glad to work out language. And if it is not language, if it is substance, let's get to it in terms of a vote. We are being denied not only to consider the basic underlying bill, the Schumer-McCain proposal, but we are unable to consider other amendments that can also have a positive impact in reducing the cost of prescription drugs. We are denied that opportunity.

There are several of those. I see my friend from Michigan in the Chamber now. She knows a number of those and she will be an effective advocate for many of those. We can have an important debate, and we can have action

that can have a meaningful impact in terms of seeing a leveling down of the escalation of the cost of prescription drugs in the future. But, no, we can't consider that.

There are certainly those who would say, if we are going to take that very important step, that will be important in and of itself, but what about the coverage? We are being denied consideration of various proposals including those by Senator ENSIGN, Senator HAGEL, and the tripartite group. However, we are unable to even consider and debate those. We are being closed out.

We will have to take the time of the Senate this week to just go ahead with what this body has done so well over a long period of time on prescription drugs, and that is to talk and talk about it but not take action.

We are prepared to take action. Majority Leader DASCHLE said weeks ago that we would take up legislation dealing with prescription drugs. He has met that commitment. That is a strong position of those of us on this side of the aisle. We were able to get that legislation out. We don't just say that it is only the Democrats who are interested, as I have said repeatedly; we have strong Republican support for the underlying legislation. If it had been so egregious at the time, I would have expected they wouldn't have supported it.

So we have important legislation. It is bipartisan in nature. We agreed, Republicans and Democrats, we want to take action, but we know where many of the drug companies, not all, but many of the drug companies are. They are saying: No, we do not want action on this bill. No, we do not want action on coverage. No, we don't want to have consideration of this legislation. No, we don't want any action whatsoever to protect the seniors and sick people of this country in terms of prescription drugs.

There are many of us who reject that attitude and that position.

We are strongly committed to having action here in the Senate on this proposal. We believe that the quicker we get to this legislation, the better off we are going to be.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, there have been a lot of representations by the Senator from Massachusetts as to why we are in this position. He need only turn to himself to answer that question.

When we marked up this bill in committee, there was an unequivocal, unquestioned agreement, in my opinion, that we would reach accommodation on two parts of this bill. There was significant discussion about the 45-day rule and about the fact that what the language in the bill represented, what the sponsor of the bill represented the language to do, was the opposite of what the language did. It was agreed to by the Senators there—both Repub-

lican and Democrat—that that language would be corrected. There was an agreement between the Senator from North Carolina and the Senator from Tennessee that the language dealing with the bioequivalency issue, which is critical in this bill, would be corrected before it got to the floor.

The essence of this bill was presented to the committee on Thursday and marked up. Now it is on the floor. That is rather prompt action, to say the least. But the understanding was that, before it got to the floor, these two items would be corrected so that the bill would be in the proper form when it reached the floor.

The reason there is delay occurring is that there continues to be a stonewalling of the agreement that was reached in the committee as to correcting those problems. It is pretty hard to reach an agreement in the committee and suddenly find it means nothing when you get to the floor. It makes it very hard to do business around here when that happens. But that is the reason for the delay of this bill being available for amendment.

The debate is going forward rather intensely. The Senator has numerous charts, and I am sure other Senators will be down here with numerous charts to discuss this bill. But I thought it was important we make the point that when an agreement is reached in committee during a markup that the bill will be corrected before it gets to the floor, on two specific and important points, that agreement should be upheld.

Now, obviously, at some point we are going to go to this bill and we will start amending it. It doesn't look as if the agreements that were reached in committee are ever going to be fulfilled, which is regrettable and inappropriate, in my opinion. It makes future markups very tenuous, because how can you mark up something and have an understanding, and then suddenly find that the understanding was meaningless once you agreed to move forward with the bill? It changes the whole tempo of how you do things around here.

So it has nothing to do with greedy drug companies. I am sure there are a lot of greedy companies out there. We have seen that everywhere. It has to do with the appropriate process in the Senate and the movement from the committee to the floor, as to why we are delaying this specific bill's ability to be amended. We are not delaying the ability to discuss the bill. There is a great deal to discuss, and I will take a few minutes to do that.

I am talking about the underlying bill, not the drug bills that are going to be coming as amendments to this bill. The underlying bill, which was Hatch-Waxman and has been amended by Edwards-Collins, has a very legitimate purpose: To get generics to the market quickly but at the same time protect the incentive of brand name companies to do research and have protection in

the research and the products they produce, but at the same time allow generics onto the playing field quickly. It is a very technical bill, with technical language, which will have a big impact on the ability of Americans to buy drugs more cheaply and also to have new drugs come to the marketplace, which drugs will be able to save lives.

You have to remember that. I think something is often forgotten in the demagoguery of "let's reduce the price of drugs," which dominates the political marketplace today, as buses drive to Canada and people claim they can buy this or that at cheaper prices. The basic benefit that we as the American society have is that we have a vibrant research community in the area of producing new drugs. That has taken us from being a society where people were operated on all the time, and put under the risk of a knife, to a society where in health care drugs are able to take care of many of the issues that were not able to be cured before; and if they were not, you were put at risk of being put under a scalpel.

We need to continue to expand that, to have an expanding research base in the area of drug production. But in doing that, we see the costs going up. So how do we address that? The hope is that, as the drugs come on the market and after the people who have developed the drugs have a reasonable period of time to get a return on that so that they recover the costs—and it takes about 12 years and \$500 million to bring a new drug to market—that was the last number I saw; maybe it is higher. But once the costs have been recovered at a reasonable rate in a typical market system, then you allow other people to produce the same drug. That is called the generics. They come in and produce it at a much lower cost.

What we don't want to do, as we are making those lower cost drugs available, is wipe out the incentive of people to go out and produce new drugs for the marketplace. So it is a very delicate balance, and it cannot be effectively handled by suddenly going to the Canadian system. The reason the Canadians are able to offer low-cost drug prices is that they take our research and they basically don't pay us back for it. They sell the drugs in Canada without the research factor as part of the cost.

Of course, there are other things we can do in this area—and, hopefully, we will get into those debates—such as marketing drugs and how you control the cost more effectively. Those are other issues. But this question of how we balance bringing generics into the marketplace versus creating continued incentive to research is absolutely a critical question of maintaining a healthy society and getting more drugs to the market, which will benefit more people within our society.

Hatch-Waxman has been an extraordinary success. When it was drafted by Senator HATCH and Congressman Henry Waxman, I don't think they would have

anticipated they would produce something so successful. It has accomplished its goal very effectively. But, unfortunately, as so often happens, as time has gone on, we have seen some holes in it. It has mutated a bit, and smart lawyers have figured out ways around it. As a result, unfortunately, both the brand companies and the generic companies have found ways, in some instances—not all but some—to game the system. Brand companies are keeping generics out of the market longer by using the mechanisms available under Hatch-Waxman, and keeping other generic companies off the playing field by also using the mechanisms under Hatch-Waxman.

So there has been an attempt to reform it. It began with a bill called McCain-Schumer, which mutated into Collins-Edwards, which actually took as its base a significant amount of language that I developed for an amendment within the committee. So the underlying bill is basically moving in the right direction and is a good bill.

It has four major problems, however, two of which I thought had been fixed before we got out of committee—at least I think it was pretty clear that everybody at the markup believed there was an agreement that they would be fixed before it got to the floor. Two of the others still require amendment activity—or they are all going to require amendment activity now, but they should not. Only two of them should have to require amendment activity.

Where are these problems? They are technical in nature, but they have a huge impact on the process. The FDA has looked at the bill, and it has found these problems to exist. They are not my creation. They are not some brand name drug company's creation. They are not even the generics companies' creation. They are a problem which is highlighted by the way the language is drafted.

I want to read now the FDA's concerns because they basically make the case for these problems. The FDA, I believe, is the fair arbiter of this issue. In a memo dated July 10 from Frederick Ansell of the FDA to Diane Prince and Patrick McGarey, he points out a variety of issues. I will highlight the ones I think are the most significant.

The introductory paragraph:

This memorandum follows up on my July 9 memorandum on technical issues with S. 812's substitute amendment. This memorandum addresses substantive concerns—

Substantive concerns—about the legislation.

The first point they make deals with something called civil actions. This is a change in patent law which is rather dramatic. It deals with the 30-month stay issue and how that works.

Civil action to correct or delete patent information. The civil action can be brought against patent holder to "correct" patent information required to be provided under the bill. Since there is no requirement that the plaintiff have filed a par. IV certification,

does this mean there is an alternative available to an ANDA holder to file suit in lieu of certifying under par. IV? That language also means that a suit can be brought not only to delete a patent that should not have been listed, but over whether the listing was "correct." If the incorrect or missing information means that the NDA or patent holder "fail[ed] to file information on or before the date," (even if it is later "corrected," since the correct information was not filed as of the due date), then a potentially technical failure to provide information will make the holder "barred from bringing a civil action for infringement of the patent against a person" who filed an ANDA.

Skipping a few sentences:

This is a change in the patent law that would provide pharmaceutical patents less protection than any other category of patent and would presumably harm innovation in drug research area.

I reemphasize this point: This language "would presumably harm innovation in drug research." That is the FDA evaluating the effects of the 30-month rule as it is structured in this bill.

Going on to another section, the 45-day rule. This was something on which we thought we reached an agreement in the committee. It is a complicated issue, but the 45-day rule means that under the bill as it is drafted, if the holder of the patent, the brand company, the primary developer of the patent does not bring a suit in 45 days, they essentially lose their ability to bring suits against anybody, not just the generic company that filed a plan against their patent—against anybody.

This is a radical departure and would essentially mean that for most brand companies, they would just have to file suits interminably or else be put at risk of losing any rights to their patent.

To quote the FDA, which is summarizing their view of this language:

The same considerations raised about barring patent lawsuits altogether raised about an earlier provision of the bill apply to this language concerning patents that would not, following the notice and suit, permit a 30-day stay.

Skipping down again:

That may make preparing an infringement case sufficient to obtain a preliminary injunction difficult, making illusory the ability to protect the patent or forever be barred.

Making illusory—emphasizing "the ability to protect the patent or forever be barred."

Essentially this language, which we had thought we had agreement to correct, in the FDA's view would make "illusory the ability to protect the patent or forever be barred"—obviously not constructive to creating new research in the area of drugs.

The third area is the 180-day issue, which is a major issue. If a generic company files a challenge under the present law and comes on the playing field, so to say, then they get 180 days exclusively to put their product in the marketplace. This is an attempt to encourage generics to come into play.

The Edwards-Collins bill has an incredibly complex new system to try to

address this issue. The language I proposed would have essentially eliminated the 180 days if there had been collusion between the brand name company and the generic company.

One way the system is gamed is a brand name company and a generic company get together. A generic company comes in, files, and, as a result, with the consent of the brand name company, essentially locks down the product for another 180 days, and then they continue to roll that out.

In an attempt to address that, I proposed language which would basically be use-it-or-lose-it language. In other words, if they came in and did not produce their product, they would not get their 180-day exclusivity.

The Edwards-Collins bill sets up a very convoluted system where you can have a rolling 180 days and can actually end up with this going on forever. The FDA memo describes this, and then it says in conclusion:

And if in that circumstance, the second applicant cannot go to market within 60 days, then the third applicant obtains 180 day exclusivity.

Talking about how this becomes a rolling event.

Then it says:

This does not seem to make a great deal of sense, given that the supposed purpose of exclusivity is to encourage a challenge to a patent by a generic. It is also possible that exclusivity could roll and roll on forever. It also means that it will not be clear which applicant if any should receive exclusivity. Finally, whereas under current law, only one applicant (the first) or none can receive exclusivity, the ability of one of multiple applicants to receive exclusivity means that there will be more instances of exclusivity, delaying the date that the public will be enabled to obtain generic versions of a drug generally, and at a cheaper price, than during the duopoly of the innovator and the generic with exclusivity.

In other words, the language actually works against bringing generics to the market according to the FDA view.

We have these four major issues, the fourth one being the fact that a new cause of action is created under this bill which is a private cause of action and which, in our opinion, is a very bad idea and very poor policy, and I will enter into the RECORD a number of letters, including one from Susan Estrich, reflecting the view that this is bad policy, to create this new cause of action.

The reason I raise these points is to make clear that this bill, which was first introduced on Thursday, which came out of committee on Thursday and which is now on the floor, has some substantive problems with it. Some of these substantive problems could have been corrected if the markup procedure had been followed. They were not. But I do believe it is appropriate we have a few days to air the issues so people can get a little window of knowledge on this bill before we suddenly jump into it. That is what we are asking for as a result of this delay in the ability to amend the bill.

The Senator from Massachusetts made the statement, or at least he was

reported to have made the statement, that the first he heard of these concerns was 5 minutes ago—or to quote, “the first I heard there was an objection was 5 minutes before.”

I presume before the objection, quoting Senator KENNEDY. That was in an AP story by Janelle Carter.

The fact is, that is not accurate. We had made it very clear that we expected the agreement in the markup to be followed, and one would presume if the agreement was not followed there would be an objection. How else would one proceed?

So the 5 minutes either implies that he was not at the markup, or that if he was at the markup he did not hear the agreement. The fact is, there was an agreement. So it is not reasonable to say that we were delaying this bill when, in fact, all we are trying to do is accomplish what was represented to us was going to be done originally, when the bill was ran through committee.

To lay the blame for this delay at the hands of greedy corporations is to throw red herrings and smokescreens over a process which, in my opinion, is being abused from the standpoint of the markup process. It has nothing to do with winners and losers under a delay. As a practical matter, this delay is probably going to have virtually no impact on this bill, or on the drug bill, because the debate is going to go forward today and we are going to discuss all the different issues, as I have outlined the problems—the FDA memorandum and the other issues which are of concern. Then when we get to the amendment process, people will be up to speed. Hopefully, a little more light will have been shined on this bill, which needs light on it, and then hopefully we can pass it. Of course, this bill is going to be totally overwhelmed by the actual bills that are going to deal with the overall drug bill.

While we are on that topic, let me make a couple of points. The Senator from Massachusetts held up a chart which showed a line that went straight down about drug coverage and other coverage that insured individuals are getting. He also held up another chart with a line that went straight up about people being added to the marketplace who were uninsured. I suspect he will probably refer to the fact there are so many uninsured.

It is a little like that story of the fellow who kills his parents and then goes to the court and throws himself on the mercy of the court because he is an orphan. The fact is, the reason the amount of coverage is going down and the reason the number of uninsured is going up is because this Congress continues to pass mandates on to the price of the premium, all sorts of different things which feel good, sound good, are good ideas but each new mandate significantly increases the cost of insurance for everyone. As a result of increasing that cost, either the other items of insurance have to be reduced in order to keep the price stable—

which sometimes is what happens in reducing the availability of drug coverage or dental coverage or something else that one might have had before the new mandate hit—or you have to increase the price of the insurance, thus people and businesses cannot afford it, especially small businesses, so more people become uninsured.

We are complaining coverage is less and that more people are uninsured while we are basically creating the problem by adding more and more mandates into the marketplace, which inevitably forces up the price of insurance and inevitably forces people out of coverage. In the end, it may be the goal of some in this body and in the other body to accomplish that so there will be more pressure to generate a national health care plan along the lines of what was presented by Senator CLINTON back when she was First Lady, a plan which would basically have the Federal Government take over all health care so everybody would have some form of coverage, much like the Canadian or the British system. If more uninsured are created, there will be more pressure created, obviously. That may be the goal of some. The goal of others may be: I am especially concerned about this ailment or that ailment and I really want it to be covered by insurance; I have an anecdotal experience in my life that says this part of health care definitely needs to be covered because I know somebody who did not have coverage and who had this problem. So we add that as a mandate.

Whatever the reasons are, the facts cannot be denied: Every time we add these new mandates, we increase the cost of insurance or we reduce the other coverages under insurance, and the result is we are adding more uninsured to the marketplace, or alternatively we are reducing the availability of various types of coverage in other areas that are not mandated. And that is why that chart occurs. That is why we are seeing drops in coverage; it is us.

It is like the famous Pogo cartoon: We know the enemy, and he is us.

On that issue, the Senator from Massachusetts attacked aggressively the House-passed plan. The House plan does not happen to be the Senate plan—and that would be the Senate Democrat plan or the Senate Republican plan or the tripartite plan or bipartite plan, or however many different plans we have floating around. There are some very legitimate plans that have been proposed in the Senate, though, and if we are talking about procedure and how we get these plans discussed and properly voted on, one must ask the question: Why is the Finance Committee being bypassed? Why is this new drug plan being written in an office across the hall instead of in an open committee room where it should be written?

The answer is very simple. Because if the Democratic leadership went to the Finance Committee, it is very likely

that a bipartisan bill would be reported out and it would be the tripartisan plan which has been offered by Senator BREAU, Senator JEFFORDS, and Senator SNOWE. That plan, I suspect, has a majority vote—I do not know because I do not serve on the committee, but I certainly heard this from a lot of members of the committee—that plan has a very reasonable chance of having a majority on that committee. That is why the committee is being bypassed, because the Democratic leadership does not like that plan for some reason. I guess it does not cost enough.

That plan costs about \$400 billion. That is still over the \$300 billion we had in the budget, but it is nowhere near the pricetag of what I suspect will be the plan we will see proposed by the Democratic leadership, which may be scored as high as \$700 billion, which is a huge amount of money, which leads me to the next question: When Senator KENNEDY talks about how little coverage the House plan had—or maybe others in this body do not feel the Snowe-Jeffords-Breaux bill has enough coverage and they want to expand that coverage dramatically by reducing copays or reducing deductibles or essentially reducing the catastrophic threshold, and so they get up to a number of \$700 billion in their scoring of what their bill ends up costing, which is a huge amount of money. The \$300 billion is a lot of money, I think; \$700 billion is two and a half times that, almost. So that is really a lot of money.

Somebody has to ask the question: Where does it come from? We do not have a surplus. Where is the \$700 billion going to come from, this extra \$400 billion on top of the \$300 billion that we have? It comes from the younger generation. It comes from those Americans who are working today, going to be working tomorrow, and going to be working 10 years from now, and who are going to have to support the baby boom generation when it hits retirement—my generation, the generation of Bill Clinton, the generation of George W. Bush, the generation of the Senator in the chair, the Presiding Officer.

Our generation is huge, absolutely huge. We know that. In every segment of American society that we have impacted, from when we started a dramatic run on baby carriages and cribs back in the early 1950s, to when we pushed the limits of our educational systems in the 1960s and 1970s, to our music in the 1980s—we have changed fundamentally the way this society has worked, simply by our size.

When we hit retirement we are going to have a huge impact on this society and the impact, the most significant impact we are going to have is that we as a massive generation that will be in retirement will have to be supported by the smaller generations that are younger than us who are working for a living—our children and our grandchildren. We are going to end up passing on to them huge costs to maintain

the standard we have set and which we think is reasonable as a society for senior citizens to have, both in the area of health care and in the area of retirement benefits—Social Security. We know the Social Security system is headed toward a crisis because of this generation, because of our generation, and the demands we are going to put on the system.

When we add a new drug benefit, of which we are basically going to be the biggest beneficiaries—obviously people who are in the system today will benefit significantly, too, but the big cost of the benefit is going to kick in when we start to retire, beginning in the year 2008, which is not that far away—that cost is going to be passed on to our kids in the form of taxes. Their taxes are going to have to go up. They are going to have to work harder or they are going to take home less in order to support their young families so we can get that drug benefit.

When we start throwing out these new benefit ideas on the floor of the Senate, and we start to malign other programs—whether it is the House program or whether it is the tripartisan program put forward by Senator GRASSLEY and Senator BREAU and Senator COLLINS and Senator JEFFORDS, or whether it is the proposal put forward by Senator ENSIGN and Senator HAGEL—when we start to malign these programs because they do not cost enough, they do not give enough benefit, somebody should be asking the question: Who is going to pay the bill for the increase to bump these programs up above what they are proposed at?

They are all extremely generous, \$300 billion being the floor for these programs. Who is going to pay the cost? It is going to be younger Americans; our children and our grandchildren who are going to pay that cost. We need to be careful about what we do to them because if we continue on this path as our generation retires, we are going to significantly impact their quality of life. We are going to reduce it because we will have put so many burdens on them to support us.

Let's put some balance into this debate. Let's not just talk about how many new benefits we can put on the books. Let's talk about how many new benefits we can afford to put on the books, how many new benefits can our children afford to pay so we can help in the area of drug coverage.

Yes, we need a drug package. We need a Hatch-Waxman reform package absolutely—in fact, I drafted a large part of the package we are debating today, the Collins-Edwards package. That was borrowed from language which I was successful in putting in.

I appreciate the fact the Senator from North Carolina and the Senator from Maine chose to use language which I had developed because I believe very strongly that we need a strong generics industry and we need to have the capacity of generics to compete ag-

gressively in the marketplace, coming quickly—or as quickly as reasonable—after you have a reasonable return to the brand companies, to accomplish the goal of reducing prices of drugs.

The basic bill is a good bill with some significant reservations, the most significant being the ones I have outlined.

Of course a new drug benefit for senior citizens is critical. We have gone from a society where, as I mentioned earlier, we treat people by putting them under the knife to where we treat people by giving them these miracle drugs. They are expensive. If you are a senior and you are trying to make ends meet and you get hit with a drug bill, it can be very difficult, in some instances. So we need a benefit. Low-income seniors especially should be completely covered—and all these programs do that and do it effectively. Middle-income seniors should have some sort of relief. Certainly anybody who has a catastrophic event which involves the cost of drugs over a threshold of any significance should have coverage. We can design a plan to do that.

But in doing that, let's be sensitive to the fact that it is costing somebody something. This is not money that grows on trees. This is money that comes from somebody's hard day's work. And that hard day's work is going to be done by our children and our grandchildren. They would like to have that money to maybe help them educate their children or their grandchildren or buy a new car or live a better life. So we have to be judicious in our approach, not simply be political.

Let me, for the record, put in the record, parts of the record of the markup so that it is clear at the markup there was an understanding, I believe, reached that this language would be corrected.

The first issue went to the “use it or lose it” language. I quote Senator CLINTON.

My staff at least believed that it was intended to be as I have described it, that generic “X”

And then Senator EDWARDS intervened and said:

Why don't we just clarify it—Mr. Chairman, if we can just clarify this language. I think Senator GREGG is right about intent, and I actually read the language the same way he does—

Then I speak and I say:

Well, that is a major step in the right direction.

That went to that issue. Then on another issue—this may be the same issue actually—Senator CLINTON said:

—so I think we need to go back to the drawing board to clarify this.

Senator EDWARDS said:

Yes, we can fix this.

Further to this issue why we—I, not we—have delayed going to this bill until tomorrow when cloture ripens, and the point about the representation being made by the Senator from Massachusetts that it was because of the

greed of some corporations out there, that they want to delay, my representation is that there was an understanding in the markup—in the markup that was very clear, in my opinion—that two items in the bill would be corrected, two major items, one dealing with the 45-day rule, and the other dealing with bioequivalency, and that had to do with Senator FRIST, that those would be corrected before we took the bill to the floor.

Because of the rapidness of the bill coming to the floor without a report, within less than a week of its being actually filed in the committee, it seems to me that it was reasonable to shine some light on these two issues before we move to the bill—to actually amending the bill.

So I want to return to the language here of the markup to make it clear why I believe my presentation is correct on this point. The first item I quoted was Senator EDWARDS saying:

Why don't we just clarify it—Mr. Chairman, if we can just clarify this language. I think Senator GREGG is right about the intent. . . .

This deals with the 45-day issue, and the question of whether or not it cuts off all lawsuits, all rights of remedy if you do not bring a suit; it cuts off all rights of remedy under the patents so that a person—the company basically loses its patent if it doesn't bring a lawsuit against filing generically in that 45 days. You lose your patent against everybody. Nobody wanted that, but that is what the bill ended up doing in its present language.

Then the second part of that discussion went to—Senator CLINTON:—so I think we need to go back to the drawing board and clarify this.

Senator EDWARDS says:

Yes, we can fix this.

Then I said:

Good.

The Chairman said:

All right. Now we are going to instruct the staff to make that clarification, along with the rest of the bill.

That is my point.

There was, at the same time, some discussion of language which Senator COLLINS was straightening out. I believe that was actually straightened out.

Then I went on to say:

I think that significant progress has been made here in these discussions, obviously on the 45-day issue and on Senator COLLINS' proposal.

I believe there is middle ground that can be reached on the new cause of action, and much of this bill is excellent. In fact, it came out of ideas that I strongly endorse and was supportive of and hoped we could reach agreement on.

With the cause of action language in its present structure, I cannot vote for the bill, but certainly I hope that by the time we get to the floor and as we move through the floor that we can adjust it enough so that I can feel comfortable with voting for the bill.

I was talking about cause of action.

That is really a point on which I still hope we can reach agreement. If we can, the bill becomes, in my opinion, a very workable piece of legislation that should be passed.

Then wrapping up, I said:

I would also note for the record that we do wish to have our procedural days which are available to us to review this, and I would hope during this time we could work out the few—obviously, get the language straightened out—but work out the few substantive kinks and get this to a point where it could have unanimous support.

The Chairman. We will certainly work with you and your staff in working out the language on this.

That is more vague and not as much to the point as the 45-day exchange. But the point I was making there was that the traditional way we bring a bill to the floor is we do a report. The minority then has 3 days to file. Then there are 3 more days. You usually have 6 days after a report is filed under a bill before the bill comes to the floor. That has been totally shortened.

By not filing the report, the majority was able to put themselves in the position where they can call up a bill after 1 day. That is their right. That is the rule. But it is not the traditional way things have happened when you report a bill out of committee. You usually have the report and then have 3 days to respond to it. I was under the assumption, wrongly obviously, that we would have 3 days to work this out, put some light on the bill, and address the issues which were highlighted by me here.

There was another exchange—unfortunately, I don't have a copy—between Senator FRIST and Senator EDWARDS in which Senator FRIST raised the point about the bioequivalency issue that goes to whether or not the generic drug comes to the market and is actually equivalent to the drug that it claims to be copying. If it is not, you have significant health questions. I don't want a drug out there that comes to market claiming to be equivalent but is not equivalent, because then you have different absorption rates. As a result, you could have serious medical problems.

This was the point that Dr. FRIST made very well. Obviously, he is a doctor. Senator EDWARDS said to Dr. FRIST rather specifically: All right. We will work that out. I understand your concern. I am paraphrasing. We can work that out. Unfortunately, that was also not worked out.

Those are the reasons. Those are the issues that lie here on the question of why we are holding this bill over for 48 hours before we proceed to the amendment process, which will begin occurring tomorrow after cloture is voted, or cloture is vitiated. Either way, I do think it is appropriate that we have this time to discuss the bill because it is a complex bill and it needs to be aired.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from North Dakota.

Mr. DORGAN. Madam President, I must say that is one of the more tortured explanations I have heard about why a bill has been delayed coming to the floor of the Senate. Of course, everyone has that right.

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

Mr. DORGAN. I haven't finished the first sentence. Of course, I will yield to my friend.

Mr. GREGG. Does the Senator consider it tortured that a Senator feels a representation made in markup is not being pursued?

Mr. DORGAN. No. Let me just say that I heard the explanation the Senator gave, and I heard the explanation also by Senator KENNEDY on the floor that, in fact, we have people who do not want to bring this bill to the floor of the Senate. They never wanted it on the floor of the Senate.

They described a "good" bill in the House which was passed by the House. It is referred to as a credible bill. A senior with \$1,000 in annual drug costs would still pay 81 percent out-of-pocket costs under a bill passed by the House. Is that a good bill? I don't think so.

A senior citizen with \$2,000 in yearly drug expenditures would still pay 65 percent of the cost out of their pockets. Is that a good bill? I don't think so.

A senior citizen with \$3,000 in annual drug costs pays 77 percent of the money out of their pocket. That is not a drug benefit that makes sense.

My only point is to say there is no reason to delay. Let us just proceed with the legislation, understanding that we are going to do a bill that deals with prescription drug benefits and Medicare. Let us proceed with the amendment process. If there are representations that need to be honored, let them be honored.

I think everyone understands that the chairman of the committee who brought this bill to the floor is an excellent legislator, and he works with everyone in this Chamber. I am certain that before the final consideration of this bill, the concerns that were expressed and the representations that were made in that committee, if they have not been fully met at this point, they will be met.

My only point is that was a long, tortured explanation of why to delay this bill. They do not need to delay this bill. The fact is, we all understand what needs to be done. We ought to get about the business of doing it now—not later, not tomorrow, and not the day after tomorrow.

It is true, as the Senator from New Hampshire said, that not too many decades ago most health care was treated under a knife. If you had a big problem, you went and had surgery.

It is also true that now we have miracle, lifesaving drugs that have been created in this country, in large part

by public research at the National Institutes of Health, by research funded all across America, and also by private research by pharmaceutical manufacturing companies, which, incidentally, we provide a tax credit for that research. I support that tax credit. But the fact is, we have produced miracle, lifesaving drugs and those prescription drugs are now available to people who have problems with their health. The difficulty, however, is that you can only see a miracle happen with miracle drugs, or you can only save a life with lifesaving drugs if the person who needs them can afford them.

We have so many people living so much longer these days who reach their retirement years and declining income years who can't afford these lifesaving drugs. That is the reason we ought to put a prescription drug benefit in the Medicare Program.

My colleague who just spoke said: Who is going to pay for this? I found that interesting because we never heard any of those questions when recently we had a bill on the floor of the Senate and we were talking about repeal of the estate tax for the highest income earners in America. One of my colleagues said: Well, at least let us just repeal it for everybody under \$100 million. And only people with more than \$100 million will have to pay any estate tax at all. But that wasn't good enough. They voted against that. Who is going to pay for the estate tax of people whose estates are higher than \$100 million? Did anybody ask that question? No. They only ask the cost when it comes to trying to provide some help for senior citizens—those who live on \$400, \$500, or \$600 a month who are 80 years old, have heart disease and diabetes, and who have to take several different kinds of prescription drugs and can't afford them.

The two issues we are going to deal with are coverage; that is, shall we, will we, can we put a prescription drug benefit in the Medicare Program? The answer to all of those questions is yes. It is long past the time to do that.

We should provide coverage for prescription drugs in the Medicare Program, but it ought not be an illusory kind of coverage. It ought not be the case that we passed the bill and let us just tell everybody we passed a bill. Is it a good bill if you have \$3,000 in prescription drug costs and the House of Representatives says, oh, by the way, we have given you a prescription drug benefit and you still get to pay 70 percent of your \$3,000 cost out of your pocket, and we will cover the rest? That is like giving someone a \$5 coupon and saying go buy a Mercedes. It isn't worth anything. But they say: We gave a discount with the coupon.

We have to provide coverage. We have to provide effective coverage that really does provide help.

I have described, before, meeting many senior citizens, especially senior citizens who are affected by drug prices. One evening, at a meeting in a

small town in North Dakota, at the end of a meeting a woman came up to me, perhaps 75 or 80 years old, and she grabbed me by the elbow and said: Mr. Senator, can you help me? I said: I will sure try. What is the problem? She said: Well, I have these health problems that are very serious, and my doctor says I have to take this prescription drug medicine, but I can't afford it. As she spoke, her eyes welled with tears and her chin began to quiver. She began to cry. She said: I can't afford it. I don't have the money to get the medicine the doctor says I need.

This happens all across the country. We need to do something about that. That is why we want to put prescription drug coverage in the Medicare Program.

The second thing we need to do—and very important, in my judgment—is to do something that puts downward pressure on prices, because if we just put a prescription drug coverage provision in the Medicare Program and do nothing about prices, we will have done very little in the long term, because last year's prescription drug costs—that is, spending on prescription drugs—increased nearly 18 percent in this country; the year before that, 16 percent; the year before that, 17 percent. We will hook up a hose to the Federal trough and suck it dry. We can't do that.

We have to provide a prescription drug benefit in the Medicare Program, one that works, one that is sensible, thoughtful, and provides real benefits to senior citizens. But if that is all we do, we have failed miserably, in my judgment. We must also put downward pressure on prescription drug prices—for the benefit not only of the Medicare Program that will be saddled with these costs, but also for the benefit of all other Americans who are also required to take these prescription drugs.

Let me say—I have said it before on the floor of the Senate—we have prescription drug manufacturers that are good companies. I am not here to tarnish all companies that manufacture prescription drugs. We have some great men and women doing terrific research. Incidentally, I support the tax credit they have that exists for that research, experimentation, and development. I have always supported that tax credit. So good for them. I support those companies. But I do not like their pricing policies. So I am going to offer an amendment.

The underlying bill, incidentally, deals with generic drugs, the ability to substitute a virtually identical drug to be sold at a lower price. That is the underlying amendment. I support that. I and my colleagues—Senator WELLSTONE, Senator STABENOW, Senator SNOWE, and many others—intend to offer an amendment dealing with the reimportation of prescription drugs, as well, that will put downward pressure on prescription drug prices here in this country.

I do not want Americans to buy prescription drugs elsewhere. That is not the point of it. I want to force a repricing of prescription drugs in this country. I do not want to force Americans to go to Canada, for example.

The question is, Why should an American citizen have to go to Canada to get a fair deal and fair price on prescription drugs that were made in America? That is the question.

Let me, if I might, by unanimous consent, show several pill bottles on the floor of the Senate.

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

Mr. DORGAN. Just to make the point: This is a drug called Zocor used to lower cholesterol. In fact, there is a football coach whom you see on television almost every day in this country who talks about his heart problems. He had surgery, and now he takes Zocor for a healthier life.

Zocor, likely, is a wonderful drug. You will see, it is sold in two different bottles. For this bottle, sold in the United States, it is \$3.03 per tablet. If you buy it in Canada—the same drug, put in the same bottle, by the same company, FDA inspected—it is not \$3.03, it is \$1.12 per tablet. That is Zocor—nearly triple the price in the United States.

Let me demonstrate another prescription drug and the pricing policies. This is Vioxx, used for arthritis. It is sold in identical bottles in the U.S. and Canada. It is an FDA-approved prescription drug. If you buy it in the United States, it costs \$2.20 per tablet. If you buy it in Canada, it costs 78 cents per tablet. Why nearly three times the price in the United States for the U.S. consumer?

Finally, if I might demonstrate one additional prescription drug, this is the prescription drug Paxil. It is used to treat depression. It is sold in identical bottles, made by the same company. It is the same tablet, produced by the same company. It costs \$2.20 for the American consumer, 97 cents for the Canadian.

These examples beg the question about pricing policy: Why does the U.S. consumer pay the highest price in the world? My colleague from New Hampshire said that is because we are paying for all the research and development. That is not the case. It is just not accurate.

In fact, 37 percent of the research and development of prescription drugs is done in Europe; 36 percent is done in the United States. Slightly more is done in Europe than done in the United States, yet every European consumer is paying less money than the United States consumer for prescription drugs.

So that is not an argument that works. They try it, and I assume we will hear it again, so we will trot out these studies again to demonstrate it is not accurate.

We need to do two things, as I indicated. We need to provide a prescription drug benefit to the Medicare Program. We are going to do that, if not

this week, next week. We have the patience to get this done. It needs to be effective. It cannot be what the House did, which is essentially a hollow vehicle that says: Hey, we passed a bill. They passed a bill that provides precious few benefits to senior citizens.

We are going to pass a piece of legislation that has a prescription drug benefit to it. We are also going to pass some legislation—and I hope a reimportation amendment, which is bipartisan and, incidentally, received 74 votes the last time it was addressed here on the floor of the Senate. We have narrowed it and changed it so it now deals with only reimportation from Canada, which has nearly an identical chain of custody supply and then can be accessed only by licensed pharmacists and licensed distributors in the United States.

So there is no safety issue. All there is, is a price issue. We are going to offer a reimportation amendment. We had 74 votes for it previously. I expect it to be added to this bill.

I expect, at the end of the day, we will have done something very important: Added a prescription drug benefit in the Medicare Program and also imposed some cost containment measures. By cost containment, I am saying, let the market system and the global economy apply downward price pressure on prescription drugs.

So there has been a lot said. My colleague from New Hampshire also talked about us running out of money in Social Security. I might observe that those who are trying to create privatized accounts in Social Security, and hook them to the stock market, might take a look at the market in recent days and see whether they might run out of money really quickly with their plan.

I think it would be nice to debate that plan one of these days. They have been pushing for the notion of privatized accounts inside the Social Security system, which falls about \$1 trillion short. They create a \$1 trillion hole but then connect Social Security to the stock market.

One might enjoy, it seems to me, having a discussion about the merits of that idea one of these days. There is very little enjoyment talking about what is happening in the market. This is a very important, serious issue in the country.

I just wanted to make the point that there are those who talk about the Social Security problem, and I will tell you how you make that problem much worse, and that is, embrace those who want to connect the Social Security revenues to the stock market in some way. And that includes the President and those in Congress who feel they want to do that.

This would be a good time, perhaps, to have a discussion about the dangers of taking the Social Security Program, which has the word "security" in it, and connecting it with the stock market.

But getting back, finally, to the question of prescription drugs, let me say to the Senator who chairs the committee, the underlying bill you brought to the floor of the Senate is a good bill. I held a hearing on this in my Consumer Affairs Subcommittee in the Commerce Committee.

This bill makes great sense. I fully support it. I hope, of course, for his support, and others', on the issue of reimportation, which is the amendment we will offer to try to impose some downward pressure on prescription drug prices. And then it is my fervent hope we find a way to do something that the House of Representatives could not or did not do, and that is to pass a prescription drug benefit in the Medicare Program that provides real benefits.

There are so many people in this country, senior citizens and other citizens as well, who just cannot afford lifesaving drugs. There is nothing lifesaving about a prescription drug you need but can't afford. That is what we are trying to address in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, earlier in the debate, there were questions about what was agreed to and what was supposed to be clarified. For those who have any question, I will reference two provisions that were discussed during our markup and also what was included in the bill.

As I have indicated, several times last evening and earlier today, if it is technical language, we are prepared to address the technical language now during the lunch break. We were also prepared to address these last evening. But if it is substantive, we ought to have a change in the form of an amendment. That is the way we proceed around here.

We agreed with Senator FRIST to technical language to clarify one provision. That language is in the bill. It deals with the section:

Shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Food and Drug and Cosmetics . . .

He was concerned about whether it did or didn't and whether the language was sufficiently clear. We have included that particular section in it. Those who want to look at this can see that.

We agreed with Senator GREGG to instruct the staff to make a clarification on another provision stating that a patent can still be enforced against subsequent, future generic applicants. That technical language was added last Thursday. Senator GREGG received it last week but raised no objections. That language is on page 35:

The owner of a patent shall be barred from bringing a civil action for infringement on the patent in connection with the development, manufacture, offer to sell, or sale of a drug for which the application was filed or approved under this subsection.

That is new language. The last three lines, 18 through 20, are new language. That language was available to the minority last Thursday night. We were not notified Friday or Saturday; we were not notified on Monday. We were notified about 10 minutes after the leader indicated he was going to offer the motion to proceed to the bill. I don't think it really carries much weight.

Before we recess for the lunch hour, I want to discuss the abuses of the existing legislation that the proposed legislation will remedy. Also, I would like to discuss why it is important to close these loopholes because of the impact it will have on the costs of drugs to consumers.

In 1984, Congress enacted the Hatch-Waxman Act, which provided a framework for allowing generic drugs to come to market while protecting the patents of new medicines that are breaking new ground each and every day. But as recent hearings before our Health Committee and the Committee on Commerce have revealed, there are abuses of the Hatch-Waxman Act by both name brand and generic drug companies that have delayed the approval and marketing of generic drugs. These findings are confirmed by numerous studies by the Federal Trade Commission and other independent experts.

The basic structure of the Hatch-Waxman Act remains sound. It has been a tremendous success in promoting competition and innovation. But there are clearly weaknesses in the Act which are being exploited to delay competition and shore up the bottom lines of drug companies with empty pipelines.

These abuses force American consumers to pay four times more on average for some prescription drugs.

This must be stopped.

Everyone agrees that drug companies are entitled to fair profits on their research and innovation. But when patents expire, those companies must innovate to succeed and help patients, not block competition to their old drugs.

When we passed Hatch-Waxman, we believed we were going to see a whole series of breakthroughs in new prescription drugs, but that hasn't really taken place. What the drug companies have done is reshuffle the old formulas, put them out, and tried to maintain their privileged position under the patent laws. That is what has happened. We have had these abuses.

We have seen the patent abuses, as this chart indicates, where we show the cost to date to consumers, the additional cost to date, and now the various prescription drugs themselves. This delay has benefitted the patent holder.

Instead of having the patent expire and the generic being able to come on and offer this drug to consumers at a considerably lower price, the generic is not being made available.

Here's what we're talking about. Today, of the top fifteen best-selling

drugs potentially subject to generic competition, the basic patents on at least five of them have long expired. Their exclusive rights to market their drugs have long expired. Yet, there is no generic competition.

Drug spending rose at double digit rates between 1996 and 1999, and experts expect the growth in prescription drug spending to continue to outpace the growth in health care spending. Some of this increase is due to increased use of drugs. But experts agree that spiraling drug prices have accounted for almost two-thirds of growth in drug spending, especially the higher prices of new, aggressively promoted drugs.

Generic drugs are clearly part of the answer. Simply put, a 1 percent increase in generic use can decrease the Nation's yearly bill for drugs by a billion dollars.

These savings are easy to understand. For patients and health plans alike, the costs for a brand drug are four times higher than for a generic equivalent. That difference is even higher for the elderly and uninsured, who must often pay full price for their medicines. On average, a month's supply of a generic drug costs a patient \$4 and the health plan \$16; the costs for a brand drug are four times higher: \$16 for the patient, \$64 for the plan. For the uninsured, and seniors who lack prescription drug coverage, the full costs are either \$20 for the generic or \$80 for the brand drug.

Prozac is a clear example. This antidepressant recently went off-patent after generic companies challenged and defeated a Prozac patent. Today, you can buy 30 generic Prozac tablets for less than \$30, less than a third of what brand-name Prozac will cost you.

There are two key loopholes in the law that our legislation will end. The first is the practice of "ever-greening" patents, filing patent after patent, many of them entirely frivolous, to try to bar generic competition long after the basic patent on the medicine has expired. The second is the outrageous tactic used by some drug companies of buying off a potential generic competitor to prevent it from marketing its drug and using a quirk in the law to bar any other competitors from the market.

Those are the two loopholes and abuses. This legislation is targeted to the abuses. The abuses result in billions of dollars for drug companies, and that is why many of the major drug companies are so strongly opposed to this legislation.

Schumer-McCain closes the ever-green loophole by permitting only one 30-month stay to apply to each generic drug. For the other patents, the drug companies are free to defend its patents the same way any other company does.

A second tactic used by the drug companies is to collude with a generic drug manufacturer to block other generic versions of the drug from getting to consumers. Under the Hatch-Wax-

man Act, the first generic drug company which gets to market has that exclusive right for six months before any other generic can compete. In some cases, brand drug companies have bribed the generic drug company never to go to market. The clock on the six months exclusivity never starts to run, and every other generic competitor is locked out forever. But the ones who pay for these unconscionable sweetheart deals are American patients.

Those are the two abuses. Schumer-McCain prevents collusion between brand name companies and generic competitors by opening generic challenges to invalid patents. Closing those two loopholes will make an extraordinary difference.

Finally, Gov. Bill Janklow of South Dakota told our committee that the savings for his State's Medicaid Program would be enormous. He added:

That's a drop in the bucket compared to what the real costs are out there for the General Motors of this world, and Roy's Blacksmith Shop, and everyone in between. It's some individual or retired person that's paying for their own on Social Security, or a working person. The point is, they all pay more.

Madam President, we will all pay more until Schumer-McCain becomes law. That is what we are about with this legislation. That is why it is so important. It is going to have an important impact in calming down the increase in the cost of drugs for the American consumer, and we think the quicker we get on this bill the better.

There are other ideas that can also help us in getting a handle on the escalation of costs. Then, hopefully, we will have an opportunity to consider the issues of coverage as well. I know there has been a previous agreement for the lunch break.

I yield the floor.

Mr. REID. Madam President, I ask unanimous consent that I be allowed to speak for a few minutes.

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

Mr. REID. Madam President, at 2:15, or thereabouts, either Senator DASCHLE or I will offer a unanimous consent request to move on to the Military Construction Subcommittee appropriations bill. We have been working on this for more than a week. I have spoken to the Republican leader and I have spoken to the Senator who has been stopping this from going forward.

Everybody should be aware, as I have told the Republican leader and the Senator who is objecting to this, we are going to do this this afternoon. I hope that during the Republican conference they will work things out so that we can move to this legislation.

I was in the White House this morning. The President wants us to move forward on the appropriations bills, especially MILCON. This will be our first appropriations bill. I think it is a shame there are issues that normally are not handled in this bill, and it

should not hold us from moving forward. Under the agreement we will propose, we will finish the bill in a little over an hour and have an appropriations bill sent to the conference committee and we can wrap it up quickly. In the next week, this bill could go to the President.

I think it is too bad we are being held up from moving forward on this bill. The two leaders of the committee, Senator BYRD and Senator STEVENS, have worked extremely hard to get us to this point. I repeat that, this afternoon, we are going to ask unanimous consent to move forward on this. I hope there is no objection to it.

Madam President, I simply say this. I have been listening to the debate this morning, and if this were a jury, like I used to have when I practiced law, this would be a quick verdict. We have the merits on our side. The American people support what we are trying to do, and I want the RECORD spread with how much I appreciate and applaud the leadership of the Senator from Massachusetts. This is something he has been working on not for days, weeks, or months but years. It is too bad we are being prevented from moving forward.

RECESS

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

Thereupon, the Senate, at 12:32 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as in morning business for no more than 1 minute.

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

EXPLANATION OF VOTE

Mr. CRAIG. Mr. President, I was absent yesterday during that most important vote that was cast on S. 2673. Friday morning I spoke to the importance of that legislation and the importance that we move it rapidly. I was extremely pleased that happened. I knew I would be in Idaho yesterday. The Secretary of Energy was with me in Idaho Falls to announce a new mission for our National Laboratory, the INEEL, so I was unable to make that vote.

Had I been here, I would certainly have been with the unanimous majority who supported that very important piece of legislation. It is time we restore within the American people confidence that corporate America is doing all it can to manage its affairs appropriately and honestly for the integrity of the stock in which the citizens of our country invest.

That is important legislation. I hope we can move quickly now to get it to

the President's desk after a conference with the House so that the American people know that it is law, know that there are penalties for the bad actors and the criminal activity that has occurred in certain instances at the corporate level.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

UNANIMOUS CONSENT REQUEST—
H.R. 5011

Mr. REID. Mr. President, as I indicated this morning, we are tremendously anxious to move to our first appropriations bill. I repeat, the President has been pushing us on these bills. We marked up in the Defense Appropriations Subcommittee today the largest Defense appropriations bill in the history of the country.

We have already reported out of the subcommittee and the full committee the military construction appropriations bill, and we have not been able to get it to the floor. There has been an objection on the other side to moving forward.

Mr. President, some have suggested we just bring it to the floor. We cannot just bring it to the floor because then we get into the cloture process and that takes many days. We are now trying to go forward on the prescription drug bill, and we are in a cloture situation there, having filed cloture on the motion to proceed, and we are going to vote on that tomorrow unless something comes in the meantime.

I am basically going to propound the same unanimous consent request I did before. The majority leader was on the floor. The Republican leader has been on the floor. The Republican leader, to his credit, has said he thinks we should move forward with this. Today, I spent some time with him and indicated what we can do to move this forward. He had just finished a meeting with the President.

We want to move forward with this bill. We are doing everything we can to move forward. We were told the last time the reason we are not moving forward—and I spoke with the junior Senator from Arizona, and I know how strongly he believes we have to do something about the firefighting problems. I am from the West. We have two big fires burning in Nevada right now. I am concerned about them, but the firefighting problems of our country have never been funded in the military construction appropriations bill.

We are going to have the ability in the supplemental where it should be done. It is an emergency. We have been blocked from doing that by the administration, but it will be done, as it has always been done during my tenure, if not in a supplemental, in the Interior appropriations bill, chaired by Senator BYRD, the President pro tempore of the Senate. I hope they will allow to us move forward on this.

There are military projects that will have to wait until we pass this bill. So

here I go: I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate may proceed to the consideration of Calendar No. 486, H.R. 5011, the military construction appropriations bill, and that it be considered under the following limitations:

That immediately after the bill is reported, all after the enacting clause be stricken and the text of Calendar No. 479, S. 2709, the Senate committee-reported bill be inserted in lieu thereof; that debate time on the bill and substitute amendment be limited to a total of 45 minutes, with an additional 20 minutes under the control of Senator MCCAIN; that the only other amendment in order be an amendment offered by Senators FEINSTEIN and HUTCHISON of Texas, which is at the desk; with debate limited to 10 minutes on the Feinstein-Hutchison amendment; that upon the use or yielding back of time on the amendment, without further intervening action or debate, the Senate proceed to vote on adoption of the amendment; that all debate time not already identified in this agreement be equally divided and controlled between the chair and ranking member of the subcommittee or their designee; that upon disposition of the Feinstein-Hutchison amendment, and the use or yielding back of all time, the substitute amendment, as amended, be agreed to; the bill, as amended, be read three times; that section 303 of the Congressional Budget Act be waived; and the Senate then proceed to a vote on passage of the bill; that upon passage of the bill, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona.

Mr. KYL. Reluctantly, I must object at this time on behalf of a group of other Senators and myself, not to the terms of the unanimous consent agreement as has been outlined by the Senator from Nevada, but rather to bringing up the bill until there has been an agreement reached on how to deal with the supplemental funding for dealing with these wildfires.

I think the Senator from Nevada is absolutely correct that that funding should be on the supplemental appropriations bill. Unfortunately, it has not been put on that bill so far. There are a lot of different reasons alleged to exist for that. It seems everybody is willing to do it but somehow or another they cannot all get together to make it happen, and if it does not happen on that bill, the only other alternative is to try to do it on the military construction bill.

The Interior Department appropriations bill is not likely to be able to

come before us in a timely fashion so the money that is needed for replenishing these Forest Service accounts can be replenished before the end of the fiscal year, and that is the reason we have to retain this option.

I hope that within the next several hours an agreement can be reached and these funds will be put on the supplemental appropriations bill, as the Senator from Nevada suggests, and then we can move on with this important legislation. Until then, we do need this as a possible way to move forward with the funding that it seems everybody is for but they just cannot find a way to make happen.

The PRESIDING OFFICER. The objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, I think this is too bad, for lack of a better way to describe things. This bill is not the proper place for this type of funding. With all due respect to my friend from Arizona, this does not create any pressure, holding up the Military Construction Subcommittee bill.

We have to understand that if we are going to take care of the men and women who are defending our country, we need to take care of the bills that fund them.

I have indicated I am concerned about firefighting in Nevada. We have fires burning as I speak, but never in the history of this country, that I am aware, have we funded firefighting through the military construction bill, and we are not going to do it in the future. Holding up this bill creates a false illusion that we are accomplishing something regarding firefighting in this country.

I hope that in the next couple of hours, as my friend from Arizona said, more deliberation can come and that we can move forward on this bill.

I am terribly disappointed we do not have more things declared emergencies. It is hard to believe, but the terrible disaster that occurred in Oklahoma where a barge ran into part of our interstate freeway system, dumped more than a score of cars in the river, killed at last count about 14 people, that is not deemed an emergency to fix that road. Now if that is not an emergency, I do not know what is. I do not know what we are trying to accomplish with the numbers game, but that is an emergency, if anything ever was an emergency.

Those fires that are burning, those are emergencies. They are not in the next fiscal year, they are in this fiscal year. The fires are burning right now. The fires in Arizona are not even out yet. They have them under control, but they will be burning for weeks into the future. They have large crews making sure they do not blow up again. I think books will probably be written about that fire in Arizona, if not articles. They were blowing out fireballs for miles, not a few hundred feet or a thousand feet but, by some accounts, up to 3 miles. They were blowing out big

bombs of fire and starting fires up to 3 miles away.

I do not know what is happening down at 1600 Pennsylvania Avenue, but they have to come to their senses and realize that some things are emergencies. The big fire in Colorado was started by somebody who worked for the Forest Service. The big fire in Arizona, from the information we have now, a firefighter started that fire. It is too bad, but they were started. They are emergencies no matter how they were started. It is like the fire burning some 30 miles from Las Vegas, it was started by lightning, but they are emergencies, and they should be declared emergencies, and they should be placed on the supplemental. It does not count against any of the numbers we have. They are truly emergencies.

We are going to offer this again before the day is out. We want to go forward with that bill. The managers of that bill, the Senator from California and the Senator from Texas, have done a remarkably good job. This is a fine bill. I think it is remarkable they have been able to do the job they have done. They have both tremendous interest in the military, and they have both been speaking about the needs they have in their respective States and the country.

The military construction bill goes beyond what we do in this country. We have military construction we pay for that is outside this country. So I hope my friend from Arizona will do what he can. He has tremendous sway with the White House, and that is where the bottleneck is, and it should stop.

In the meantime, let us move forward. We are only asking for a little over an hour on this bill to complete it.

The only other thing, before my friend from Florida begins, is we are expecting a very important unanimous consent agreement on antiterrorism, and when that comes, if the Senator will allow me to interrupt, we will make sure his remarks do not appear interrupted in the RECORD.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. What is the parliamentary position of the Senate?

The PRESIDING OFFICER. The Senate is considering a motion to proceed on S. 812.

Mr. GRAHAM. Mr. President, I am going to talk about one of the issues which will be a central part of the next several days' debate on American health care. The specific bill before us upon which we are seeking permission to proceed relates to generic drugs and eliminating some of the legalisms which have grown up around our generic drug law and have made it difficult for competitive products to come to market, even after the brand name

drug has run the full course of its patent. That will be a debate for another day, hopefully as early as today.

I am going to talk about an issue that will come up somewhat later in this debate and that is adding a prescription drug benefit to Medicare.

Some would say: Look, this issue has been around for a long time. Why should we continue to spend time debating a matter which has thus far been unable to find enough support in the Congress to become law? Why is this issue important enough for us to spend time on it?

The answer is: Freda Moss. That is why this is an important issue.

In Tampa, FL, Freda Moss, an 80-year-old American, along with her 84-year-old husband Coleman, is watching this, and so are thousands like Freda and Coleman. They are also watching us.

Freda is watching and waiting to see if we can improve her life and the lives of 39 million Americans by adding a prescription drug benefit to the Medicare Program. The story of Freda and Coleman is typical of many older Americans. They live on Social Security with an income of \$1,038 a month. They are both eligible for Medicare. They have no prescription drug coverage.

While Coleman has remained healthy and has relatively low prescription drug costs, unfortunately, Freda suffers from diabetes, heart disease, and hypertension. Freda is on a list of prescription drugs that include Plavix, Mavik, Amaryl, and Zocor. In 1 year alone, Freda's prescription drug costs were nearly \$7,800—62 percent of that couple's total income. It is for people like Freda that we need to add a prescription drug benefit to Medicare.

As more and more Americans discover the effectiveness of prescription drugs in promoting longer and healthier lives, they have become an indispensable part of our health care system. In 1980, prescription drugs accounted for less than 5 percent of national spending on health care. In 1980, less than 5 percent. Twenty years later, in 2000, prescription drug costs accounted for nearly 10 percent of national spending on health care. It is estimated in the year 2010 prescription drugs will reach 14 percent of total health care costs.

Last year, 20 percent of the increase in the total cost of health care came from increases in the cost of prescription drugs. Even though they were only 10 percent of all costs, they were 20 percent of the increase in cost.

As there has been in the last few years, there will be a lot of debate over the next few days about the many measures that will be introduced to conquer the problems in the prescription drug market. While many of these proposals are important and even useful to seniors, the ultimate goal must be a prescription drug benefit for older Americans. For many years we have come to the Senate floor to talk about

how important this is. Others, beyond Freda, have been used as an example of the urgency of action, but every year we have gone home we have spoken to our constituents about how committed we were, how hard we worked to accomplish the objective of passing a prescription drug benefit but that we had failed.

Now is the time to overcome failure with victory. We can pass this year—we must pass this year—a benefit for our older citizens who are looking to us for the protection of their health care.

I appeal to all of you who have heard stories such as that of Freda Moss to join me in providing a prescription drug benefit for Medicare.

Why doesn't Medicare, established in 1965 and which covers 39 million people, provide a prescription drug benefit? Virtually every other health care plan, the kind of plan that the Presiding Officer, myself, and other 98 colleagues have, provides a prescription drug benefit as part of a total health care program. Why doesn't Medicare?

The answer is basically history and inertia. In 1965, when the Medicare Program was founded, prescription drugs were a very small part of health care. Few drugs were used by the very ill. Can you believe this? In the year Medicare was established, in 1965, the average spending for prescription drugs by older Americans was \$65. That is not \$65 a week or \$65 a month. That is \$65 a year was the average amount expended by older Americans on prescription drugs when Medicare was established.

What is the number today? According to the Congressional Budget Office, spending over the 37 years, from 1965 to today, has risen to an average of \$2,149. That is a 35-times increase in the cost, on an annual basis, of prescription drugs for older Americans.

If the Medicare Program were to be designed today, in 2002, there would be no question that lawmakers would include a prescription drug benefit. Why? Not only because every other health care plan, the plans that most people have gotten accustomed to during their working lives, have long included a prescription drug benefit, but also because prescription drugs today are an integral part of a modern health care program.

Medications are used not only to halt the effects of a disease, but in many cases can even reverse the negative consequences of disease. After 37 years, it is unfair to ask our Nation's older citizens, one of the most vulnerable populations in our society, to continue to go without the Medicare Program offering coverage for the necessity of modern health care, prescription drugs. Everyone in this Chamber receives this benefit as a Federal employee. We should demand nothing less for our older citizens.

How do we solve the problem? I suggest there are a set of principles that we should look to as we shape a response to this problem of the missing

benefit of prescription drugs for older Americans.

The first principle is modernization of the Medicare Program. We will hear, have heard, and until this debate is concluded will continue to hear, about reform in the Medicare system. There are lots of things we ought to do to reform the Medicare system. Many of those things that are referred to as reform are not unimportant but they tend to deal with the mechanics of the Medicare Program. We should ratchet up or down a deductible. We should change an amount of coinsurance that is required—alterations such as that.

In my judgment, the most fundamental reform that we can make to the Medicare Program is precisely what we are recommending today, and that is to add a prescription drug benefit. Why is this the most fundamental reform? Medicare today is, as it was in 1965, a "sickness" system. If you get sick enough to have to go to the doctor, or even sicker and have to go to the hospital, Medicare will come forward and pay a significant part of your bill. On average, about 77 percent of the cost of physicians' assistance or hospitalization will be paid by the Medicare Program. What Medicare does not pay for is very much prevention, those things that we know will help keep you well and avoid the necessity of having to go to the doctor or the hospital.

It doesn't pay a dime towards the prescription drugs that you will purchase at your local pharmacy or by mail order, which for almost every one of those prevention methodologies is an absolute fundamental aspect.

For example, suppose you have developed an ulcer. The treatment for that in the past was pretty straightforward. You had an operation and the ulcer was dealt with surgically. Today, ulcer surgery is virtually like the dinosaur, an animal of the past.

We have had the good fortune of having in our office for the last several months Dr. Howard Forman. He is a professor of medicine at Yale Medical School. He says that a simple 6-week course of drug therapy today can avoid the \$20,000 cost of hospitalization for ulcer surgery. Even drugs such as Timolol, a generic heart drug, is estimated to save \$4,000 to \$7,500 per year per patient in select heart attack victims.

Drugs to lower cholesterol and to control hypertension can ward off possible stroke or heart attack—medical conditions that not only reduce the quality of life but are very costly for treatment through the traditional Medicare Program.

Modern medicine has been significantly altered by prescription drugs, notably by improving the quality of people's lives, reducing long recovery periods, and sometimes even negating the need for surgeries altogether, as in the instance of ulcers. This is why our seniors need a universal, affordable, accessible, and comprehensive drug benefit.

The second principle behind the addition of a prescription drug benefit is to provide beneficiaries with a real and meaningful benefit. An important part of assuring that a prescription drug program will be around for our children and grandchildren is to attract a broad variety of beneficiaries.

Mr. President, you know as I do that a fundamental principle of any insurance plan is to get a broad base of people participating, knowing that some of those people will suffer whatever it is they are insuring against—like their house burning down or their car being involved in an accident—and other people will be fortunate enough to avoid those instances. It is having enough people in the pool who can all share the cost that then allows us to rebuild the home that has been destroyed by fire.

Because this program is voluntary, and because it is critical that it attract a broad base of participation, it must have a reasonable price and a benefit package that will make it attractive to those older Americans who are relatively well today and who do not have large prescription drug bills. By attracting both seniors with high needs and those who simply need modest coverage and would like to be assured that should they suffer a heart attack or some other disabling condition they will be able to access the catastrophic coverage, that is the coverage that will give them full protection for prescription drugs beyond a certain point. This program will be solid. This program will be actuarially sound for our and future generations.

Any prescription drug plan must offer seniors coverage that begins from the first prescription bill; that is, no deductible standing in the way of getting benefits. Seniors should understand that if they are receiving a benefit, the benefit should be consistent, and seniors should actually receive it without any gaps in coverage. That is a so-called doughnut profit where you have coverage for a certain proportion of your drug expenditures and then all of a sudden you are 100-percent responsible until you reach the catastrophic level.

In order to make this program easy for seniors, it should operate in a way as similar as possible to the coverage that seniors had during their working life.

A third principle is that seniors should have choice. America as a nation thrives on choice. Choice is an important part of health decisions. Choice is an important part of creating a competitive environment that will assist in controlling costs. Our seniors deserve a choice in who delivers their prescription drugs, which is why we must assure that each region of the country has multiple providers of prescription drug benefits.

This will encourage competition, helping to keep costs down to beneficiaries as well as to the Medicare Program and ultimately to the American taxpayer. The choice of who you

select to deliver your drugs should be made by seniors beginning with the position as to which firm you wish to be your representative. The phrase is a pharmacy benefit manager, or a BPM, and then which specific drugstore you want to go to have your prescriptions filled or should you choose to use a mail order form of description. Those ought to be choice decisions made by the individual senior American who we will treat with respect and dignity.

Fourth, we need to use a delivery system on which seniors can rely. American seniors deserve a delivery system for prescription drug benefits that is based on something tried and true, consistent with what seniors feel comfortable with, and modeled on what has already worked. We should not convert our 39 million older Americans into some giant new social health policy on how to deliver a product as critical and as basic as prescription drugs when there are already models on how to deliver prescription drugs with which seniors are familiar and which are working well.

Medical beneficiaries should not be led into being guinea pigs for social experimentation. If we are going to spend billions of taxpayer dollars on a prescription drug program, it should not be handled with untried and untested delivery models. We are responsible to the American taxpayers to invest in what we know will work. We should look at what the private sector does for guidance in developing a delivery system for a drug benefit and evaluate what is already effective for beneficiaries so they can help us better understand what will work for seniors.

The fifth principle is to provide an affordable program for beneficiaries. The majority of seniors in America live on fixed incomes. They need to know the cost of those things in order to be able to budget. This is why seniors need a prescription drug benefit that is affordable with a low premium and low copayments that are easy to calculate. They need to be assured against wild variations from month to month, or year to year. The program must also make financial sense to beneficiaries. Seniors should not have to wait until an emergency arises before the benefit is worthwhile.

We know that when seniors do not have coverage, they do not fill their prescriptions, a practice we hope to eliminate with this legislation. The gap in coverage means no coverage for many elderly who might be caught in this doughnut of noncoverage. It means that not only will they be unable to buy their prescriptions during that period, but it might discourage them from engaging in the preventive practices of asking the very legitimate question: What is the good of my starting on an expensive drug that will help control my hypertension if 4 months from now I am going to be in a position where I will no longer have any coverage and assistance to buy the drug that I can take home, so I will never

start and get the benefits of that preventive treatment?

Cost will be a factor in order to maximize enrollment. We have been advised by a number of organizations that represent the interests of older Americans, such as AARP, that a premium in the range of \$25 a month is a premium which will be able to attract broad participation by older Americans. In order for this program to be solid, we need to have that broad participation.

Sixth, this must be a fiscally prudent program. We have a responsibility as lawmakers to pass the budget and to maintain fiscal discipline. We must exercise this judgment when we look at all spending. And the case of prescription drugs should be no different.

That being said, we must look at prescription drug coverage in the context of other benefit programs. As I mentioned earlier, Medicare currently covers 77 percent of the total expenses of those services which are Medicare covered. If you go to the hospital to have an appendectomy or if you go to your local doctor for an outpatient procedure, on average, Medicare will pay 77 percent of the cost.

Prescription drugs are as important to seniors as the services which are currently covered under Medicare. If we were to cover 77 percent of drug expenses, as we do for current Medicare services, we would be spending over \$1 trillion in the next 10 years to provide this benefit.

If we look at the drug coverage that those of us in this Chamber receive through the Federal Employees Health Benefits Program, if our seniors were to get the same level of Federal support for their prescription drugs as we, as Senators, get for ours through the same Federal Treasury, it would cost between \$750 and \$800 billion over 10 years to provide that coverage.

These numbers provide a context. Clearly, we will have to find a balance between giving seniors what they need and what the budget will allow, and what type of benefit will have the most use for Medicare beneficiaries.

I would like to briefly outline some of the details of the plan that will be introduced later this week on behalf of myself, Senator MILLER, Senator KENNEDY, Senator CLELAND, and a number of other colleagues. That plan would begin by asking the seniors, in a dignified way: Do you want to participate at all? It is your choice. This is a voluntary program.

If seniors say, Yes, I do want to participate, here is what they will get. First, they will get a bill for \$25 a month. That is the cost of the premium to be a participant in this plan. Once they have made that \$25 payment, then they will become eligible to participate. They will be eligible from the first dollar they expend after they join the plan; that is, there is no deductible.

Once they begin to acquire their prescription drugs, they will find a system very similar to what they used during their active years. They will make a

copayment for each prescription they receive. We are suggesting that copayment should be \$10 for each generic prescription and \$40 for each brand name, medically necessary prescription.

Once you had expended \$4,000 out of your pocket for prescription drugs, you would reach the level of catastrophic, and beyond that \$4,000 from your pocket there would be no further copayments required.

Seniors with incomes below 135 percent of poverty would pay no premiums. Beneficiaries with incomes between 135 and 150 percent of poverty would pay reduced premiums.

Our plan uses the exact delivery model that America's private insurance companies utilize. It is also the same model the Federal Employees Health Benefits Plan utilizes which covers virtually, if not totally, all of our colleagues in this Chamber.

Every Federal employee health benefit plan uses pharmacy benefit managers, or PBMs, as the method of delivering and managing prescription drug benefits. PBMs are private, commercial companies that negotiate directly with pharmaceutical companies to achieve low prices. They are held accountable. Part of their fee to provide this service is based on their demonstrated capacity to contain costs and to provide quality care and service.

We would allow all seniors a choice of which PBM they wish to use by giving the seniors the opportunity to shop around for a plan that best meets their needs. PBMs would be accountable to the Medicare Program and to the taxpayers.

PBMs would be required to demonstrate their ability to keep drug costs down in order to be awarded a contract to seek to represent seniors. Further, once the PBM had the contract, they would not be paid for their services if they did not carry out their commitment to contain drug spending while, at the same time, providing a quality service to older Americans.

Our plan is estimated to cost less than \$500 billion through the year 2010. We are suggesting that in that year, 2010, Congress should pause, Congress should review this plan that will now have been in effect for 7 years, and the Congress should decide what we have learned during this period, much as we are doing now as we reauthorize the welfare-to-work law. We are looking at what we have learned since 1996. And we are going to put that learning into the welfare-to-work law for the next period.

In my judgment, in light of the significance of this new program, it will be highly appropriate to examine how well the benefit is working and whether it is providing seniors with the benefits they need. Is it living up to those six principles I just outlined, which should be the cornerstone of an effective prescription drug program? We can learn from these first 7 years and apply those lessons to the future.

As I indicated earlier, this is not the only plan the Congress is considering. In fact, the House of Representatives has already passed a prescription drug plan. That will be awaiting our action in a conference committee, hopefully in the next few days, to begin the process of trying to arrive at an appropriate compromise. I would like to make a few comments about the House Republican plan which has passed and awaits that conference committee.

Providing a legitimate drug benefit that would actually help America's seniors is our goal on the Senate floor. In my judgment, the proposal passed by the House of Representatives almost 3 weeks ago fails to give Medicare beneficiaries what they need and deserve: an affordable, reliable, comprehensive, and accessible prescription drug benefit.

Unfortunately, the proposal that apparently is going to be offered by the Senate Republicans suffers from the same defects as that from the House Republicans. If a comparison is made between the House Republican plan, the Senate Republican plan, and the six principles I have just outlined, only one of the six criteria for a prescription drug benefit is met.

After many years, my colleagues on the other side of the aisle have finally come to recognize the basic need for a prescription drug benefit. The problems include the lack of a defined benefit. Seniors will not know, under either the House or Senate Republican plans, what they will get. Another problem is control is turned over to private insurance companies to determine what the senior will receive. And an additional problem is the money beneficiaries are expected to spend before they actually receive benefits.

The House Republican proposal fails to provide Medicare recipients with a stable, sustainable benefit. It would allow insurance companies to decide what type of coverage would be offered since the House legislation only requires that there be an "actuarial equivalent" of the basic benefits plan.

This means we have no idea what type of benefits would be offered to seniors. We do not really know what the premium is.

I have looked through all 426 pages of the House Republican bill, and I was unable to find a real hard number that guaranteed what seniors would pay every month as their premium responsibility. Although I have not looked through the Senate Republican bill, which was just offered yesterday, I suspect it is no different.

The House Republican bill could mean a \$250 deductible or it could mean a deductible as high as \$1,000. This means there would be a substantial delay between the time the senior signed up for the plan and when they would start getting any benefit. There is nothing reliable about this plan.

The bottom line is that America's seniors would be at risk for wild variations in the type of benefits they

would have from place to place in America and from year to year in the same place.

For the first time in the history of Medicare, seniors, for instance, in Florida would pay a different premium than seniors in Georgia or seniors in Massachusetts. In both Republican plans insurance companies make all the decisions, have all the choices—not the Medicare beneficiary. These companies would be lured with taxpayers' dollars into a market in which they do not wish to participate in order to create a complex delivery system that does not currently exist.

There is an organization that represents a number of large pharmaceutical companies which has been a principal advocate of the House Republican plan. I met some time ago with a number of representatives of that association. After they had given me the explanation of why they were supporting this plan that requires seniors to purchase private insurance with unstable and uncertain benefit structures, I then asked them this question: How do your employees, the people who work for your pharmaceutical company, including you as an executive, how do you get your prescription drug benefits?

Do you know what the answer to the question was? Exactly the way that we are proposing in our legislation. They don't use this system of a private insurance policy for drug only for themselves or their own employees. They want 39 million American seniors to become the first farm of guinea pigs for this experimentation on how to deliver prescription drugs, when we know how to deliver prescription drugs, and in a system that seniors have already experienced during their working lives.

Money that could be used to enhance the benefit to seniors would instead go to marketing and administrative costs of the insurance company.

The Republican proposal allows insurance companies to determine beneficiaries, drugs, how many drugs they will get, what kind of drugs they will get, instead of doctors making the decision on our behalf as to whether we need Lipitor or Zocor for our cholesterol. Those decisions would increasingly be driven by the profits of the insurance companies. Seniors deserve the choices, not insurance companies.

The President must disagree with his party on this because just last week in Minneapolis he said:

I support a prescription drug benefit for Medicare that allows seniors to choose the drug coverage that is best for them.

I support President Bush in my advocacy of seniors having the responsibility and the right to make the decision as to what is in their individual best interest.

The House Republican plan would put our Nation's seniors into an untried, untested delivery system that has never before been used. Is it fair to older Americans to be used as a social experiment for the insurance industry?

The delivery model presented in the House is, in my judgment, a recipe for potential failure, with a paltry benefit. Only those who need the most prescription drugs are likely to buy into the plan.

There is an example of this scheme. We are not talking totally theoretically about what is likely to occur under the House Republican plan. Several years ago, the legislature of Nevada adopted such a structure to be used for their prescription drug program. Their proposal was used where beneficiaries soon found that they were looking at very high premiums, high deductibles and copayments, which only lured the sickest seniors into the program. As a result, beneficiary claims exceeded premiums and copayments throughout the entire first year of Nevada's experiment.

The experiment had the State paying a premium of \$85 a month per member for 7,500 beneficiaries. An independent actuary found that the State-operated program, working directly with PBMs, could have provided the same benefit for \$53 a month. The extra money was paid to an insurance company which could have been used to serve 4,500 more seniors in Nevada.

The program has a waiting list of over 1,000 people, no doubt 1,000 of among the sickest people in Nevada who want to get on to this program.

One of the most important factors for seniors when deciding that they will sign up for a prescription drug benefit is cost: How much will it cost monthly? How much will they have to pay before benefits begin? How much value will there be in the benefit? The Republican plan fails to give seniors this value. The plan has a \$250 deductible, meaning most seniors will have to wait for the benefit to begin, even as they are paying monthly premiums during this waiting period.

This predicament gets worse in the House plan after beneficiaries have spent the first \$2,000. At that point, seniors, including low-income seniors, are forced into a gap in coverage. They suddenly, after the first \$2,000, have to pay 100 percent of the cost of their drugs.

For a senior like 71-year-old Jeremiah O'Conner, a Ft. Lauderdale, FL, resident who survived cancer and now pays \$1,279 per month for drugs to help with high cholesterol and a prostate problem, the Republican gap would begin in March of each year. He will have to float without coverage until at least May, still paying a monthly premium.

For a low-income senior who is 150 percent below the poverty level, which is now \$13,300 for a single person, this would be more than 25 percent of their annual income that would have to be used to pay for their prescription drugs while they are caught in this gap of coverage.

The Republican plan will not help those seniors who are choosing between food and medicine. The doughnut will

provide them with no nutrition. All they get is the empty hole.

For example, Ms. Olga Butler of Avon Park, FL, receives a monthly Social Security check of \$672, which makes her barely over the income limit for Medicaid coverage. This means that 67-year-old Olga has to pay for her own medications, sometimes having to make that choice among food, rent, and prescription drugs.

Olga is on Lipitor and Clonidine for her hypertension and high cholesterol. She pays \$95 a month for Lipitor and \$22 per month for her Clonidine. These prescription drugs not only improve the quality of Olga's life, but they are helpful in warding off possible strokes or heart attacks for which she is at a high risk.

In order to qualify for the Republican prescription drug plan, Olga must pass an assets test in order to get low-income assistance—the first time such an asset test has been included in any Medicare Program. I know you know the answer to this question, but some of our colleagues may not know what an assets test is. This test means that Olga must deplete her savings which is less than \$4,000. She must sell off her furniture and personal property, which is worth more than \$2,000. And she must sell her car, if it is valued at more than \$4,500. She must place herself in poverty in order to qualify for the low-income assistance under the inadequate House Republican proposal.

Mr. KENNEDY. Will the Senator yield for a question on that point?

Mr. GRAHAM. I am pleased to yield.

Mr. KENNEDY. So is the Senator suggesting that, on one hand, the Republican proposal is suggesting that it is addressing the needs of really the lowest income seniors? I think it is always useful to review the average income of our seniors, which is about \$13,000 a year, and two-thirds of them have less than \$25,000. So we are talking now about the lowest income. I guess it is 135 percent of poverty.

So, on the one hand, the Senator is suggesting that those individuals are going to be covered and then he is pointing out that the Republicans have included an assets test, which includes a burial plot that is above \$1,500. If they have a little cash in their bank account, which they have saved over their lifetime, evidently, this says they have to spend all of that. You cannot have personal property such as a wedding ring. You would have to give that to the pawnbroker and spend that.

Besides those cruel aspects of the assets test, what does the Senator think this does in terms of demeaning our fellow citizens—to have them go in hat in hand in this country—the greatest country in the world—and have them have to go through and bring out their little sheet and represent the value of their personal goods at home and demonstrate what that bank account is.

We have other ways of making these assessments that can be done while treating people with a sense of dignity.

Does the Senator not agree with me that this is a particularly harsh proposal as well for our fellow citizens, particularly those who are extraordinarily needy and perhaps feeling a certain amount of despondency for the way life has treated them, and then the Republican proposal adds this additional dimension? Does the Senator not agree with me that it dehumanizes our fellow citizens and humiliates them in ways that are completely unacceptable?

Mr. GRAHAM. It is a testimony to exactly those attributes that we have had Medicare for 37 years and never, never has it been proposed that we add an assets test to people's ability to secure the basic necessities of health care that sustain life and the quality of life.

The Senator mentioned a number of items that would be lost, from a wedding ring to a burial plot. I think of particular significance is the fact that you can't own a car that has a value of more than \$4,500. If you want to go down to the used car lot, you can see what that means in terms of an available vehicle.

Mr. KENNEDY. On this issue, may I ask the Senator a question?

Mr. GRAHAM. Yes.

Mr. KENNEDY. In part of the country, winters can be extremely cold. The northern tier States are colder still—up in the State of Maine, across the northern tier, in Montana, across Minnesota and Wisconsin. And the last thing we want for our seniors who are going down to the drugstore to get prescription drugs is to have their car break down. Or if they are in the southern part of the country, on those super-highways where traffic is moving with such rapidity and there is such a degree of intensity in terms of the conduct of traffic, you can imagine what happens to a senior whose car breaks down on those roads as well.

We are really flyspecking our fellow citizens. We are trying to set up a system that addresses the needy people in our society. Does the Senator not agree with me that we can do that with a sense of respect and dignity? When we are talking about this point of \$4,500 for a car—which is to try to say that maybe if it is \$2,000, we will be more understanding.

I must say that this is a humiliating aspect for our fellow senior citizens. I find it so difficult and so unwilling to accept.

I particularly appreciate the Senator's long explanation and detailed elaboration of the Senator's own bill. I pay great tribute to Senator GRAHAM and Senator MILLER in terms of the fashioning of this proposal. I am grateful to be able to join them. I think his careful review of the other proposal should make our colleagues think of whether that kind of a proposal is worth any degree of support.

Mr. GRAHAM. I have just one last comment about the automobile. As it is for most of us, an automobile is

more than just a means of transportation; it is a statement of our independence, our ability to be able to do those things that make life meaningful. This is a particularly important thing for older Americans, many of whom live in rural areas. If you say you have a choice, can you imagine the pain that a 75-year-old American living in a rural area in your State, or mine, or Senator CLELAND's, or Senator STABENOW's, would feel if they say: Here are your choices: We can give you access to some payment for a drug which, if you are unable to secure will almost assuredly decline the quality of our life, and maybe cause death, but in order to get that assistance, you have to give up your independence by giving up the vehicle that allows you to have some degree of mobility. What kind of country is America? We are saying this to the generation that we have defined as our greatest generation. These are, in many cases, the people who have not only lived through the Depression of the 1930s, when our country was in tremendous jeopardy, they fought to defend our country, or they worked in the defense industries, as did that wonderful generation of young American women who did hard manufacturing work in order to be sure that those ships, planes, and tanks were built; and now we are going to tell these people when they are 75 years old: give up your mobility and your independence or give up life because you cannot afford to buy the prescription drugs. What kind of an America is that? That is not the kind of America by which I want my children and grandchildren and great-grandchildren to judge my generation.

Beyond those points, the insult even gets worse because, to use my example of Olga, she is not going to be immune from this gap, either. So under the Republican plan, once she hit the wall, the beginning of that big nonnutritious hole in the middle of this coverage, she would have to pay between \$3,450 and \$5,300 of drug costs, without getting any assistance.

So we have added insult to the tearing away of dignity and independence. The Republican plan would make this gap harder to fill by only including payments directly made to beneficiaries on their behalf. This is a technical issue, but it is an extremely important issue for many of our elderly.

The typical person, when they were 45 years old, their union negotiated a contract with their employer and the employer said: All right, I am going to put on the table an additional 25 cents an hour of immediate income; or I will write into this contract a provision that says when you get old and retire, I will pay a portion of your prescription drug costs.

I happen to be a retiree of the Florida State retirement system, and I am eligible, when I go on Medicare, to get a certain amount every month toward my prescription drug costs. We are going to say that in calculating how

much you have to have spent out of your pocket to become eligible for the catastrophic coverage, you can't include the money that your employer is contributing. You have paid for it back 25 years ago when you gave up that quarter an hour of additional compensation to get that benefit, but now it suddenly evaporates in terms of counting toward meeting your catastrophic number that will allow you to avoid future copayments for your drugs.

It is just blatantly unfair, and it has been one of the hidden issues. If I thought of this idea, I would want to hide it, too. It has been effectively hidden.

Mr. KENNEDY. Can I ask the Senator, and I am so glad the Senator is taking the time to explain this issue, and I hope our colleagues are going to pay some attention to it because it is very easy to say: A prescription drug bill here, a prescription drug bill there, is there really any difference? The Senator is pointing out in great detail some of the very powerful differences.

One that is enormously important is how the Graham bill treats employers. Those good employers who are trying to provide a prescription drug benefit for their employees are hard pressed, particularly smaller businesses that pay a disproportionately high percentage in premiums. Nonetheless, they are prepared to do it.

Under the Graham proposal, there are provisions which help those employers maintain at least the coverage for the employees. It seems to me that everyone wins: The employee wins; the employer wins. The objective of the Graham bill is to make sure they have the coverage, as compared to the Republican plan which has disincentives, as I understand, in terms of the employers.

There are clear disincentives for employers to maintain the coverage, which means there is going to be additional costs and a higher risk of coverage. It is a very important part of the Graham proposal. I wonder if the Senator will spell that out because that is so important when we are looking at what is going to happen to companies that are providing prescription drugs and which program is best suited to make sure we have a continuity of coverage.

Mr. GRAHAM. The Senator is absolutely right. Under the current system, about 30 percent of our 39 million Medicare beneficiaries receive some assistance with their prescription drugs through their previous employer. Frankly, that number has been declining as in more recent years employers have been less willing to add to their benefit package a prescription drug payment in retirement. But 30 percent of current seniors do have that, and there is concern that under the House plan, which has no incentive for those employers to continue to provide the service, they are going to say: Look, we do not need to continue to write

these checks to our retirees. There is now a Federal program. So we are going to cancel out and turn all these people over to the Federal Government to pay.

What we are proposing is that the Federal Government should essentially enter into a partnership with those employers. We would pick up two-thirds of the cost of what we would otherwise pay for a beneficiary. The employer would pick up the rest. It saves the employers two-thirds of what they are paying now, but it gives them enough incentive that they will continue to participate rather than have a new way of cost shift to the Federal Government and to the beneficiaries themselves since under the Republican plan it is less generous than most of these current employee plans, and so they will have to pick up—they, the beneficiaries—additional expenses.

Mr. KENNEDY. If the Senator will yield, as I understand, the CBO has estimated there would be 3.5 million people who are covered now with a good program who would lose that good program and be in the substandard Republican plan.

Mr. GRAHAM. Absolutely.

Mr. KENNEDY. That is CBO. There are the assets provisions the Senator just described. There is a provision which is a disincentive for the employers. And there is the doughnut or the wall which the Senator has described. This is enormously important because their bill fails the truth in advertising test.

Mr. GRAHAM. Mr. President, I appreciate the Senator's thoughtful, incisive questions which underscore some of the differences—I think clear deficiencies—in the legislation the House has already passed.

According to the Corporate Health Care Coalition, the benefit of employer-sponsored coverage is minimized under the Republican proposal and, as the Senator from Massachusetts said, threatens to force employers to choose between private plans or the Medicare plan, and the estimate is that a substantial number of employers would elect to dump their current coverage for retirees and let this become a full Federal plan responsibility.

This would be a threat to over 3 million seniors who today are able to rely on a reduced prescription drug benefit and which under our program would be able to, should they elect to do so, have the benefits of both their employer plan and the new Medicare plan as, in insurance industry terms, a wrap-around policy.

Everyone in this Chamber understands the need for fiscal discipline, but this should not come at the cost of providing a meaningful drug benefit for Medicare beneficiaries.

The budget passed by the Senate Budget Committee provides up to \$500 billion for a prescription drug benefit. Mr. President, our plan is within that range.

We do not have to provide beneficiaries a Cadillac. Rather, we would

be more prudent to provide them with a Chevrolet or a Ford a reliable, useful automobile. But we also do not need to provide a benefit that is more like a moped—unreliable and cannot be driven on regular roads.

Mr. President, I say to my colleagues in the Chamber, now is the time. We have come to the Senate floor year after year promising America's seniors a prescription drug benefit, and every year the seniors have come to the beginning of the new fiscal year thinking this will be the year in which we will see the promised land, this will be the year in which these promises are delivered. Sadly, to recount, every year the seniors have found not an open door but a closed and padlocked door.

Today we can take the giant leap that Medicare beneficiaries have been waiting over the years for us to take. Just last week in Minneapolis, President George Bush said:

We must make sure that whatever system evolves does not undermine the great innovations that take place in America.

Surely an untried, untested system such as the House Republican proposal which has already passed will have exactly that uncertain impact on medical advances. By using a system that is based on what we already know works, we do not threaten that innovation. We can, in fact, contribute and advance innovation.

That is what our proposal does. By passing the exact system that every Member of the Senate and most Americans use to get their prescription drugs, it is within our power to give America's elderly the parity, the security, they deserve in their lives and in their health care.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. FRIST. 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. FRIST. Mr. President, I rise to speak on the underlying bill and on the background for Medicare, Medicare modernization, and strengthening Medicare.

First, I am delighted the discussion of health care security for our seniors has reached this stage of debate, active discussion, and active deliberation in this body. The House of Representatives admirably took this issue head on, worked very diligently through a committee process, and produced a bill, after debate, after discussion, and it passed. The House bill received a majority of votes and represents a very deliberate and very solid effort to address the cost of prescription drugs. More importantly, it addresses the issue of health care security—including prescription drugs as a part of the armamentarium physicians or nurses can use in looking seniors in the eyes and saying their health care security can

be complete by passage of this bill. I think this is the crux of the issue.

Now is the time for us to act to include prescription drugs—that powerful tool, that powerful element of health care as we know it today—as part of the overall health care security package for our seniors. Including a prescription drug benefit within Medicare is long overdue. Prior to coming to the Senate, I was blessed to spend 20 years providing care to thousands of Medicare patients in the field of chest, heart, lungs, pulmonary status, emphysema, lung cancer, heart disease, and stroke. Thirty years ago, medicines, including prescription drugs, were used in these fields. However, 20 years ago prescription drugs were used a lot more, 10 years ago even more, and today they are an absolutely essential part of health care delivery.

As a surgeon, I do not want to say prescription drugs are more important than surgery, but it is getting to the point that medicines people take every day are equally important in acute and chronic care and in disease management. Now is the time for us to address the financing of health care delivery in this country, both in terms of the organization of health care delivery and insurance coverage.

Everybody knows the Medicare Program is absolutely critical to health care security. I think my colleagues in the Senate will agree that Medicare, health care security for our seniors and for our individuals with disabilities, is critically important and vital. It is imperative that we do not forget that the Medicare debate applies to both seniors and those with disabilities. I believe now is the time to strengthen it. Others might say to modernize it. Yet even others will say to reform it. Whatever word is used, now is the time to take a 1965 program which has been modified over the years in the way that we incrementally do things—and strengthen the program. We need to modernize the program to truly deliver what our seniors and disabled individuals expect us to do—to give them health care security.

So whether one uses the word “save,” “strengthen,” “modernize,” or “reform,” now is the time to have a discussion on the floor about the process itself.

As some people listen to the debate about Medicare and prescription drugs, many will question why we need to address the process. The process is important to help move such complex bills along in order to produce a good bill that can be married with the House bill. We can accomplish what most people want to achieve affordable access to prescription drugs for our seniors. This is a complicated issue because the overall cost of prescription drugs will continue to escalate unless we fix it.

Furthermore, health care delivery will continue to change in terms of the overall relative importance of inpatient hospital care, outpatient care, acute care, chronic management, and

disease management. The process is designed to take this complex bill which could potentially be the single largest expansion of an entitlement program and modernize it, including the coverage of prescription drugs.

It is important to enact a bill in a responsible way. The demand for prescription drugs is going to be high because people will be counting on drugs for cures and to improve quality of life. With that sort of potential growth superimposed on a Medicare Program which is not designed for such growth, the impact will literally bring the overall program down.

For some time, the President and I have argued that as we look for prescription drug coverage inclusion, we need to do it in a way that is responsible to the American people—to seniors, to individuals with disabilities, to the taxpayer, to the current generation. This is also important to the next generation coming through the system who, if we do not appropriately fix Medicare, simply will not have the Medicare Program that they expect and deserve for their parents or for them a generation from now. Therefore, Medicare must be strengthened. Medicare must be improved.

I argue we should address prescription drugs through a process that includes the committee structure, where appropriate debate can be carried out. It is not clear if people have followed the debate over the course of today, including which bills are going to be considered, if there are going to be large bills to modernize all of Medicare, if there are going to be very specific bills that look at the prescription drug package to be placed in Medicare, or whether there are going to be catastrophic plans. I am hopeful, if we are going to bypass the committee process and come directly to the floor, that we debate all of those bills so the American people and our colleagues will have the opportunity to see the range of alternatives. If we consider just one bill, especially if it is a very partisan bill and has not been taken through a committee process, the long-term risk to the American people is huge. This will not just affect Medicare beneficiaries but will impact generations who will be Medicare beneficiaries in the future and the people who are paying for Medicare today.

Pharmaceuticals are a critical component of health care delivery. Now is the time to act, so let's do it. Let's not talk about a plan that will take effect 3 years, 4 years, 5 years from now. Let's go ahead and start today and let's do it in a responsible way.

Other Medicare issues may be addressed if health security is our goal. These issues include preventive services and other benefits that are covered by private health care plans today that are not covered in Medicare. When we strengthen, reform and modernize Medicare, we need to do so in a more comprehensive fashion.

We need to look at the Federal Employees Health Benefits Plan, the

FEHBP—the health insurance coverage my colleagues and I have. You do not hear us complaining very much about our health care insurance. It is the same plan through which about 10 or 11 million Federal employees get their health care today. We ought to look at that model as we look to include prescription drugs.

There are a number of principles that do need to be stressed as we look forward because we do not know exactly what amendments are going to be coming to the floor today or over the next several days as we consider prescription drug coverage. I would like to stress four principles as we consider prescription drug benefit plans.

First, a prescription drug benefit should be permanent, affordable, and immediate.

By "permanent," I mean that we should not look at bills that will fix the program in another 4 to 5 years, rather, we need a bill to fix the program sooner. We need to act now. We need to have a bill that will help seniors and individuals with disabilities as soon as possible. So, I argue we should not start a bill or legislation and have its effect, say, 3 years from now.

When I say a prescription drug benefit should be permanent, I think it is dishonest for us to tell seniors that this is the fix when it only applies for 4 years to 6 years. It should be incumbent upon us to develop a plan, a proposal. We need to be smart enough to do it in a bipartisan fashion and include time for adequate discussion, so that we pass a bill that can be sustained over time—whether in times of deficit, or surplus. Additionally, a prescription drug benefit needs to take into consideration breakthroughs in medicine that find cures, treat or prevent such diseases as heart disease, Parkinson's disease, emphysema, and other lung diseases. Therefore, such a benefit must be sustainable to the best of our ability over time.

That means when we look at a plan, we don't say it starts at 2005 or 2006 or 2 years from now, and then sunsets 5 years later. I think we need to be honest with seniors and the current generation who is paying for Medicare today by ensuring that this plan is something that can be sustained to the best of our ability, and that it can be sustained over time. So, principle number 1 provides for a permanent, affordable, and immediate prescription drug benefit.

A second principle is that a prescription drug benefit should, in some way restrain what cannot be sustained long-term—the skyrocketing cost of prescription drugs that we see today. Seniors and individuals with disabilities cannot afford the high costs of drugs. Likewise, people in the private sector cannot afford it. Thus, a prescription drug benefit must lower the cost of prescription drugs. I would argue the only known way of doing that long term is through an element of competition, an element where you

have informed consumers. It is an obligation of us in government to inform consumers. Consumers are those on the front line—seniors listening, to patients, to doctors, to nurses. Really, it boils down to what is happening at the doctor/patient relationship, to involve an element of educated consumers making smart, and commonsense decisions, long term.

The Congressional Budget Office has found that bills similar to Senator DASCHLE's bill, which will likely be coming to the floor later this week, would not decrease overall drug costs, but would increase drug costs. According to the Congressional Budget Office, bills that rely on public/private sector partnerships and an element of competition will help maintain the costs of drugs. For example, the House of Representatives bill that passed by a majority vote illustrates this point. Additionally, the Breaux-Frist bill, introduced in the 106th and 107th Congress, is based on the Federal Employees Health Benefits Plan model which relies on the private/public partnership. Overall, these bills include an element of competition, capturing the very best of the public and the private sector working together and reducing drug costs for seniors.

The third principle—following the first principle of permanent, affordable, and immediate prescription drug benefit and the second principle of competition to lower the cost of prescription drugs—is that a prescription drug benefit should be fiscally responsible. We need to do it. We need to act in this Congress. We need to act now so it will take effect now, and we need to do it responsibly. This is where dollar figures are important, so we know what these relative alternatives are all about.

Experts estimate proposals offered by Senator DASCHLE and some Senate Democrats would cost at least \$600 billion over the next 8 to 10 years. In a time of deficit spending and in a time where the economy is tough, this would ultimately require cuts in other fields like education, national defense and Social Security. Furthermore, it would place a heavy financial burden on the current generation receiving benefits, the generation that is paying for those benefits, and the following generations.

The fourth principle I would like to stress is that a prescription drug benefit should be bipartisan. That means we need to come together. This is a big challenge. This is a big, new entitlement that at the end of the day is likely to be adopted—and I would argue should be adopted—if it is done in a responsible way. I would argue in this climate, especially in this climate where the Senate is about 50-50, where the American people are about 50-50 in terms of partisanship, that the only way for us to succeed is through a bipartisan bill. We need to have people from both sides of the aisle working together in a commonsense, rational

way. Yes, we will concede to tradeoffs on either side to come to common ground. But we need to do it in a bipartisan manner.

The good news is that if we can pull it off with the right leadership, if we can pull it off with people who recognize the importance of pulling people together, we can do it and it can be done now. This will result in seniors benefitting very soon. It can be done in a way that is sustainable. I am absolutely convinced there are enough people who will work together in a bipartisan way on both sides of the aisle—majority of Republicans and majority of Democrats—so we can pass such a bill.

That is a challenge. It is a challenge because we have about 112 days left until the elections commence. The real risk is in trying to pass such a major piece of legislation in a partisan way—partisan could bring it down to where we do not pass a bill. Amidst all the talk at the end of the day, there are not going to be sufficient votes because the bills are not bipartisan.

A lot of the discussion today has been basically the other side of the aisle reaching out and saying we are ready to move forward, we want to take action. But much of the backdrop, is that the Senate Democrats today actually canceled or postponed a markup because of a fear that the tri-partisan bill that normally—normally the bill would come through the Finance Committee to be debated and amendments could be debated and passed or failed. There could be good debate among 20 people in that Finance Committee. The committee of jurisdiction was bypassed today with these bills being brought directly to the floor.

If you agree and if the American people agree that a prescription drug benefit is big, now is the time to act.

The only way in an environment today that tends to be partisan because of these elections is to demand bipartisanship. The only way to pass a prescription drug benefit is to openly consider the bipartisan and the tripartisan bills. And we do that, I again argue, first in the Finance Committee; however that does not look like that is going to happen.

I want to make absolutely sure that the Republicans are not overstating the importance of taking a bill this big through the Finance Committee before coming to the floor of the Senate. The tripartisan bill—the bill that has the majority of votes in the Finance Committee—has not been debated and has not been voted on or marked up in the Finance Committee. Additionally, the bill that Senator DASCHLE likely will bring to the floor sometime in the next several days is a strictly partisan bill which has not been considered in the Finance Committee either. The American people need to understand that Senator DASCHLE is playing straight up politics. I asked the Congressional Research Service to look up the top 10 or so major Medicare bills which passed

the Congress over the past two decades and to find out: (1) Where were they first considered? (2) Did they bypass committee and brought directly to the floor of the Senate? They responded. It is very interesting. It looks as if there are about 12 to 15 major bills that have been considered over the past two decades. With the exception of one, all of these bills were considered and reported by the Senate Finance Committee before they were enacted into law. Those bills, again for reference—were TEFRA in 1982, DEFRA in 1984, COBRA in 1986, OBRA in 1978, the Medicare Catastrophic Coverage Act of 1998, the repeal of the Medicare Catastrophic Coverage Act in 1989, OFRA in 1989, OFRA in 1993, BBA in 1995, BBA in 1996, BBRA in 1999 were considered through the Finance Committee. The only legislation out of the 13 which bypassed committee was BIPA in 2000. BIPA is the only piece of legislation out of the 13 bills that did not have Finance Committee consideration before congressional passage.

However, I should note that even that particular bill—BIPA—was overwhelmingly bipartisan and passed overwhelmingly as part of the HHS appropriations in the year 2000. I mention this because it is important for the American people to understand the importance of the process which is now being bypassed in order to consider bills, which if they remain partisan will simply not pass this body.

Let me comment briefly on what I think and what I expect will happen over the next several days. I expect tomorrow we will continue to debate the underlying reforms in Hatch-Waxman. I look forward to hearing from Senator HATCH and others about that particular bill.

There will be several existing bipartisan proposals that are currently being filed and currently being submitted that will be introduced. I think we will have a good debate on a range of issues. It will be an educational process as we go through each of the amendments in the bills that come forward.

I hope as we consider these bills that we have as a goal to make them not political issues but to make sure that they are substantive policy issues that come forward. It is simply too important to be playing politics with our seniors' health care security. I think there will be a lot of opportunity over the next few days to talk about these specific Medicare proposals.

Let me close and simply comment on the patent reform bill and the modifications in Hatch-Waxman that we will in a more systematic way begin to address tomorrow. I think access to prescription drugs clearly needs to be the focus as we go forward, but the overall cost is important too because if you have prescription drugs and other drugs escalating with skyrocketing costs, there is, I think, no system that we can contain that long term over time.

The Hatch-Waxman law, which was passed in 1984, has been tremendous, but it has an impact on cost. The cost issues that we see in the private sector today are increasing 11, 12, and 13 percent. I don't think health insurance can simply be sustained in the long term. One major component of the increase in coverage is prescription drug costs which continue to skyrocket.

But I need to caution my colleagues who did not have the opportunity to sit through the Hatch-Waxman hearings in the Health Committee, it is pretty technical. It is important that we go back and do it right, that we fix Hatch-Waxman, or that we update it and modernize it because it really hasn't had a major look since 1984. But we must do it in a way that maintains the very careful balance that legislators very smartly put together in 1984.

The balance boils down to the fact that you have prescription drugs in the pharmaceutical industry that values patents and certain protections. Because they have those protections for a period of time, they are willing to invest, they are willing to innovate, they are willing to discover, and they are willing to put capital at risk. It is imperative that we all know how important that is. The only answer to finding a cure for coronary sclerosis, for pulmonary emphysema, for acute types of leukemia, or for something as big as HIV/AIDS is going to be research. Furthermore, I would argue that most of the world's research is being conducted in the United States of America.

Nevertheless, the protection and the incentives that we give to make these great discoveries must be balanced. This is the balance that was achieved by Hatch-Waxman with access to drugs. That, in large part, is determined by a strong, a productive, a broad, a growing generic drug industry where we know that important drugs are available at a reasonable cost. When Hatch-Waxman started, generics were only about 20 percent of all drugs. Now it is much greater—greater than 50 percent. But it is time to focus on some of those deficiencies in Hatch-Waxman. It is that balance that needs to be reviewed because both generic prescription drug companies and brand name companies have abused or found loopholes in Hatch-Waxman. Now is the time to fix the loopholes. We need to do that in a correct manner. That is what much of the debate will be about as we go forward.

Another topic, we had the opportunity last week on a couple of days to talk about is bioequivalence. It too is a little bit technical. But it is very important because, if we get it wrong, it is not just a cost issue. If we get it wrong, it can affect safety issues in terms of drugs and generic drugs.

The Hatch-Waxman law allows generic companies to market off-patent drugs if they are demonstrated to be bioequivalent.

There are definitions of bioequivalence that are applied today. If you

have drug A, and you have another drug, and you are saying, well, this drug is the same as drug A, you want to make sure when you actually take that drug that it has the equivalent impact in fighting disease, the impact that it is billed to have, that the active ingredient is absorbed at the same rate, and that the side effects are the same.

The bill, which is the underlying bill on the floor today, could significantly weaken this important patient protection by giving the Food and Drug Administration, the FDA, broad authority to relax the statutory Hatch-Waxman bioequivalency standard.

Senator HATCH will be on the floor in the next several days, I am sure. I look forward to joining him in talking about a range of issues that are of concern to him—and he has been around a long time in terms of watching this bill and watching the effectiveness of this bill—and myself and many others.

Again, there are many other Members on the floor who wish to talk, so I will bring things to a close. But I wanted to bring forward the principles that I think should underline the debate as we move forward.

I wanted to point out, in the bill that is currently actively on the floor, this modification of Hatch-Waxman. There are a range of issues, such as bioequivalence, that I look forward to debating and talking with others about.

At the end of the day, in order for us to really be able to look seniors in the eyes and say, health care security is what this bill is all about, it means we are going to have to work together, we are going to have to do it in a way that is bipartisan, that clearly does not have strict partisanship. We cannot play politics with an issue that is this important.

I look forward to working with my colleagues as these bills more formally come to the floor.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from New York.

Mr. SCHUMER. Mr. President, I am glad to take the floor today because we are beginning a historic and very important debate on the issue of the accessibility and the cost of prescription drugs. It is going to be a very important 2 weeks.

I, first, thank the majority leader for giving us that kind of time. This is not an issue that should be dealt with quickly. It is an important issue. It affects all of our constituencies. And there are many different sides to it. Anyone who thinks the issue is totally cut and dry is mistaken.

We have had great advances in our health care system. Many of them are due to these prescription drugs. We knock our health care system. It is easy to do. But we often forget about its successes.

I point to my childhood where, in my neighborhood, Brooklyn, my friends would get on their bicycles and come

to my house on Wednesday afternoons, and they would park their bicycles in the front and walk to the backyard and push their heads up against the window of our kitchen because sitting in our kitchen every Wednesday afternoon was something of a curiosity. It was my great-grandmother, and she was 81.

Most children in the neighborhood had never seen someone over 80. And she was billed as: "Come see the oldest lady in the world." The kids from the neighborhood would come around and look at her. And God bless her, she lived a long, tough life.

But now, only 50 years later, we have Willard Scott on TV reading—he has given up reading about 80-year-olds and 90-year-olds and 100-year-olds—about people who are 105 and 106.

Being 80 is young. My parents, thank God—my dad is going to be 80 next year. He is healthy. He has had a few little bouts, but he is healthy.

That is the other point I make. We not only live longer, we live better. When I think of my dad, who is 79, and played golf Sunday—my family and I went over and had dinner with him and my mom. And I compared them to—I mentioned this to them just that night—how my great-grandmother was so very old and could hardly walk at 81, and here is my dad, just about 80, filled and vibrant.

That did not happen all by accident within 50 years. We have had enormous advances in health care. And let's give credit where credit is due.

A good number of those advances are because of the prescription drugs we have. They are wonder drugs. I did not experience any of them until a year ago when our House physician—our Capitol physician; I am still used to calling him the House physician—prescribed Lipitor because my cholesterol was high and, boom, down it went, almost like a miracle. He explained to me that increases my chances of living longer and healthier. So these drugs are very good things. We do not knock them; we like them. We are glad they exist.

I think every one of us in this body realizes that it takes a lot of work to create some of these drugs; that it takes time; it takes mistakes.

I took organic chemistry when I was in college, in the days when my parents had dreams that I would be a doctor—dreams that went by the wayside, I regret to tell my colleagues.

To do one of those organic chemistry experiments, it is 50 steps. Those are little ones, the rudimentary ones. If you mess up step 46, you do not go back to step 45, you go to the first step because you contaminated the sample. Well, multiply that a million times, and that is how difficult it is to conceive and make these new drugs.

So the companies that make these drugs deserve a lot of credit. These drugs are wonder drugs; they are terrific.

When my friend from Tennessee, Dr. FRIST, comes on the floor, with all his

erudition, and says we have to make sure there is a balance, I could not agree more. There has to be a balance. If we were, tomorrow, to do something that would mean the next generation of wonder drugs would not come on the market, we would be dis-serving everybody: ourselves, our children, our grandchildren. So that is important.

That is why the legislation that is before us today, introduced by Senator MCCAIN and myself, was honed with such care.

Dr. FRIST is right. I am not going to talk in great detail about this. We will have another day to debate the issues. I guess the minority is going to bring some amendments. We will get into the specifics of our bill later. But I do want to say we have taken a great deal of care in how we crafted this bill, mindful of the balance.

Our goal has been to keep that balance. It is our view, Senator MCCAIN's and myself, almost by definition—the 16 bipartisan members who voted for our bill; in even Dr. FRIST's view, who voted against the bill—that that balance had fallen out of whack. Here is what I think happened.

I think for the first 10 years or so, the Hatch-Waxman Act, the Generic Drug Act, worked quite well. New companies that tried to innovate, produced a whole lot of very fine innovations, got a great rate of return. If you look at Wall Street numbers, the drug companies did just about better than any other industry in terms of their profitability. So they were not hurt.

But, at the same time, it was a pretty certain thing that after that drug had its run, and the company not only recouped its costs, and recouped the costs of the mistakes that were made—natural and reasonable—and made a very fine profit, we would let other companies come and put these drugs out on the market.

It worked. When the generic drug comes on the market—we will have a lot more to say about this tomorrow—the cost plummets from 25 to 50 percent of what it otherwise was. A prescription that might cost \$100 you can get for \$25. Success is shown by the fact that now 47 percent of all the drugs prescribed are generic drugs, creating the same medical benefit but costing people a whole lot less and, incidentally, costing our State governments less when they pay for Medicaid, costing our big companies less when they pay for their health care plans, costing our HMOs less, as well as costing the average person less when he or she goes to the drugstore counter.

What happened in the last 5 years, in my judgment, was that Hatch-Waxman was thrown out of whack. It was thrown out of whack because too many—not all, by the way; a company such as Merck does not engage in this practice; a few other companies are very reticent and reluctant and mild in the way they engage in this practice—in general, a whole lot of drug companies saw that they had these huge

blockbuster drugs on the market and the patents were expiring. They said: My goodness, now the generics will come along, and what are we going to do? We will make a lot less money.

What they started to do was to work with their lawyers and their advertisers and everybody else to figure out ways to basically extend the life of the drug. They have done it a whole lot of ways. In fact, I think I will submit for the RECORD five or six articles in the Wall Street Journal—hardly a publication that is anticapitalist—that showed various ways drug companies tried to get around the laws, tried to stretch the laws. Many of them involved the use of generics. But suffice it to say, they tried to figure out ways of going beyond the original Hatch-Waxman intent.

One of the key ways they did it was to, what I call, innovate, not new drugs but new patents—same old drug, new patent. And because the law had never been updated, as Dr. Frist said, they found a lot of clever ways to do it.

It began to get out of hand. They would say: Give me a new patent because I am changing the type of pill. Give me a new patent because there is a different color bottle in which I will put the drug. No one who voted for Hatch-Waxman thought these were reasons to extend patents.

Then they began to do other things. Some people came over to me and asked: What about the situation where there is a vaccine for HIV and they come up with an oral drug; why shouldn't you allow that to have a new patent? We want to. We don't want to allow the oral patent to then extend the vaccine patent. In other words, if they come up with an oral one, let them apply from scratch, get the whole 20-year patent from the day the patent is filed. But if the vaccine patent is about to expire in a year, don't use the oral patent to extend the vaccine patent. That is a little less virulent form of this kind of game.

So what Senator MCCAIN and I did a couple years ago, actually, was sit down and examine the most egregious abuses. We said: How are we going to curb these abuses? How are we going to restore the original balance of Hatch-Waxman?

The proposal we came up with did that. By the way, it made some of the generic companies not happy either. This is not a bill that is just supposed to side with the generic companies; it is a bill that sides with the consumer. When the pharmaceutical company is abusive, we go after them. But when the generic is abusive, we go after them, too.

In one part of our bill, we wanted to get at the fact that certain generic companies that were given 180-day exclusivity so they might get a leg up and give them incentive to go out on the market, they were sort of selling that right to the pharmaceutical, the brand name company, and then there would be no generic. We stopped that.

It was modified by the amendment of Senator EDWARDS and Senator COLLINS. But we looked at the abuses on each side and said: Let's stop it. Let's restore the balance.

This started out as a very modest bill. In fact, I think the pharmaceutical industry didn't pay much attention. They said: Who is going to pay attention to something that is admittedly technical? But what we found was that when you looked at this bill, it was one of the most important ways to reduce cost—reduce cost not just for seniors but for everyone, reduce cost for government and get those generics out.

Over the next couple of weeks we will have a debate on this, and there will be amendments to change what we are doing—probably in the next day or two—and we will debate it.

I want to say two things, though, in addition to talking about this specific proposal. The first is the view of my good friend from New Hampshire that somehow we didn't try to include him, that he is delaying the bill because, well, we could have worked out this language. First, this bill is not brand new. It wasn't written on the back of an envelope last week; it has been around for a long time. On many occasions I would go to Senator GREGG and say: Let's sit down and work something out, and he would be amenable, but nothing much would come of it.

The only point I am making is, he knew about the bill long before. And then at the end, when in an effort to try to get this bill to be bipartisan—it is always better—Senator EDWARDS and Senator COLLINS started to work together on some changes and didn't do a terrible injustice to our bill, Senator GREGG began to get involved. And we started talking to him. Senator KENNEDY and his staff were talking to him. And basically when Senator GREGG had a few objections, we were willing to go along with them.

First, he raised earlier the clarification of the language on this 45-day provision in the bill, the idea that you would have 45 days to sue. Senator GREGG had reminded us that there was an agreement during the markup to clarify the language, to make very specific that if a patent owner chose not to sue one generic applicant, it wouldn't be precluded from suing another. He is right. We honored that agreement. It is in the proposal. Following the markup, the staff changed the language to make the clarification so there would be no confusion.

It is my understanding that those technical changes were then forwarded directly to Senator GREGG's staff. Then the first time we heard about it was long afterwards. I guess it was this morning that we heard this was a problem.

That doesn't sound to me as though you are concerned with policy. That is saying to me, wait a minute, let's delay this thing. And I don't think that is what we should do, no matter what our view is here.

We all agree on the policy. Let me clarify it. The intent of the provision and the effect, because it is now clearly written—it may have not been clearly written before—was not to cut off all the rights of a patent owner if it refrains from suing a particular generic applicant within 45 days. Rather, it just cuts their rights off to sue that company.

It says that if a brand company chooses not to sue a particular generic applicant on a particular patent, the brand company only loses its right to sue that generic applicant or anyone else who sells or distributes that applicant's version of the drug.

So if Schering-Plough chooses not to sue Mylan for a patent infringement within 45 days, if they choose not to sue Mylan, they lose their right to sue Mylan or anyone else who distributes Mylan's version of the drug, but they will have every right to sue Barr or Teva or IVAX or any of the others, in complete accord with what we said that day at the markup.

This is no reason to hold up a bill. It says exactly what my friend from New Hampshire wanted. Now, if there is some staff talk that the language doesn't say that, let's sit down and take a look, but let's do it immediately. Let's not spend 30 hours sitting on the floor, each of us fulminating and not moving the bill forward and doing the people's business.

We have a lot of issues to discuss—not just generic drugs. We will discuss the Canadian importation and the ability of States to form consortia—all to lower costs. Then there is the big debate, of course, which is accessibility, allowing more people to get the drugs.

There is a one-two punch here: Lower the cost and extend the number of people who have the ability to get the drugs. But it is just almost to the point of, at best, counting the angels on a pin and, at worst, a desire to delay, to say that we don't have an agreement.

I wanted to discuss another issue Senator FRIST brought up—the bioequivalence issue. There is a lot of debate about bioequivalence and a lot of discussion about bioequivalence. The enemies of generic drugs, early on, had tried to say that the generic is not the same as the nongeneric in terms of its active ingredient. That reminds me of the argument I had with my mother. I take a vitamin C pill. She would say: Son, drink the regular orange juice. I would say: Mom, the vitamin C in the pill is exactly the same as the vitamin C in the orange juice. She said: No, no, no. I said: Well, it has nice little orange flecks in there, and it tastes different, but if you looked at the oxygen, hydrogen, and carbon atoms lined up in the vitamin C molecule, you could not tell the difference. She said: No, no, have the orange juice.

It is the same thing my friend, the good doctor from Tennessee, is talking about. The FDA knows what bioequivalence is. While some in the brand name debate have tried to imply in the past

that the generic drug isn't as pure, or its inert ingredients may be different from nonactive ingredients, we all know it is bunk. The FDA has had rules on bioequivalence that have met every test for years and years, and no one has contested them. In all of the fighting between the brands and generic name court cases, there hasn't been an issue. All of a sudden, we are hearing that bioequivalence is an issue.

So what did we do? Senator KENNEDY, in the bill—it may have been Senator EDWARDS. Well, an amendment was added in the committee that took exactly what the FDA has done, without any dispute for the last 10 years, and codified it. Now, all of a sudden, we are hearing that bioequivalence is an issue. It is not an issue. It is a smokescreen for people who want to delay.

So my view is a simple one. Let's get on with the debate. We have two major issues before us—the issue of cost and the issue of access. The McCain-Schumer bill, the Dorgan proposal, and the Stabenow proposal on the States, all reduce the cost of the drug—here is my good colleague from Michigan now whom I just mentioned—to everybody, including senior citizens, parents who have a child who needs a serious drug, to State governments.

Then let's go on to what will probably be the main show, which is access, because so many people need access to these drugs. The one is not exclusive of the other. People ask me, Will you be happy if just the McCain-Schumer bill passes? No. I hope it will pass, but we have to go beyond that and we have to increase access. We have to have a good prescription drug plan to undo the mistake of those who wrote Medicare in 1965—except they didn't know there were so many of these drugs.

My plea to colleagues is this: Enough. We are debating about the number of angels on the head of a pin. We are debating about things that have long been settled. Let's move the bill forward. Let's lower our costs. Let's increase access. Let's disagree in a civil and fair way, and then let's vote and let the chips fall where they may.

Mr. KENNEDY. Will the Senator be good enough to yield?

Mr. SCHUMER. I am happy to yield to our leader from Massachusetts.

Mr. KENNEDY. Mr. President, I am struck by the point the Senator makes again on the floor of the Senate, which I have heard him make many times but which I think is important to understand, and that is that this is actually a very conservative piece of legislation. Effectively, if we accept the underlying legislation, which is just a version of the legislation the Senator introduced with Senator MCCAIN, really we are going back to what the original intention of the Hatch-Waxman proposal was all about.

I appreciate the Senator giving the historic perspective because at the time we passed the Hatch-Waxman, we anticipated the breakthroughs in many different areas of new pharmaceuticals

to try to deal with the challenges of our time. It has never been more likely than it is now. We are in the life science century. Even since the passage of Hatch-Waxman, we have seen the sequencing of the human genome. We have this extraordinary DNA revolution. We have gone through these extraordinary kinds of basic new research. We have seen this explosion using new kinds of technology matched together with research, which is opening up extraordinary possibilities. We have heard about this in our HELP Committee.

So the opportunities are out there in terms of trying to see the day when Alzheimer's is no longer the scourge of so many families in this country. That would empty two-thirds of the nursing home beds in my State of Massachusetts. That is probably true also in the State of New York. We believe the Hatch-Waxman proposal was to try to make sure for the drug companies, the brand companies, that were prepared to go ahead and take advantage of these extraordinary opportunities, building on the incredible investment the American taxpayer has made in the NIH, which has been doubled in recent years. It is an additional reason the Schumer amendment ought to go in.

We ought to have the energy of those companies in these breakthrough new opportunities rather than in the "me too" drugs. This, I believe, is not only dealing with the abuses that exist, but also, if we let this continue along, it seems to me there will be a continued kind of financial incentive not to take chances for these breakthrough drugs that are out there, in terms of making such a difference in dealing with the health challenges we face, and there will be these financial incentives to game the system in order to deny people the lower cost of drugs by the generics.

So I commend the Senator. We will have a lot of debate and discussion about patent and patent laws and timing—30 months, and 180 days, and 45-day windows, and bioequivalency, and the rest. But we are talking about, as the Senator eloquently stated, a major downpayment—the first one that I know in any recent time that will bring pressure to lower the cost of drugs.

This is a major achievement and accomplishment if we do it. It is not going to solve the problem, but for the many families who are going home tonight and buying their drugs and finding out that the costs have increasingly gone up so far beyond the cost of living, it will make a big difference, will it not?

Secondly, I don't know what the argument is—I have not heard it—for the second provision of the Senator's amendment that deals with collusion between the brand names and the generics, which is taking place out there.

That is as bad as the gimmickry we have seen from these corporate scoun-

drels who have made out like bandits, such as at Enron, getting billions of dollars and then giving short shrift to the workers. What is the difference if those corporations make out like bandits, and in this case, instead of the workers, it is the seniors and sick people who will suffer? I do not see a great deal of difference.

The Senator has made such a strong statement. I am as perplexed as he is that we have not had a chance to get to the bill this afternoon and debate it. The Senator has correctly given the interpretation we had of the clarification of language that was raised.

I point out to the Senator and ask if he will agree with me, if they do not agree with language, we will be willing to accept the language to clarify those provisions. It is very clear what the intention was in the hearing record. We are not trying to change our position. We are still at that position. If they have language to do that, we will take it now and get on with the bill.

We should be under no illusions. That is not it. They want to change other provisions, substantive provisions. All the Senator from New York is saying is, if that is the case, why are we not out here debating those issues and taking votes on them and moving this legislation forward?

Does the Senator find any reason this can justify why we are having this delay on this important legislation that can make such a difference to many people? Why is it that on a Tuesday afternoon in July we are not doing the people's business and voting on these matters, debating these matters but instead are caught in tactical maneuvers by those who are opposed to the legislation?

I say to the Senator, it is being perpetrated by those who do not want any bill at all. If we do not have any bill at all, there will be brand companies that will make billions of dollars out of the pockets and pocketbooks of the consumers, which is in complete violation of the Hatch-Waxman bill. They are the ones who are behind this delay, and that is unconscionable.

I would appreciate any comment the Senator wishes to make on that issue.

Mr. SCHUMER. I thank my colleague. No one puts it better than he does, and he is exactly right. Let's vote; let's debate. Our differences are not very large. That is what makes us scratch our heads and think that really they do not want a bill; they hope we will give up. They hope people will lose interest. They hope something else will come along, maybe another corporate scandal. But I think I can speak for our leader, the Senator from Massachusetts, as well as the Senator from Minnesota, as well as the Senator from Michigan, that we are not letting this issue go away. They can delay us for a week or a month, and we will be back, it is so important.

I will make one other comment. My colleague from Massachusetts is just so good at this. After I am here half as

many years as he, if I can be a quarter as good as him, I will be very happy. Here is what he said and I think it is worth repeating.

We are doing not only the public but the drug companies a favor. With this amendment, we are putting them back on track. They have lost their way. They are degenerating into something that is hated. For people who create such wonderful drugs, why should they be so despised? I saw a survey just recently that the drug industry was more disliked than the oil and gas industry. The reason is they all are losing their way. It should not be for the Senator from Massachusetts, the Senator from New York, the Senator from Michigan, and the Senator from Minnesota to help them find their way; they should find it themselves. But they have lost their way, and the Senator from Massachusetts has stated it exquisitely, which is we are going to send them back on the path of innovating, of creating new wonderful drugs, of doing good for society, and making money as they do it. We want them to do that. But we want them to add value, we want them to cure new diseases, not simply find a new color of a pill that already cures a disease. We want them to find new techniques.

We are sending them in the direction they started, but they have lost their way, and the smart ones in the industry know. I hear it whispered. They are letting the worst ones, the bad apples who will do anything, extend their profitability even if they do not have a new drug in their closet. They are letting those people lead and, in a sense, what we are saying is: Go back to your sacred mission. Go back to the mission of finding new cures and finding new drugs, and not only will you make money, but you will be proud of what you do.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. SCHUMER. I will be happy to yield to my colleague.

Mr. KENNEDY. On this point the Senator makes—and I hope our colleagues will listen—we will put in the RECORD the exact figures, but if one were to look at a chart for new drugs and innovation, one would see that chart rising and rising, going up and up until almost the passage of the Hatch-Waxman bill. From that time, the innovations have gone down. It is the darndest thing we have ever seen.

I was absolutely startled by this. This might have been maybe one or two circumstances, the evergreening process which the Senator has outlined.

On the Senator's point about getting these drug companies back to doing what we had all hoped they would do and we know they can do and hopefully will do, every one of us have family members who benefit from these innovations, but we find that is not where they are going.

We have doubled the NIH budget, \$33 billion, \$34 billion a year. We doubled

that over a period of time. Why did we double that at a time of scarce resources? The reason we doubled it is because Democrats and Republicans understood this is a life science century, and it is unlimited in its ability. It seems everybody knows this except the drug companies. That is what has been disappointing.

I thank the Senator again for outlining the basic provisions which, as he has mentioned, bring us back to ground zero. They bring us back to what was achieved with the Hatch-Waxman period, and does that to eliminate the collusion which is taking place and the gimmicking of the system which basically means higher prices for consumers. That is the challenge.

If others have better ways of doing it, I am sure the Senator will agree, let's do it, but we did not see that. My friend from Minnesota, Senator WELLSTONE, was in that markup. We did not hear other ways of doing it. All we heard was more delays, more delays, objections, objections, objections. That is because clearly there are billions of dollars at stake. We are talking about billions of dollars of profits for certain of these companies. No wonder they are out here in force trying to resist the Schumer proposal.

I thank the Senator for his excellent presentation.

Mr. SCHUMER. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleague from Maine, and I know the Senator from Michigan is here, I will actually be very brief. This will not be a typical WELLSTONE speech. I only have about 10 minutes. I say to the Senators from New York and Massachusetts, I very much enjoyed their discussion. I thank the Senator from New York for his leadership on this issue.

I remember, I say to Senator SCHUMER, during my years here two very humorous situations; one especially where somebody tried to extend the patent for Lodine. I actually found out about this, and I think Senator KENNEDY was also involved in trying to get to the bottom of it. It was in the language of the bill, but nobody would take credit for it. Nobody would take credit for having done this, although obviously somebody put in the language. It was you laugh or you cry—the whole notion that we can extend the patent and it does not go generic and they make a lot of money. But who gets hurt as a result?

The same thing has come up with Claritin as well. This is a no-brainer of where 99 percent of the people of the country are, that is for sure.

The only issue on which I disagree with my colleague from New York—and I am sorry to be the one more hard hitting on this, and I do apologize—I do not know that the pharmaceutical companies have lost their way—as in recently. As I go back—Senator KEN-

NEDY probably knows the history better than I do—I have done a lot of reading about Estes Kefauver in the early fifties. He took on the pharmaceutical industry, and they took him on.

David Pryor, am I not correct, really did this? We have been battling it out with him for a long time. This is an industry that has been making Viagra-like profits, if I can say that on the floor of the Senate. It would be funny and a little cute to say it, except that what this really means is people cannot afford the prescription drugs, at least the people I represent.

This legislation is very important. I know Senator COLLINS has worked very hard on it. There is quite a bit of bipartisan support. I had a chance to speak earlier this morning about other provisions. I heard Senator GRAHAM speak earlier. Senator KENNEDY has spoken about it.

I want to say one thing about two other pieces of this in about 4 minutes. One is on this whole question of, how are we going to make sure there are affordable prescription drugs? I think delivery is critically important. There is a world of difference between adding this on to Medicare and making it a defined benefit.

We are learning all about defined benefits versus defined contributions as people see what is happening to 401(k)s versus the language in the House bill that suggests this will be the deductible and suggests this will be the premium but, frankly, there is no guarantee of it. This needs to be a defined benefit, and it does need to be a part of Medicare. We ought to at least agree on that.

Then I think there are going to be these trade-offs as to how much money versus how good is catastrophic coverage. I am sorry to go sort of populist on everyone, but I think I heard the Senator from Florida say earlier that for those of us in the Senate and the House—and we make pretty darn good salaries compared to the vast majority of the people we represent—something like 80 percent of our prescription drugs are covered. We might pay 20 percent, and that is it. It seems to me we ought to do as well for the people we represent.

My dream is to someday be in the Senate when we are debating Medicare for all. That is what I want to get back to. I almost think the people we represent should have as good a plan as we have through the Federal Employees Health Benefits Plan. But that is another debate for another time.

I cannot imagine how any of us could support any legislation that says when it comes to catastrophic expenses, after someone is over \$2,000 a year—the very point where people are hurting—then we say we are not going to give any coverage, not until they get up to \$3,700. That is nonsense. People say: What do you mean? One of the things we want you to do is help us deal with what happens when our expenses go up year to year. That is the second point.

The third thing I want to mention is I am going to be doing a bill on the whole question of drug reimportation for the year, which Senator DORGAN has addressed. It could be Senator SNOWE and Senator COLLINS will be a part of this. I know Senator STABENOW is. We are going to have legislation or an amendment that deals with cost containment, and I want to say one more time it is a simple and straightforward proposition. We are coming out together, and I assume there will be some strong bipartisan support. I know I am going to do it with Senator DORGAN and Senator STABENOW, and I think there will be Republicans as well. Basically, what we are going to say is you use the same FDA strict safety guidelines, and our citizens ought to be able to reimport these drugs.

I want to give some examples, and then I will be finished, I say to my colleague from Maine.

Celebrex, which is used for arthritis: A bottle costs \$84.95 in the United States and \$30.99 in Canada.

Glucophage, a medicine for diabetes, costs \$63.12 in the United States and \$16.68 in Canada. Think about that. I will not do the arithmetic because people can figure it out.

Methotrexate, a drug for cancer: \$51.03 in the United States, \$17.30 in Canada;

Tamoxifen, a breast cancer drug: \$287.16 in the United States, \$24.78 in Canada—same bottle, same dosage.

Imagine that. There is nothing that infuriates people more in Minnesota, makes them believe they are more exploited and ripped off by this industry, than this sharp contrast in prices.

There is legislation that Senator DORGAN, Senator STABENOW, and I are going to introduce, as well as others—I do not want to speak for Senator COLLINS, but Senator COLLINS and Senator SNOWE have been real leaders on this issue. This does not ask the Federal Government to spend any more money. We do not have to run into that issue. We do not have to talk about how much it is going to cost. This will dramatically reduce the cost of prescription drugs for our citizens.

The only question is this, and then I will sit down: I can promise, once people know it is the same strict FDA guidelines, once we make it clear if anything ever happens, if this goes wrong, then emergency action can be taken—I will say to the Chair this will happen in Nebraska—90 percent of the people are going to say: Absolutely, this is the best kind of free trade, and we ought to be able to do this. We ought to be able to reimport, or our pharmacists should be able to do it. There is one interest that is going to be opposed—pharmaceutical companies. They are not going to like it. But at a certain point in time do we not say: Tough luck. This is going to be a test case of a vote of whether we are going to represent the people in our States, democracy for the many, or whether we are going to let the phar-

maceutical companies stop it. It is that simple.

We had a 97-to-0 vote last night on legislation on which Senator SARBANES and others worked so hard. That was stuck in committee forever, and people finally said: We have had enough. Do you know what. People in the country said it. People in the country are beginning to say: We have had enough. We do not want the pharmaceutical industry to run the show. We want you, Senator, to be accountable to us.

That is what these votes are going to be about. This is going to be a test case of whether we have a real system of representative democracy working.

I have taken some positions where I know the majority of people do not agree with me, but not in this debate, not in terms of where the vast majority of people in all of our States are. Let us not disappointment them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. This week we have a tremendous opportunity to make progress on an issue that affects Americans of all ages, but particularly our elderly, and that is the high cost of prescription drugs. I hope by the time the end of next week comes along, we will have passed the tripartisan legislation to provide a prescription drug benefit under Medicare that is long overdue. I also hope we will pass the legislation to which we are about to proceed, and that is the Greater Access to Affordable Pharmaceuticals Act.

I commend my colleagues from New York and Arizona, Senator SCHUMER and Senator MCCAIN, for their leadership and hard work in bringing this issue to the forefront. I was pleased to have had the opportunity to join with my colleague from North Carolina, Senator EDWARDS, in offering a compromise in the Health, Education, Labor, and Pensions Committee last week where it was approved by a strong bipartisan vote.

I also acknowledge the hard work of our chairman, Senator KENNEDY, and our ranking minority member, Senator GREGG, on this issue.

During the last 20 years, we have witnessed dramatic pharmaceutical breakthroughs that have helped to reduce deaths and disability from heart disease, cancer, diabetes, and many other diseases. As a consequence, people are living longer, healthier, and more productive lives. These medical miracles, however, often come with hefty price tags, raising vexing questions about how patients, employers, and public and private health plans can continue to pay for them.

Prescription drug spending in the United States has soared by 92 percent during the past 5 years to almost \$120 billion. These rising costs are particularly a burden for the millions of uninsured Americans as well as for those seniors on Medicare who lack prescription drug coverage. Many of these individuals are simply priced out of the

market or forced to make decisions—that no one should have to make—between paying the bills or buying the pills that keep them healthy.

Skyrocketing prescription drug costs are also putting a squeeze on our Nation's employers. We are struggling in the face of double-digit annual premium increases to continue to provide health care coverage for their employees. I know from talking to the small businesses in my State, these escalating costs are a real problem for our smaller employers. They want to continue to provide health insurance coverage for their employees but they simply are finding it increasingly difficult to do so. If they pass on the higher health insurance costs to their employees, more and more of the workers deny coverage. They decline coverage because they cannot afford their share of the premium.

One of the key factors behind the escalating costs of health insurance is the high cost of prescription drugs. These high costs are also exacerbating the Medicaid funding crisis that we hear about from our Governors back home as they struggle to bridge the growing shortfalls in their State budgets.

The Presiding Officer and I have been working very hard on a proposal to increase the Federal match for Medicaid funding to help our Governors and our families, who are so dependent on these services, cope through this difficult time when States are struggling with budget shortfalls.

In 1984, the Hatch-Waxman Act made significant changes in our patent laws that were intended to encourage pharmaceutical companies to make the investments necessary to develop these miracle drugs. At the same time, the legislation was intended to enable their competitors to bring lower cost generic alternatives to the market. In large measure, the Hatch-Waxman Act succeeded.

Prior to Hatch-Waxman, it took 3 to 5 years for generics to enter the market after the brand name patent had expired. Today, lower cost generics often enter the market immediately upon the expiration of the patent. As a consequence, consumers are saving anywhere from \$8 billion to \$10 billion a year by purchasing generic alternatives.

Moreover, there are even greater potential savings on the horizon. Within the next 4 years, the patents on brand name drugs, with combined sales of \$20 billion, are set to expire. If the Hatch-Waxman Act were to work as it was intended, consumers should expect to save between 30 to 60 percent on these drugs as the lower cost generics become available after the patents expire.

However, despite its past successes, it is becoming increasingly apparent that the Hatch-Waxman Act has been subject to serious abuse. While many pharmaceutical companies have acted

in good faith, there is mounting evidence that some brand name and generic drug manufacturers have attempted to game the system in order to maximize their profits at the expense of consumers. News reports, for example, have detailed how the manufacturer of the lucrative drug Prilosec, the patent on which was set to expire last fall, has used the automatic 30-month stay under the Hatch-Waxman Act to tie up generic manufacturers in court, in litigation, over secondary patents in order to keep the generic version of the drug off the market.

In the year 2000, Prilosec was the best selling drug in the world and generated an estimated \$4.7 billion in U.S. sales. The Medicaid Program in Maine spent over \$8 million on Prilosec in the year 2000. This bill could be cut in half if the generic alternative were available. So instead of the State of Maine spending \$8 million on Prilosec if the generic were available, as it should have been last fall, the State of Maine would save about \$4 million. That is much needed money that could be put into other health care services.

I mention that because that is just one drug. But that illustrates what happens when a brand name manufacturer exploits the loopholes in the current law to delay consumers access to the generic equivalent. That is just wrong.

It is no wonder that this legislation is supported by a broad coalition representing Governors, insurers, businesses, organized labor, and individual consumers who are footing the bill for these expensive drugs and whose costs for popular drugs such as Prilosec would be cut in half if the generic alternative was available when it was supposed to have been. We are not talking about infringing on the legitimate patents that protect the innovative drugs developed by pharmaceutical companies. We are talking about eliminating abuses that we are finding increasingly prevalent where the brand name manufacturer exploits the loopholes in the current law by engaging in excessive litigation for the sole purpose of keeping the generic off the market.

I ask unanimous consent that letters from the Business for Affordable Medicine and the Coalition for a Competitive Pharmaceutical Market expressing support for the Edward-Collins compromise approved by the committee be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit No. 1.)

Ms. COLLINS. Mr. President, I was also disturbed by the testimony of the chairman of the Federal Trade Commission before the Senate Commerce Committee. He testified there were a number of examples where the branded and generic drug manufacturer actually conspired to game the system and attempted to restrict competition beyond what the Hatch-Waxman Act in-

tended. One case cited in the chairman's testimony involved the producer of a heart medication which in early 1996 brought a lawsuit for patent and trademark infringement against the generic manufacturer.

This is what happened. Instead of asking the generic company to pay damages, the brand name manufacturer offered a settlement to pay the generic company more than \$880 million in return for keeping the generic drug off the market. So the brand name manufacturer essentially conspired with the generic manufacturer and paid off the generic manufacturer to keep the cheaper generic alternative from coming to the market.

The consequences for consumers were considerable. This heart medication, which treats high blood pressure, chest pains, and heart disease, costs about \$73 a month but the generic alternative would have cost only \$32 a month. The compromise legislation that we will soon consider will make cost-effective generic drugs more available by restoring the original intent of the Hatch-Waxman Act and by closing the loopholes that are delaying competition and slowing the entry of generics into the marketplace.

First, as amended by the Edwards-Collins compromise, the legislation would limit brand name manufacturers to a single 30-month stay for patents listed at the time of the brand product approval. Now, this will eliminate the brand manufacturer's ability to stack multiple and sequential automatic 30-month stays during patent litigation in order to keep generics off the market and extend their market exclusivity indefinitely. That is one of the primary abuses that our proposal would end.

It will help ensure that key patent issues are adjudicated before the generic goes to market, while at the same time ensuring that improper late listed patents are not able to obstruct market competition.

We heard in committee examples of the brand name manufacturer making extremely minor changes, such as in the color or the design of the packaging or the scoring of the pill that really did not indicate a different or improved use for the product but, rather, were devices intended to keep the generic off the market for a while longer.

For subsequent patents for which no automatic 30-month stay is available, a brand name company can still obtain a preliminary injunction based on merit to protect their patent rights and keep the generic product off the market if it is justified, if there truly is a legitimate patent issue. However, in too many cases we found there is not a legitimate patent issue. This is just an abuse and an exploitation of the loopholes in the current patent law.

Moreover, our legislation stipulates that the court is not to consider the possible availability of monetary damages when it is deciding whether or not to grant injunctive relief. This provi-

sion is intended to address the concern expressed by the brand name pharmaceutical companies that it is difficult to obtain injunctive relief in patent litigation because it is the court's view the treble monetary damages involved in these suits as an adequate remedy.

Second, the legislation will prevent the current 108-day exclusivity provision of the Hatch-Waxman Act from becoming a bottleneck for subsequent generic competitors. Under Hatch-Waxman, the first generic drug company to file an application with the FDA certifying that the patents on the brand name product are either invalid or will not be infringed is now granted 180 days of market exclusivity, once its application is approved. Entry to the market for other generics is therefore frozen until the 180-day period runs out on the first-to-file.

This provision has made it attractive for the kind of abuse that I mentioned earlier, and that is where a brand name manufacturer pays the first-to-file generic company to stay off the market.

What that results in is nobody else can come to market, under the current law, during that 180-day period. So you can see how that is abused, when the brand name firm pays the generic manufacturer to essentially forfeit that 180 days of exclusive market rights.

Under our legislation, the first generic applicant would forfeit that 180 days of exclusive market rights if it failed to go to market during that time, or entered into an agreement with a brand name company that the FTC determines to be anti-competitive. I think that would help end or eliminate altogether the kinds of deals between the brand name manufacturer and the generic manufacturer that are such a disservice to consumers.

The original Hatch-Waxman act was a carefully constructed compromise that balanced an expedited FDA approval process to speed the entry of lower cost generic drugs into the market with additional patent protections to ensure continuing innovation.

Regrettably, however, the law now needs to be strengthened and reformed so we can eliminate the abuses that we are seeing. This bipartisan compromise bill restores that balance by closing the loopholes that have reduced the original law's effectiveness in bringing lower cost generic drugs to market more quickly. Increasing access to these lower cost alternatives is all the more important as we begin work to provide an affordable and sustainable Medicare prescription drug benefit.

Mr. President, I urge all our colleagues to join me in supporting this legislation. It will do a great deal to make prescription drugs more affordable by promoting competition in the marketplace and increasing access to lower price generic drugs.

I yield the floor.

EXHIBIT 1

COALITION FOR A COMPETITIVE

PHARMACEUTICAL MARKET,

Washington, DC, July 10, 2002.

Hon. EDWARD M. KENNEDY,

Chairman, Senate Health, Education, Labor
and Pensions Committee, U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: As a broad-based coalition of large employers, consumer groups, generic drug manufacturers, insurers, labor unions, and others, we are writing to advise you of our strong support for the Edwards/Collins amendment to S. 812, the Greater Access to Affordable Pharmaceuticals Act. We believe it is critical that Congress act this year to pass legislation that would eliminate barriers to generic drug entry into the marketplace. The legislation you will be marking up today clearly would accomplish this long-overdue need.

Prescription drug costs are increasing at double-digit rates, and clearly are unsustainable. Current pharmaceutical cost trends are increasing premiums, raising copayments, pressuring reductions in benefits, and undermining the ability of businesses to compete in the world marketplace. We believe that a major contributor to the pharmaceutical cost crisis is the use of the Drug Price Competition and Patent Term Restoration Act of 1984 clearly in ways unanticipated by Congress, which effectively block generic entry into the marketplace. The repeated use of the 30-month generic drug marketing prohibition provision and other legal barriers have resulted in increasingly unpredictable and unaffordable pharmaceutical cost increases.

Although the compromise amendment being offered today does not totally eliminate the 30-month marketing prohibition provisions, as would be our preference, it does make important process changes that will lead to a more predictable, rational pharmaceutical marketplace. We recognize that compromises have been necessary to garner the support of a majority of the Members of the Committee and appreciate your leadership and the hard work of your staff. However, we would strongly oppose any additional amendments that would undermine the intent of this legislation by further delaying generic access or reducing competition and increasing costs to purchasers. We also remain opposed to legislation that would increase costs to purchasers either through extended monopolies or unnecessary and costly litigation.

We are convinced that the legislation you are advocating will make a major difference in increasing competition in the marketplace and enhancing access to more affordable, high quality prescription drugs. We look forward to working with you and other Members of the HELP Committee to ensure that this important legislation is enacted this year.

The Coalition for a Competitive Pharmaceutical Market is an organization of large national employers, consumer groups, generic drug manufacturers, insurers, labor unions, and others. CCPM is committed to improving consumer access to high quality generic drugs and restoring a vigorous, competitive prescription drug market. CCPM supports legislation eliminate legal barriers to timely access to less costly, equally effective generic drugs.

CCPM Participating Members: American Association of Health Plans; Aetna; Anthem Blue Cross and Blue Shield; Blue Cross and Blue Shield Association; Caterpillar, Inc.; Consumer Federation of America; Families USA; Food Marketing Institute; Generic Pharmaceutical Association; General Motors Corporation; Gray Panthers; Health Insur-

ance Association of America; IVAX Pharmaceuticals; National Association of Chain Drug Stores; National Association of Health Underwriters; National Organization for Rare Disorders; Ranbaxy Pharmaceuticals; TEVA USA; The National Committee to Preserve Social Security and Medicare; United Auto Workers; Watson Pharmaceuticals; and WellPoint Health Networks.

BUSINESS FOR AFFORDABLE MEDICINE,

Washington, DC, July 10, 2002.

Hon. SUSAN COLLINS,

U.S. Senate,

Washington, DC.

DEAR SENATOR COLLINS: The Business for Affordable Medicine coalition encourages you to support the Edwards-Collins amendment to the 1984 Drug Price Competition and Patent Term Restoration Act (Hatch-Waxman Act).

The Senate Health, Education, Labor and Pensions Committee is scheduled to vote today on legislation to close loopholes in the Hatch-Waxman Act that delay competition and prevent timely access to lower-priced generic pharmaceuticals. Your vote for the Edwards-Collins amendment will ensure genuine reform for all Americans who face barriers to affordable medicine.

BAM members hope to continue working with the Committee and the Administration on appropriate enforcement mechanisms that avoid unnecessary and costly litigation.

Consumers and institutional purchasers (including employers, and federal and state governments) can no longer afford the anti-competitive practices that are made possible by loopholes in the Act. Now is the time for Congress to restore the original intent of the Hatch-Waxman Act—no more gaming of the system at the expense of purchasers across America.

Please take a moment to review the attached information, including a letter from BAM member governors outlining their concerns about this costly issue and the need for real reform. For more information about BAM, please visit our websuite at www.bamcoalition.org.

Thank you for your assistance in making Hatch-Waxman Act reform a reality during the 107th Congress.

Sincerely,

JODY HUNTER,

BAM Co-Chair, Director,
Health and Welfare,
Georgia-Pacific
Corporation.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I appreciate the opportunity to speak once again on this very important topic of lower prices of prescription drugs and providing real Medicare prescription drug benefit. I join my colleague in speaking to the fact that we need to pass the bill that came out of the committee to close generic loopholes and stop the drug companies from gaming the system. I think everyone should be commended for bringing this to the floor. I appreciate the fact that they have done that.

The frustrating thing at this point is, despite the fact that there was an overwhelming bipartisan vote to bring this legislation to the floor so we could begin to add to it—add Medicare prescription drug coverage, add other ways to increase competition and lower prices—we come this week with great

anticipation of this debate to work together and work out all the details after a vote of 16 people saying yes in committee to only 5 saying no, a bipartisan vote—we come to the floor last night, and a colleague on the other side of the aisle objects to us proceeding even to the bill.

Colleagues come and talk about concerns about working out details, which we want to do, we know we have to do, and we will do. But we are being stopped. In fact, the clock has been ticking since last night and we are not even able to bring this issue before the Senate. It is amazing to me that, with the importance of this issue and all the words that have been spoken on this floor and the House, during Presidential campaigns and all the campaigns that we have been involved with—we come to the moment of truth of being able to bring this to the floor for debate and, instead, we are seeing an attempt to stall. We are seeing an attempt to hold us up from proceeding. That is of great concern.

I have great respect for my colleague from New Hampshire, but I disagree with this approach, and I urge him to reconsider and give us the opportunity to bring this to the full Senate.

Mr. GREGG. Will the Senator yield?

Ms. STABENOW. I am happy to yield.

Mr. GREGG. Mr. President, I ask unanimous consent that we proceed to the bill; we vitiate the vote on cloture and proceed to the bill.

The PRESIDING OFFICER. The Senator cannot make such a request until he has the floor.

Mr. GREGG. Will the Senator yield for me to make that request? The Senator suggested I make the request. I am willing to make it.

Ms. STABENOW. I would be happy to yield.

Mr. GREGG. I ask unanimous consent—

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. I ask unanimous consent we vitiate the cloture vote and proceed to the bill.

The PRESIDING OFFICER. Is there objection? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is an interesting proposal. It is 5 o'clock in the afternoon now on Tuesday. We had the opportunity last evening to lay down the bill. We could have considered the amendments during the course of the day and made some real progress on it. But it was the determination of the other side not to permit us to do that.

Mr. GREGG. Regular order. Regular order, Mr. President.

Mr. KENNEDY. The regular order is—

The PRESIDING OFFICER. Does the Senator object?

Mr. KENNEDY. I am reserving my right to object.

Mr. GREGG. Regular order. I ask for regular order.

Mr. KENNEDY. Mr. President, I understand that under the regular order, I have a right to object, and I—

The PRESIDING OFFICER. The Senator has a right to object. But not make a speech.

Mr. KENNEDY. Pardon? No?

Mr. GREGG. I ask for regular order. Either objection should be or not be made.

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. Objection is heard. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we had the opportunity to go to this bill last evening. We have been waiting here all day long in order to take action on this legislation. Legislation that can have a direct impact in terms of the cost of prescription drugs and also on coverage.

Now at 5 o'clock, the Senator comes here without any kind of notice and makes this request. I think the American people are entitled to know why, since the Senator from New Hampshire was the one who originally objected to bringing up the bill. I would be prepared to vote right now on whether to proceed to the bill if the Senator wants to call off tomorrow's cloture vote.

But if the Senator is objecting to the bill on substantive grounds last night, I think the American people are entitled to know where their Senators stand on considering this legislation. If the Senator wants to do it tonight, that is fine with me. If he does not care to do it tonight, we will follow the regular order and tomorrow when the roll is called—as it will be done here in the Senate—when the roll is called, we will find out. The American people will find out who believes we ought to move ahead with this legislation. That is the way it should be.

There has been objection raised to the majority leader to moving ahead. Now I think, since this issue has been raised during the course of the debate, during the course of the day, the American people are entitled to know who is going to be for this particular legislation.

That is why I have raised that issue.

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

Mr. KENNEDY. I believe I have the floor.

The PRESIDING OFFICER. The Senator has the floor.

Mr. KENNEDY. Mr. President, I think it is wise, if we are going to conduct our activities, that we do it in the light of day rather than the twilight of the evening. We ought to have the chance to have an open kind of a process. We have the Senator from Michigan here who has been waiting to make an excellent presentation. I was engaged in a conversation with my friend and colleague from Maine about this. Suddenly, there is a unanimous consent request to just go ahead with the legislation.

I think we ought to conduct a full debate on this issue, which is of such im-

portance and consequence to families across the country in terms of the cost, availability, and accessibility of prescription drugs. And we ought to do it in the light of day. We ought to have a good debate on this issue.

But since there has been objection to the majority leader proceeding to this issue, because evidently the Committee did not conform to the understandings of certain Senators, and there has been objection raised from that side of the aisle during the course of discussion and debate, I am going to insist that the Senate go ahead and have a roll call vote. We are going to vote on this. And the American people will understand who is for moving ahead with this legislation and who is not. Hopefully, we can then make progress on this legislation. We will consider amendments and begin the substance of this debate rather than just the general debate.

I would be glad to yield to the Senator from New York. I believe I have the floor. The Senator from New York has asked for me to yield for a question.

Mr. SCHUMER. I thank the Senator. I appreciate his yielding. I want to make an inquiry of him. I am, in fact, in accord with what my friend from Massachusetts said.

We have now spent all day today. We could have spent it debating amendments and moving the bill forward. We might have even been able to go forward on Friday. All of a sudden, after all of this, when we can't accomplish anything, when we can't accomplish amendments, our good friend from New Hampshire comes up and says: Never mind.

Well, there is a reason we think we ought to have a vote. We ought to see where people are. We ought to avoid this from happening another time. What if it happens again 2 days from now? What if there is an amendment that gets somebody upset and they decide to filibuster again? Then we are in the middle of debating access, or in the middle of debating Canadian reimportation.

Let us see where the cards are. Let us see if there was a real reason to delay and delay and delay. Let us see where the votes are. Do people really want a delay? This idea of spending a whole day—I don't mind it. I like this issue. I have fun talking about it. I think it is good that the American people hear about it. But I would rather be voting on amendments. I would rather be crafting legislation. I would rather be reducing the cost of drugs to my constituents from Buffalo to Montauk from Plattsburgh down to Brooklyn.

I completely agree with my friend from Massachusetts. If you want to have a vote now so we can avoid these games in the future, by all means. But if you don't want to have that vote now, then let us wait until tomorrow. Let's have a vote on this. God knows we have spent enough time debating the issue.

I thank him for making that point so well and so forcefully.

Mr. KENNEDY. I see the Senator from Michigan has asked to be recognized. I yield to her.

Ms. STABENOW. Mr. President, I appreciate very much having the opportunity as well to raise the issue. I appreciate now our friend wants to move ahead with this issue. But we certainly want to make sure we have a vote so that we know that in fact we can proceed.

I ask of our leader, the Senator from Massachusetts: In order for us to guarantee that we can proceed and that this will not happen again in the future, is it his assumption that it is best for us then to move ahead to a vote so we may guarantee in fact, as my friend from New York said, that we don't have this happening again and not just a series of filibusters in order to stop us from moving ahead on this important issue?

Mr. KENNEDY. I thank the Senator. I intend to yield the floor. I will insist on the regular order so that we have a chance to vote on this tomorrow.

I see my friend and colleague, our leader from Nevada, wishes to address the Senate. Obviously, I would follow the leadership in terms of when that vote would occur. If the request is that we move ahead with a vote this evening, I will certainly support that proposal.

(Several Senators addressed the Chair).

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, crocodile tears are being shed here, I see. We agree to vitiate the vote. But we didn't want to vitiate the vote. We agree to proceed to the bill. We don't want to proceed to the bill. All day we heard about how outrageous it was that we were having to go to a vote. Suddenly, crocodile tears appear to be shed early today.

My reason for suggesting that we vitiate the vote was in response to the specific comments of the Senator from Michigan. The Senator from Michigan came to the floor and called upon me by name and by State to proceed with the bill. That is what the Senator from Michigan called upon me to do.

I ask if it is possible to read back the statement the Senator from Michigan made just prior to the most recent exchange.

The PRESIDING OFFICER. The statement would have to be obtained from the Official Reporters.

Mr. GREGG. I will represent—and hopefully people will take the representation as accurate—that the Senator from Michigan was on the floor asking why I was slowing the bill down and called on me to—

Ms. STABENOW. Will my colleague from New Hampshire yield?

Mr. GREGG. I would be happy to yield for a question.

Ms. STABENOW. I was here at 10 o'clock this morning asking that, and I

think it would have been very appropriate if you had been here at 10 o'clock this morning. We would have welcomed that. We have all day been asking that. Now we are at a point where I think the concerns of my friend—

The PRESIDING OFFICER. The Senator from New Hampshire yielded for a question.

Ms. STABENOW. I ask why you were not with us this morning. We have been asking all day.

Mr. GREGG. I appreciate that question. I wasn't here this morning when you asked that question. But there is a tempo to this body. And the tempo involves putting on the RECORD the reasons this bill was, in my opinion, being brought forward in a manner which was inconsistent with the agreements which had been reached, in my opinion, within the committee.

There are two items that were represented as being fixed before the bill came to the floor, in my opinion. Neither of those items was corrected. The bill has had a very short shelf life. It was introduced last—we saw it for the first time, I believe, last Wednesday morning. It was passed last Thursday, and it was on the floor without a report on Monday.

During that period of it being passed in the committee on Thursday, there was an understanding between Senator EDWARDS and myself that part of the bill was incorrect and it would be fixed. Between Senator FRIST and Senator EDWARDS, there was another part of the bill that was incorrect which would be fixed.

For me, it seems inappropriate to move to the bill in such rapidity without having made that point—that point I spent a considerable amount of time making this morning and this afternoon, and which I am happy to continue to make.

But as a practical matter, I think the point has been made. I am willing to proceed to the bill, as the Senator from Michigan said. She came to the floor while I was here. I wasn't here this morning. Regrettably, I didn't hear your excellent speech. I am sure it was an excellent speech. But I was here to hear your last excellent speech. In response to it, I thought: Gee, let us proceed to the bill rather than have a vote tomorrow. We can have a vote tomorrow. I would counsel everyone to vote in favor of it, if they can.

Mr. SCHUMER. Will the Senator yield?

Mr. GREGG. I will yield in a second.

But the question was why I made this statement. It was because the Senator from Michigan asked me. I was stunned, startled, and surprised by the Senator from Massachusetts who, upon—and I understand that he was in a conversation and probably didn't hear the Senator from Michigan ask me. But had he heard the Senator from Michigan ask me, I am sure he would have said that is a reasonable response to the Senator from Michigan. I agree with it, and we should move to a vote.

I am also surprised that someone on the other side of the aisle is objecting to proceeding to the issue without a vote. If that is the case, that is the case; so be it; let us have the vote tomorrow. But if you want to proceed to the issue right now, I am perfectly willing to do that without a vote.

Mr. SCHUMER. Will the Senator yield for a question, my good friend?

Mr. GREGG. I will yield for a question. I am sure it will be an excellent question.

The PRESIDING OFFICER. The Senator from New Hampshire yields for a question.

Mr. SCHUMER. I thank the Senator. He knows from the days we played basketball together in the House gym that my questioning ability is about equal to my basketball playing ability—not very good. But I would simply ask him a question.

If he wishes to move to the bill, and understanding that some of us feel a little grieved that we debated this all day, why would he object to us having a vote right now and then moving to the bill?

Mr. GREGG. I would answer the question, because my colleague from New Hampshire is in New Hampshire attending a funeral. I would otherwise be happy to move to the vote right now.

I renew my request that we proceed to the bill.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I object.

The PRESIDING OFFICER. There is objection.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire still has the floor.

Mr. GREGG. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I have the opportunity to spend a lot of time on the floor and I see what goes on here more than this very important piece of legislation dealing with prescription drugs. For months and months, I have seen this. I have watched what has gone on. And it does not matter whether it is election reform, whether it is the energy bill, whether it is terrorism insurance, the supplemental appropriations bill, the Department of Defense authorization bill, or, as a couple hours ago, trying to move to military construction appropriations, it does not matter what we do, we cannot do it because they will not let us.

This is no different. And the answer is, you know, we can talk about: Sure, let's do it today. We will do it right now—after we have wasted actually 2 days—not 1 day, 2 days. Today is Tuesday.

This is the same on every piece of legislation with which we deal. And the reason is they do not want us—"they," meaning the Republican minority, do not want us to deal with this legislation—this legislation, election reform,

energy, terrorism insurance, the supplemental, DOD authorization.

And the game does not stop with closure on getting the bills to the floor with a motion to proceed. It is one thing after another. No, they don't want a 3-to-2 breakdown on the conference committee. They want 4 to 3. Or it doesn't matter what it is, we can't do it right.

But, Mr. President, we have the ability to persevere. And we have been able to pass election reform in spite of their not wanting us to go to it. We have been able to pass an energy bill in spite of their not wanting us to go to it. We have been able to pass a good terrorism bill in spite of not being able to get to it for weeks and weeks and weeks. We have passed a supplemental bill that is a good bill. The Department of Defense authorization bill is a good bill.

We have the ability to persevere and we are going to do it on prescription drugs. They can stall us for days. That is what this is all about, the big stall. That is one thing I have learned. I know what this is: stall, delay. And, of course, the Senator from Massachusetts is absolutely right; that is all this is about.

I have the greatest respect for the senior Senator from New Hampshire. He is good and he knows Senate procedures. He served in the House and was Governor of New Hampshire. And he is now a Senator, senior Senator. He knows the rules. He knows they have gotten 2 days on us on this bill to prevent us from offering amendments. I would like to spend some time on the Graham-Miller legislation, which the vast majority of the Senate—Democrats—support. It is good legislation. We should have been debating that all day today, and started on it yesterday.

No, we will not be able to do it. And the word has come from the other side that the minute it comes up—the minute it comes up—they are going to raise a point of order. And so the longer they stall on that, the less opportunity it will give us to talk about substantive issues.

So I am not surprised. This is the way it has been. They are going to continue to do this because they do not want the Senate Democrats to have victories. And we are having them in spite of having to fight every step of the way—every step of the way—to get where we need to go.

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

Mr. REID. I am happy to yield to my friend from New Hampshire for a question.

Mr. GREGG. I am willing to give you a victory. I am saying: You win. Proceed to the bill.

Mr. REID. Let me respond to my friend. I also understand this, that you have stalled for 2 days, at least. I think we can count Friday as another stall day.

Mr. GREGG. The bill wasn't passed until last Thursday.

Mr. REID. You stalled for 2 days. And here we now have a situation where,

after having wasted 2 days, we now are in a situation where you say: OK, let's just go to it.

It is 5 o'clock tonight. You have told us your friend in New Hampshire has a funeral. I also spoke to our colleague from New Hampshire. He said: Do you think there are going to be any votes? I said: It looks like you're not going to give us any votes. I said: I would hope we would have a vote on military construction. Right out here at about 2:30 today he and I visited.

So I say your statement that our colleague from New Hampshire is at a funeral—I am glad he is attending a funeral. I am glad he was able to go there. I think it is the right thing to do. But what I say, if going to a funeral isn't an excuse for missing a vote, there isn't one that exists in the world. So I think that is a very poor excuse for our not voting on this tonight.

If, in fact, you want us to go forward, I ask unanimous consent that we vote on cloture right now. Let's say at 5:45. Give people an opportunity to get here. We vote. I will spread on the RECORD that anyone who questions the junior Senator from New Hampshire not being here for the vote—I will personally campaign against that person and say that it is wrong for anyone to raise that as an issue.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, I would actually note I am actually the junior Senator from New Hampshire. But independent of that subtlety—

Mr. REID. Let's say, you don't act like the junior Senator.

Mr. KENNEDY. Not all the time.

Mr. GREGG. Let me make the point, we do not need a vote because I am willing to agree to go to this without a vote. But if we are going to have a vote, let's have it when it was originally scheduled, which is tomorrow at 10:30 or 9:30, whatever it was. So I would object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I say to my friend from New Hampshire, we have had people who have told us they didn't want us to go forward. And I think they should be called here and cast a vote and see how—I don't like to use words like this, so I will not use the word "phony"—let's say deceptive.

Here they are now. They are saying: We aren't going to let you go to this, but we don't want to vote on it. I want them to vote on it. Probably the vote will be 98 to 0. We will show how fallacious and foolish and wasteful it was not allowing us to go forward on this anyway.

Mr. GREGG. If the Senator will yield for a further question, I think the Senator's knowledge of process around here certainly exceeds mine and, obviously, it borders on genius. And, therefore, I suspect the Senator knows there are ways in which to get one's point across in this institution which involve procedural activities.

My purpose in raising this issue was to get my point across, that I believed the bill was coming to the floor without having been adequately structured as to how it was going to leave the committee. Now, I made my point. I am happy to move on without a vote. There will be a vote tomorrow, if you wish to have it, and it will probably be 98 to 0.

Mr. REID. Does my friend have a question?

Mr. GREGG. My question is, Why do you need a vote?

Mr. REID. For the reasons that have been outlined, in detail, by the Senator from Massachusetts, and by me.

So I ask unanimous consent that the cloture vote on the motion to proceed to Calendar No. 491, S. 812, occur at 10:30, Wednesday morning, July 17, and that the time until the cloture vote be equally divided and controlled between Senators KENNEDY and GREGG or their designees; and that the mandatory quorum under rule XXII be waived; that immediately following the vote, if cloture is invoked, the motion to proceed be agreed to, and the Senate begin consideration of S. 812.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, the majority leader has asked that I announce there will be no more votes today.

I would say, after having said that, that is really too bad. What a time to do military construction today. We would take 20 minutes, plus 45 minutes. We would finish that bill and send it to the President.

Now, I would say that my friend from Arizona complained because he wants firemen. I have checked with Nevada. I will be very brief. I know people want to talk on prescription drugs, which they should, but in Nevada—you know, my friend from Arizona is complaining he wants to make sure there is going to be money to fight these fires—we have the Mud Springs fire covering 4,000 acres; Eagle fire, 10,000 acres; Buckeye fire, 850 acres; Ellsworth fire, 1,200 acres. They are burning right now—the Belmont fire, 650 acres; Cold Springs fire, 1,000 acres; Adobe fire, over 500 acres; Bridgeport fire, 250 acres; Pony Trail fire, 100 acres; Lost Cabin fire, 1,500 acres.

I am willing to do what we always have done: Wait until the money comes forward in the Interior appropriations bill. We have already established that the President should push this in the supplemental. He has not done that. Maybe he will do that. That is no excuse, no reason for not going forward with this bill.

As I outlined following Senator KENNEDY's statement, it is a sham. Everything we do here is an ordeal. It is an ordeal to get money to take care of construction needs for our military around the world. I repeat, election reform, energy, terrorism, supplemental appropriations, DOD, the corporate security bill, whatever it is, the big stall

takes place. And we are able, in spite of that, to work our way through the system and declare some victories for the American people. We are going to continue to do that.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will just take a minute or two, and hopefully the Senator from Michigan will be able to complete her statement. She has been here all day long. She has yielded to all of the interventions. She has a determination that cannot be matched, but she also has patience and grace that can't be matched either. I will just take a moment, and hopefully she will be recognized.

Just as a general matter, this legislation is enormously important. We have all said that during the course of the day. I hope at the start of the substantive debate we can have a sense of civility about how we are going to proceed. If there are legitimate kinds of concerns, as expressed by the Senator from New Hampshire about being unwilling to permit the Senate to move forward, I will take those. I don't agree with them, and I think they are misplaced for reasons I have outlined, but I can understand those. Then we are going to play by the rules.

But I would hope, as we begin this extraordinarily important debate and discussion, that we will free ourselves from gamesmanship and surprises. Let's try and deal with this important issue. Let's share our amendments if we are going to call them up. Let's get back to a sense of civility. People have strong views. This is enormously important. The underlying legislation and these amendments are incredibly important.

People are entitled to have the full attention and consideration of the Members of this body and to be free of the gamesmanship that too often takes place. I hope at the start of this, we will have that as a basis on the way to proceed. I think the American people expect no less. There has been objection, as has been pointed out, to our considering this. This is too important. The American people will see with tomorrow's vote on the will of the Senate, whether this legislation is flawed in some way or whether we ought to proceed to it.

As the Senator from Nevada has pointed out, we are prepared to have that vote this evening as a roll call vote, so that the American people can see, after listening to this debate all day long and after the allegations and charges that were made about the incompleteness of the legislation, whether there are substantial Members of this body who don't feel we ought to go ahead, or whether the majority believe we should go ahead.

At the beginning of this debate, which will take some time and is very important, let's hope we can proceed in a way that is worthy of this institution.

I thank the Senate.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I want to comment on some of the remarks of the majority whip and some of the comments of the chairman of the committee with respect to this legislation.

No. 1, the junior Senator from New Hampshire has every right, as ranking member of the committee, to be outraged at the way this bill was brought to the floor. It is my understanding, listening to him today and from the discussion in committee, that there were certain commitments made with respect to bringing this bill to the floor. The fact is, the reason we have seen delays on the floor on the energy bill, the terrorism insurance bill, election reform, a variety of other bills, was because those bills had bypassed committees. They had been brought straight to the floor.

Now we are talking about another bill, the Medicare drug bill, which will be amended, attempted to be amended, to this underlying bill that will be bypassing the committee and brought straight to the floor. What is the underlying bill? A bill that was introduced on Thursday and now is on the floor. No one had seen it. I am still trying to understand this legislation. It is very technical, very complex. It is very important to my State, in which there is a lot of drug manufacturing. I am still trying to understand the complexity of what this bill actually does. It is here on the floor, and we are asked to just move ahead.

The Senator from New Hampshire had some understanding of what was going to be changed. As you know, when you are marking up a bill in committee, markups are not about legislative language. There are concept documents that are then put into legislative language and brought to the floor. The Senator from New Hampshire had understandings and those understandings were not incorporated into this legislation.

The Senator from New Hampshire had a right to come to the floor and explain his dissatisfaction with this procedure. We have two procedures set up: No. 1, you completely bypass the committee; No. 2, you go through committee, and then you don't bring the bill out that you say you are going to from committee.

The Senator from New Hampshire simply wanted to make that point. As you know, in the Senate we have the opportunity to put a halt on things temporarily so you can make a point. The point is, procedurally this Senate is being run amok, whether it is the work now coming out of committee or, more often than not, it is the work that is not even done in committee.

I don't know why we have a Finance Committee, much less a chairman of the committee, because every important issue the Finance Committee has had to deal with this session has been bypassed. The committee has been bypassed.

Whether it is taxes or Medicare prescription drugs, I cannot think of any two issues more important—I also include trade—the three most important issues Finance deals with: trade, taxes, and health care—of the three major issues of this session of Congress, the Finance Committee and the chairman were simply bypassed. Partisan bills were brought straight to the floor.

Why are we discussing this underlying bill? They brought this bill up because this is the vehicle by which to talk about health care because they couldn't get their prescription drug bill through the committee. They couldn't get the Democrat prescription drug bill through committee because it is a partisan approach. It will get no bipartisan support. It has no scoring. It has not even been written yet. It is still being worked on.

The bottom line is, they couldn't get that through committee. Actually, the bill that would have come out of committee—I am fairly confident—the bill that would have come out of committee would have been a bipartisan bill. But it wouldn't have been a bill that the majority leader wanted. So he takes the gavel out of the hand of the chairman and runs the bill straight to the floor; that is, his bill. That is a partisan bill.

Why does he do that? We are still operating on last year's budget agreement. Last year's budget agreement requires two things of a Medicare prescription drug bill: No. 1, that it be within the budget amount, which I believe is \$300, \$350 billion in number—it has to be that number or under—No. 2, it has to be reported from the Finance Committee.

So here is the state of play now because we are playing politics with prescription drugs instead of trying to do prescription drugs. We are playing politics. Why? Because any bill that is offered in the Senate that provides a prescription drug benefit for seniors will be subject to a point of order which is 60 votes. Why? Because it was never reported through the Finance Committee. Why? Because the majority leader refused to let the Finance Committee mark up a bill.

So what has he done? He has set up a game where he has placed the bar so high that no benefit will pass the Senate. Why? Morton Kondracke answered that in Roll Call when he said it is obvious the Senate Democrats wanted the issue more than the prescription drug coverage for seniors. They would rather have the issue this fall than the drug coverage for seniors as soon as possible.

I have not been around that long. I have been around since 1991. But since I have been here in the House and in the Senate, I have noticed one thing: When it comes to dealing with the big issues of the day, particularly health care, taxes, Social Security, et cetera, by and large—particularly with Social Security and Medicare entitlements—you cannot pass one of these pieces of

legislation without a bipartisan consensus. You cannot do it, and I argue that you should not do it. You should try to work together to get a consensus. If you are serious about getting a bill through the Senate on prescription drugs, you cannot bypass the committee, bypass bipartisan agreements, bring a partisan bill to the floor, play games of 60-vote points of order, and claim you tried and the other side blocked you from succeeding, which is exactly the way this is going to play out.

Let's have no illusions as to how this will end. This is not a serious discussion, folks, of getting prescription drugs for seniors. This is a serious campaign rhetoric debate about who is for seniors more, knowing full well, the way the game was set up, seniors will lose, no matter what happens.

If you were serious about getting a prescription drug benefit for seniors, you would take it through the Senate Finance Committee and they would do the work that should not be done on the floor of the Senate. You have folks on the Finance Committee who have waited years and years to get on that committee and have studied these issues very hard, such as the Senator from Massachusetts, who is an expert in the areas under the Labor Committee's jurisdiction. He is an expert. He has been working on these issues. This is his area of expertise in legislating. When the Finance Committee deals with welfare, taxes, trade, Medicare, and health care, this is their area of expertise. They work together. This is a dynamic. That is how committees work. They work together and find compromise. They understand the real intricacies of the issues, and they work together to knead together legislation that will work and come to the floor without all of the different problems that confront a virgin piece of legislation that is dreamed up in some back room somewhere.

That is how the process works to help the Senate do its work. You build consensus in committee. You get Democrats and Republicans working together to form agreements and coalitions, to bring a bill to the floor so you can continue that. That has all been thrown out the window. Why? This bill is about partisan politics. This bill is about the November election. This is not about providing prescription drugs for seniors.

This is really tragic. It is amazing to me that the Senator from Nevada would complain about losing 2 days. We are going to lose 2 weeks in the Senate. We are going to spend 2 weeks debating health care issues that, because of the procedure that has been set up, will never pass the Senate, because we have set up a procedure that is doomed to fail, we have set up a procedure that does not allow bipartisan cooperation.

We have a bill introduced by members of the Senate Finance Committee—a tripartisan bill—that would have passed the committee, that could

have come to the floor. A lot of the problems already could have been worked out. We could have spent less time, not more time, here in the Senate. If we really wanted to do a prescription drug bill, we could have let the Finance Committee do its work and we would have had the issues narrowed as a result of that. We could have come to the Senate floor and worked together and tried to get a bipartisan bill that could be conferred with the House, so we could get a Medicare prescription drug bill. But a prescription drug bill is a partisan issue now. That is the result of this procedure we have going right now.

I don't understand why we say we have lost 2 days. We just voted on the corporate accountability and accounting bill at 7 o'clock last night. We had amendments and debate going on up until then—which would be allowed. There were amendments that were not allowed to be offered. We had debate going on and we had 4 or 5 votes last night. So I don't know how we have lost 2 days. The Senator from New Hampshire, about an hour ago, said he would be willing to vitiate the vote. There has been plenty of time for Members to lay down amendments. I think I can stipulate for the record, if anybody on the other side would care to have the stipulation as a satisfactory admission on our part, the vote tomorrow will be unanimous to move to proceed to the bill.

I don't think there is any question that every Member on this side wants to proceed to the bill. We want to talk about prescription drugs. We want to have our ideas. We have three different plans on this side of the aisle that are supported by various Members. Senator SMITH from New Hampshire and Senator ALLARD have a plan, Senators ENSIGN and GRAMM have a plan, and the tripartisan plan that is supported by many Republicans, all of which I think bring a tremendous contribution to the debate. We will have good discussions about it.

I know the Senator from Nevada said he wishes we had the Democratic prescription drug bill up. I hope the Senator from Nevada offers that bill right out of the shoot. I hope we do have a vote on that tomorrow, or lay down that bill and have a discussion about it. I think it would be great.

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

Mr. SANTORUM. Yes.

Mr. REID. Would the Senator from Pennsylvania support, then, an up-or-down vote on the Graham-Miller bill that you just talked about? Do you want to debate that, and would you be willing to have an up-or-down vote?

Mr. SANTORUM. I think we should have up-or-down votes on every plan I just listed. If the Senator would agree to up-or-down votes on the tripartisan plan and the other two plans I just listed, which are serious legislative proposals, I think there would be no question you would easily get an agreement

to have an up-or-down vote on the point of order on all of those.

Mr. REID. I am not talking about a point of order. I asked the Senator from Pennsylvania if he would give us an up-or-down vote on the Graham-Miller prescription drug benefit plan.

Mr. SANTORUM. Obviously, the procedure by which this bill has been brought to the floor has tainted this entire process. I believe, actually, the best chance we have to get the high-water mark—in other words, the most votes on any bill—will be the tripartisan bill because it has tripartisan support.

Mr. REID. So the answer to my question is no?

Mr. SANTORUM. Again, I suggest that you have created the atmosphere by which the point of order is available to some Members, and whether I agree or not doesn't matter. I think there will be Members on both sides of the aisle who will raise a point of order. Why? Because it is available. The Senator from Nevada knows full well if points of order are available, someone on this side—or the other side of the aisle, I might add—will raise a point of order. You have brought this bill to the floor by bypassing the Finance Committee. You have brought it with an instant point of order. That is the remarkable thing. You could have a prescription drug benefit bill that would cost \$10, and if you brought that to the floor, it would have a budget point of order. Why? Because the budget says the bill had to come through the Finance Committee. So what we have done is set the bar where you now have to have every single Member of the Senate agree that this bill comes to the floor without objecting to it on a point of order.

As the Senator from Nevada knows, you hardly get anybody to agree to anything around here, much less a multibillion-dollar expansion of health care benefits, without having someone opposed to the legislation and then raising a point of order. So what we have done, as I said before, is set the bar so high that you have ensured that nothing will happen.

I will yield for a question.

Mr. REID. I would say that the bill we are working on here was reported out of the HELP Committee by a 16-to-5 vote; 5 Republicans voted to bring it to the floor. That is why we were so stunned when we weren't able to go to the bill. I also say that it appears to me that this bill didn't need to go to the Finance Committee; it was under the jurisdiction of the HELP Committee. But even if a bill went through the Finance Committee, it would still need 60 votes and we could raise a point of order on it.

Mr. SANTORUM. Mr. President, taking back my time I say not necessarily. It depends. If it were in the budget constraint and were not marked up in the committee, would it not be subject to a point of order?

Mr. REID. Being marked up in committee makes no difference whatsoever.

Mr. SANTORUM. That is not what last year's budget agreement says.

I also make the other point that, with respect to this bill—and you said you were shocked at the objection. I hope you listened to the Senator from New Hampshire in laying out what were legitimate complaints about the way this bill was brought to the floor, when certain assurances were given. As you know—and the Senator is a committee chairman and knows how mark-ups work—certain assurances were made about issues being brought up in committee, and technical corrections or other corrections were “agreed upon.” And then when the bill came to the floor, those changes were not made.

Mr. LOTT. Will the Senator yield?

Mr. REID. Mr. Leader, he asked me a question. May I respond?

Mr. LOTT. I will be happy to let the Senator respond, and then I want to ask a question.

Mr. REID. I will be very quick in responding to the question. I say to my friend, in response to the question—even though you had the floor and you asked me a question—this, as far as I am concerned, is one of those excuses I have talked about. The bill was reported in a bipartisan fashion out of committee.

My friend from New Hampshire, the junior Senator, said: You told me certain things. That is what the amendment process is all about. He said: It is technical in nature. This is just an excuse not to go to the bill. This is just an excuse not to go to the bill. We are wasting time that should be used on prescription drugs. That is what we have tried to establish today. We are wasting time when we should be dealing with the bill itself, not talking about technical amendments that should not be here. It is here, it is here on a bipartisan basis.

Mr. SANTORUM. Reclaiming my time, the Senator knows fixing legislation on the floor is a lot harder than having something in the base bill. The fact is, the Senator believed certain assurances were made and those assurances were violated. He wanted an opportunity to pause to make that case. Subsequent to him making that case, he agreed to vitiate the vote. In fact, he agreed to proceed to the bill over an hour ago, and he agreed to vitiate the vote a couple hours ago.

All I suggest is, if we were serious about moving to this legislation, having a discussion about prescription drugs, we could be doing that right now. We are in some degree doing that right now. We could be on an amendment. I hope the Senator from Nevada or somebody on his side puts down the Democratic proposal that we can have this debate, begin in earnest and have votes. I will be happy to yield to the leader.

Mr. LOTT. Mr. President, if the Senator from Pennsylvania will yield, let

me clarify. There are several issues in play. First of all, there was the point the Senator from Pennsylvania was just making that there was some understanding that Members thought they had some modification of the bill that was going to be made that did not happen. Maybe that was just a misunderstanding, but that contributed to this problem.

The second issue, this is not just about this drug pricing bill. Everybody knows this is going to wind up being the vehicle for debate on prescription drugs. There is concern about going forward in this way; that this is going to be a process to which I have referred as mutually assured destruction because whatever is offered is going to have to get 60 votes because it did not come from the Finance Committee and/or because it exceeds what the budget allows. And that is the point I wish to clarify.

If I am misinformed, I would like to know that at this point. But my understanding clearly is that because we do not have a budget resolution passed by the Senate, we do not have any budget numbers, that the number we are operating on that is allowed for prescription drugs is \$300 billion. That is what was identified last year, and that still is what applies.

If you exceed that amount, you have to have 60 votes to overcome a point of order. Secondly, if it does not come from the Finance Committee, that in itself would require 60 votes to overcome a point of order.

There are two reasons we will have to have 60 votes to pass any of the bills that may be offered in the prescription drug area.

If that is not correct, then I stand corrected. If we could get a bill out of the committee that was under that amount, then there would not be a problem. At least one of the approaches, or maybe a couple approaches, that will be offered—the one by Senators HAGEL, ENSIGN, and GRAMM that would cost, I understand, somewhere between \$150 billion to \$170 billion—would not require the votes to overcome the point of order, but it would because it did not come through the Finance Committee.

There is a simple solution to this: The Finance Committee should meet and vote. We have met for hours trying to figure out the right way to do this. It is difficult, it is complicated, and it is important. We met 4 hours, and I was there a couple hours last week. Yet we have not had a markup. Let's go to a markup, have debate, amendments, and see if the Finance Committee can report a bill. That is what I urge we do. Then we can have a bill that came out of the committee, that could have tripartisan support, and it would not be subject to a 60-vote point of order. We could pass it with 51 votes and get real help to people who need it—the elderly, sick, poor people—and we can do it this week.

Mr. SANTORUM. Was there not a markup scheduled for the Finance Committee this week?

Mr. LOTT. There was a markup. We marked up two minor bills last week, and there was a markup scheduled at 10 o'clock this morning. It was delayed to 2 o'clock and then cancelled. Why? Because Senators SNOWE, GRASSLEY, and others in the tripartisan effort served notice that they were going to offer a prescription drug package to a so-called minor bill. As a result of that, that markup was canceled.

It really bothers me. It looks to me that we are headed for a situation where, when the smoke clears next week, no package will be left standing, and we will not have passed a bill with 60 votes and the people once again will not get the help they need. We seem to be striving to find a way not to do this. I do not understand it.

I do not question the merits of the different bills. We can argue about them and we can debate them, but if the end result is nothing, is that good? As far as the underlying bill, if we knew debate was going to be on the drug-pricing issue, we could have started earlier, and we could probably have finished it this week. But there are two distinct issues that are riding on each other. It is a real problem.

Once the prescription drug bills perhaps fail, I guess we will come back to the base bill, and it will probably pass and I assume it will be a bipartisan vote: Some for it; some against it. I want to clarify, it is my understanding that clearly it takes 60 votes because of the amount involved and because the Finance Committee will not have acted.

Mr. SANTORUM. The Republican leader is correct. As I said earlier, if a drug benefit bill were brought forward that cost \$10, it would be subject to a budget point of order because of this procedure.

People are asking: Why is the 60-vote procedure such a problem? The Senator from Nevada asked would I object to an up-or-down vote on one of them? I can certainly agree to that. The problem is the 99 other Senators; only one of them needs to object to an up-or-down vote and make a point of order against the underlying bill because it is not reported out of the Finance Committee, and we have a problem. We have to get 60 votes.

The interesting question is why are we in this situation? Obviously, because the majority leader has decided to bring a bill straight to the floor and not through committee. Why are we in this situation even stepping back from what happened yesterday? Because we do not have a budget. We have no budget. For the first time since 1974, we have no budget in the Senate. Now we are starting to see the consequences of not having a budget.

The other point is we do not have any appropriations bills passed. I am not the one objecting to the MILCON appropriations bill, and I hope we can

work that out and I would be very supportive of passing it on a very short timeframe. The fact is, we are way behind on appropriations, and if I look at the schedule, we are talking about health care this week, next week, and talking about homeland security the week we leave. I do not see any time in here to do 13 appropriations bills that are necessary to run the Government of the United States.

We have no budget, we have no appropriations bills, and as a result of having no budget, we have a, to be very candid, screwed-up system by which we are dealing with a Medicare prescription drug bill, which to my constituents—and I represent per capita the second oldest population in the country—is perhaps one of the most important bills, maybe the most important bill, we are going to deal with in Washington, DC, for the people of Pennsylvania.

I always say we are second to Florida per capita in the number of seniors, but my comment is, my seniors care more about Medicare and prescription drugs than the ones in Florida because all my rich seniors move to Florida, and what is left in Pennsylvania are the folks who really need the coverage and cannot afford it. So this is a very important bill for the folks in Pennsylvania.

This is something we want to accomplish. This is not something I want to be held up by some procedural trick.

I will say without reservation that if we had a clean process and we had a bill that came out of the Finance Committee that was not subject to a point of order, we could begin the amending process and have the Senate work its will. Would I be happy with the product? I would probably not be overjoyed with it. I do not even know if I would vote for it. But we would move the process forward where we get a bill to conference that is conferenceable with the House, and we have the potential of getting a prescription drug benefit for millions and millions of seniors across America who are relying on us to do it. But instead of going through the process which assures us of getting a bill, we have developed a process which assures us of getting no bill.

So don't anybody next Friday say, oh, golly, we did not make it; oh, golly, we did not pass a bill and think, gee, we really gave it a good chance.

This process was scripted for failure. This process was created for a partisan issue in November and nothing more. This is not a serious debate about Medicare prescription drugs. When we are serious about doing Medicare prescription drugs, we will do it the way it was intended to be done and contemplated by the budget of last year, which is what is done with every other major entitlement bill we have ever dealt with in the Senate. What is that? Go through the committee of jurisdiction. The committee works its will. A bill is brought that has had a lot of the kinks worked out, has had bipartisan compromise by experts who study and

work on that kind of legislation—that is why they are on the committee—and the bill is brought to the floor to work out the final, in many cases major, issues. Then you get the bill done, you go to conference, and you move on.

That is not what is happening. Why? That is a good question. Why? Do we not trust the chairman of the Finance Committee to mark up a bill? Do we not trust the committee of jurisdiction to take up this legislation on which there is intense interest in the committee? There are several bills germinating out of members of that committee on both sides of the aisle. Why do we not trust this committee to do its work on the most important issue that that committee will deal with this year? Why have we said we do not trust the Finance Committee, we do not trust the chairman, we are going to go over their head, we are going to bring a partisan bill, which to my knowledge no one on this side of the aisle has seen? And I suspect there are a lot of folks on that side of the aisle who have not seen it.

The bill has not been scored. We have no idea how much it costs. The Senator from Nevada said he hoped to be debating this bill tomorrow. I hope to be debating the bill tomorrow, too, because I would like to see it.

Think about this: The largest expansion of entitlement programs in the history of the country, and we are going to bring the bill to the floor, having not gone through committee, having not seen it, and ask for a vote on it.

The rumor mill among the press is this bill costs \$800 billion. Now, that may be high. I do not know. That is the number I heard outside. That is \$800 billion, not over 10 years, because the bill sunsets, but only 6 years. So it is a trillion-dollar expansion of government. That is even a big number for Washington, a trillion-dollar expansion of government, and no one has seen the bill. It has not gone through committee. There has not even been a hearing on the bill. A trillion-dollar expansion of government, and there has not been a hearing on the bill, much less a markup.

Now what they are telling the American public is: We are really serious, aren't we? We are serious about passing a drug bill, aren't we? We have not had a hearing on it, we do not know how much it costs, we haven't gone through committee, haven't marked it up, we have not brought it to the floor, but trust me, we are serious about passing a bill. This is real, this is legit, we really want to do this, we really want to make this happen.

Remember, we have not drafted the bill, do not know how much it costs, have not had a hearing, have not had a markup, have not even brought the bill up to the floor, but we are serious, and it is, by the way, a trillion dollars. We really want to make this happen, and we are going to get it done in a couple of days, trust us, and we will work it out. That is the procedure.

Then we have people saying: How dare you raise a point of order against this bill that has not been finished, that costs a trillion dollars, has not had a hearing, has not been marked up, has not come to the floor. How dare you raise a point of order against this trillion-dollar expansion of government. How can you do that? You must not care about seniors. That is going to be the issue in November: You do not care about seniors because you did not allow us to pass a bill that no one had seen, costing potentially a trillion dollars, that no hearing had been held on, that no markup had been done on, and that we had not had the opportunity to even see and debate on the floor, with people wondering why we raised a point of order.

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

Mr. SANTORUM. I would be happy to yield for a question.

Mr. REID. Is the Senator aware that this legislation about which the Senator from Pennsylvania speaks has been written and authored by these two radical Democrats by the name of BOB GRAHAM from Florida and ZELL MILLER of Georgia, who both have credentials, I would suspect, that are as moderate as any in the Senate? Is the Senator aware of these two men who have sponsored this legislation, who have written it?

Mr. SANTORUM. I understand they have been involved in the writing of the legislation.

Mr. REID. Is the Senator also aware that this legislation about which the Senator speaks has been endorsed by many organizations and groups in America, including the AARP?

Mr. SANTORUM. Which I find remarkable to believe, and the answer is, I do know that some organizations support it, but I find it remarkable to believe that any legitimate organization would endorse a bill they have not seen and have no idea how much it costs. The answer to your question is, yes, I am aware that certain organizations have endorsed it. I question the responsible nature of those organizations that would endorse a bill they have not seen, have no idea what the impact is on their members, and have no idea what the impact is as far as the cost to their members and the cost to the taxpayers, because we do not know that yet.

Mr. REID. I have two very brief questions I would ask the Senator to answer.

Mr. SANTORUM. Sure.

Mr. REID. The Senator is not suggesting in any way that AARP is not a legitimate organization, is he?

Mr. SANTORUM. I did not say legitimate. I said responsible. There is a difference. They are certainly legitimate. I question how responsible they are.

Mr. REID. In the Senator's first statement, he did say legitimate.

Mr. SANTORUM. If I did, let me correct that. AARP is certainly a legitimate organization. I would question

how responsibly they are acting if they are endorsing legislation they have not seen and do not know how much it costs.

Mr. REID. The Senator has indicated we should be working on appropriations bills, and I agree with the Senator. But is the Senator aware that for—I have lost track of the days, but for several days I have offered at least four, maybe more, unanimous consent requests that we move to military construction with a time of 65 minutes and I have received an objection on that side of the aisle?

Mr. SANTORUM. I would say to the Senator from Nevada, he did not receive an objection from me. All I can say is we have a Member or two on this side of the aisle who are concerned about the ability to pay for fires in their States, and I think the Senator knows that. We all have concerns about appropriations and disasters in our State. I certainly respect the Senators objecting to that. I hope we can work that out because I agree with the Senator from Nevada that we should be dealing with appropriations bills.

MILCON is one that is usually not very controversial, there usually are not a lot of amendments to it, and we should be able to pass it in a very short period of time. We are certainly working on this side of the aisle very diligently to try to take care of the objections so we can get to that issue.

I appreciate the Senator moving forward on that, and I hope the Senator from Nevada will then, after we get MILCON done, move to the Defense appropriations bill because I think it is vitally important, as we are fighting this war and we are trying to protect the homeland and we are doing things that are on the cutting edge of transforming our military, that we get that legislation passed in the Senate. When we get MILCON and DOD passed, the soldiers, sailors, airmen, and marines will know the money is there and the program dollars can be spent in a much more efficient way.

I am a member the Armed Services Committee, and that is always a concern, that there will be a delay in the release of money in the appropriations process. I think that would be a very important thing we could do between now and the August recess, if possible. I will certainly work with my colleagues on this side of the aisle to get them to have a very short list of amendments and see if we can get a DOD bill passed in short order.

Mr. REID. If I could respond to my friend without his losing the floor, as a member of the Appropriations Committee, we reported out this morning, or this afternoon—around noontime—the largest appropriations bill in the history of the country. That is why—and the Senator has taken my script—I have said basically the same thing on military construction. We have to move forward on that because we have construction projects for our men and women in the military all over the

world. Most of them, of course, are in America, but we have military construction projects around the world that are waiting, and we need to get to that.

I appreciate the Senator saying he would join with us, but the problem is we have had trouble moving all legislation, not the least of which is the military construction appropriations bill.

I appreciate the courtesy of the Senator allowing me to ask questions.

Mr. SANTORUM. The Senator from Nevada is always courteous to Members on our side when we come to the floor and we appreciate that gentility in the way he deals with questions and answers and appreciate his questions. I know we can work together in a bipartisan way to manufacture as many appropriations bills as possible between now and the August break. I know the Appropriations Committee has begun to churn out these bills in marathon sessions. That is welcome news.

Hopefully, we can get to what I believe is the most important. It is a big bill and it is complex. It is several hundred billion dollars. It is still smaller than this bill and a heck of a lot less complex, a bill that potentially could be presented here by the majority to expand prescription drugs.

Again, even though I object to the way this procedure is being done, I am very much for having this debate on the Senate floor and trying to get a prescription drug bill done that meets the needs of our seniors all across the country. I don't like the way it is structured. I don't believe it has been structured in a way that will lead us to a result that can be satisfactory to any senior. It is certainly a debate we should have. I just wish we had it under circumstances with a possibility of success. I don't think we are heading in that direction at this time.

A final point is on the underlying legislation. As I said before, I have only had a chance to look at it over the last 24 hours since I have been back in town. I have some concerns about this underlying legislation. This is more of a vehicle than a substantive issue. We have to understand, when it comes to the pharmaceutical companies, they are the great whipping boy in the Senate and certainly in the House and many places across the country. The fact is, about 50 percent of the new drugs that come on the market come from innovations in the United States of America. People are alive today who are listening to my voice because of pharmaceutical companies making billions of dollars in investments each year to create new drugs, to move the envelope forward, to improve the quality of and to lengthen people's lives.

I understand they get beat up on because they try to use their patents and they charge more money here than in other countries and all the other things said about them, but the fact is, if bills such as this pass—and I am concerned about this particularly, some of the litigation provisions—we are going

to erode the incentives for pharmaceutical companies to invest in cures.

It is popular, very popular, to go around and promise seniors you are going to get them cheap drugs; that these generics are the answer. These filthy horrible drug companies, the pharmaceutical companies, the name brand pharmaceutical companies are horrible people who are raping and pillaging you, and if we just give all their patents to the generic folks as quickly as possible and give the generics an opportunity to get in there quicker, your drug prices will be lower. That is an argument that appeals very much to this generation of seniors and this generation of pharmaceutical users at the expense of future cures for them and others.

Some may say that is a good trade-off. The politics is smart, I guess, because people would rather have the money in their pocket than the perspective of maybe something happening that may or may not affect them in the future. I understand the game. I understand the politics. The politics are great in being able to promise somebody a 50-percent reduction in their drugs, or a 30-percent reduction in their drugs. That is great. People see it, feel it, and hear it. But people also need to realize that when you do that, you limit the innovation that occurs; you limit those lifesaving drugs, the enhancing of the quality-of-life drugs that come out of this Nation's terrific pharmaceutical industry.

Sure, I will join others on this side with some amendments. I know Senator HATCH and Senator GREGG have concerns about this underlying legislation, have concerns about some of the issues, such as the reimportation of drugs.

I have very serious concerns about the safety of the reimportation of drugs. In Canada, they are cheap and they can send them back here and they are cheap. They sell them in Canada because they say this is how much you are going to charge; if you don't want this price, you cannot sell your drug in Canada. By the way, if you really want the drug, we will make it and sell it here ourselves. So you have no market and we will sell your drug anywhere.

You say: I cannot believe that happens. That happens.

Here is a pharmaceutical company that says: I charge \$2 for the drugs in America; it costs me a quarter to make them. I charge \$2 for the drug in America. It costs me a quarter to make it—that is, the process to make it. But the rest is to make up for the many cases, hundreds of millions, invested to get this formula to where it is. I have to make it up somehow so I have to charge more.

Canada says: I will only pay you a dollar; I will not pay you \$2. I will only pay you \$1 or 50 cents. The drug company has to make a decision: Do I sell it for less there and get the wrath of the American politicians who say, look how cheap this drug is, or do I sell it

for less there, still cover my costs, and make a small profit—not as much, but I make a small profit—or do I not sell my drug there, have a Canadian steal my patent, make the drug and sell it there anyway?

If you are a pharmaceutical company, that is a decision you have to make. Some say: No, I don't want to sell the drug. I will not do it. Others say a little profit is better than none. And some suggest this is perhaps a unique drug, they feel a social obligation to make it available in countries because this is a drug that maybe doesn't have anything similar to it. So they sell the drug even at a very small profit because they feel a social responsibility to do so because it will save lives.

For this, they have Senators of the Senate holding up drugs and saying: Look at these rotten drug companies. Look at these rotten drug companies. Look what they are doing.

Understand the story because you are not being told the full story. You are not being told what really happens. Yes, they are cheaper, but now you understand why they are cheaper. They can say no. Fine. In some cases, saying no means people will die. Most pharmaceutical companies, contrary to what you hear, are not in the business of wanting people to die so they sell their drugs. I suggest we understand the whole story before we get into how bad these guys are for selling drugs cheaper in other places.

The bottom line is the American public, as a result of the way foreign governments operate, subsidize research in the world. Is it the right thing to do? We should have a good policy discussion on that. There might be legitimate competing arguments whether we should subsidize the research by paying more for research. However, if we do not, the research will not get done and people will die because that new drug that could have been invented had the investment been made will not be developed or it will be much later.

Those are the chances. I know that is taking the dollar you could get now for cheaper drugs for the promise of something better later. One thing drug manufacturers can point to is the promises have been made good, if you look at the quality of the pharmaceuticals that we have on the market today and for people whose lives are being saved and the quality of life that is being improved.

Understand what we are doing. This is not as simple as some would let you believe. Understand what we are doing. We are going after the big bad pharmaceutical companies that are responsible for many people being alive today.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that the Senate

now proceed to a period of morning business, with Senators allowed to speak for a period not to extend 10 minutes each; I further ask, as part of that consent, that the Senator from Michigan be recognized; that the Senator from Arkansas be recognize to speak for up to 30 minutes, and if I could get the attention of my friend from Iowa, does the Senator from Iowa wish time to speak?

Mr. GRASSLEY. No.

Mr. REID. There is time for others to come to speak, but I ask the Senator from Michigan now be recognized in morning business under the unanimous consent request, and that following that, the Senator from Arkansas be recognized.

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

MORNING BUSINESS

MEDICARE PRESCRIPTION DRUG BENEFIT

Ms. STABENOW. Madam President, it is difficult to know where to begin at this point. I feel compelled to respond to my colleague and friend from Pennsylvania, who has spoken at some length. As I listened to him on a variety of subjects, I have changed what I was going to say a number of times.

Let me just start by addressing the last issue he raised about knowing the whole story because I believe it is incredibly important. We have been trying, now, since Friday—or certainly we have been trying since yesterday—to move to this legislation which is so critical to lower prices of prescription drugs for everyone and also provide a Medicare prescription drug benefit that is beneficial. As we finally move to the bill, it is important that we understand the whole story of how the industry operates today and our role as taxpayers.

I think we need to understand that we start with basic research. This year, we as taxpayers are spending \$23.5 billion that we give to the National Institutes of Health for basic research. I support that. I would support doing more. I think it is critical. But we do that, and companies take the information and then move it to the next level after we have subsidized or paid for the research.

They move to the next level and do research and development themselves, which is also very important. We subsidize that as well through tax write-offs on research and development as well as advertising and business costs and so on. So we participate through tax deductions and credits.

We then allow companies that bring a product to market to have up to a 20-year patent. That patent, then, allows them to have exclusive rights, without competition, so they can recover their costs, their research costs. It does cost a tremendous amount of money to bring new drugs to the market. We know that. We as Americans have built

in a system to make sure that that innovation is recognized. We allow companies to recoup their costs, and they are then able to bring these lifesaving drugs to market.

We then get to the end of that process, and then something else is supposed to happen. The formula is supposed to be available for generic companies to be able to, in turn, manufacture the drugs and reduce the prices.

What happens today? Unfortunately, this industry, that has been supported and subsidized and is making 18-percent to 20-percent profit a year, fights every possible venue for competition. They fight everything. They fight generics going on the market. Sometimes they buy up the companies. Sometimes they just sue them to keep them off the market. They fight opening the borders to Canada which would create more competition. They fight real Medicare prescription drug coverage that would allow 40 million seniors and those with disabilities to be under one insurance plan and be able to have the clout to get a group discount. They fight everything.

That is the real story: Why we are here, seeing delay after delay after delay, because we see the lobbyists in that industry looking for every opportunity to stop us from going forward.

My colleague also said we should have brought this up in the Finance Committee. One of the things I learned is that if you are wrong on substance, you bring up process arguments. So we had a lot of process arguments. Unfortunately, not one of those process arguments would buy one prescription for one senior.

We have heard arguments about the Finance Committee. I ask my colleagues: It is my understanding there has been a bill in the Finance Committee for 5 years. How long is long enough? How long is long enough? How long do seniors in the country have to wait for Medicare coverage? How long is long enough?

We debate on the floor skipping the Finance Committee. How about the senior who is skipping supper right now? Frankly, I am more concerned about that person right now. How long do people have to wait? How many Presidential debates and campaigns? How many congressional campaigns? How long?

Now is the time to stop talking about process and start talking about real Medicare coverage and lowering prices for everyone, so the next group of employees do not have to be told their pay is frozen so the employer can pay the health care benefit; so the next round of small businesses do not see their premiums jump 30 percent, 40 percent, and they have to consider dropping insurance coverage for their employees—predominantly because of the driving costs of prescription drugs; so the manufacturers in my State do not have to struggle with this issue.

How long? I would suggest too long. And now is the time to do it. Now is

the time to act. If we are operating as people of good will, we can work out the process, we can work out the details. There are philosophical differences—no question—about how to proceed. But if people of good will want to make something happen, I believe we can and we will.

I will have a lot more to say about the differences in the Medicare plans and other differences tomorrow, as we move through this debate. But this evening I would like to remind Senators, again, what we are supposed to be focusing on. I hope, anyway, with all due respect to colleagues, that we pay attention to what is really at stake. I have set up a prescription drugs people's lobby through my Web site and asked people to share with me their stories.

I close with two descriptions of real-life situations that are happening right now. One is from Rochelle Dodgson of Oak Park, MI. I want to thank her very much. I have shared this before, but I want to bring us back to what this is about. She writes:

My mother is currently insured under COBRA after losing her job in August of 2001. While she has her basic Medicare coverage, she will lose her supplemental medical coverage in January 2003. She has recently been diagnosed with multiple myeloma and will require treatment for this blood disorder the rest of her life. The medication she was taking before this new illness costs over \$500 retail on a monthly basis. I have not checked the prices of the 'chemo' she takes monthly nor the cost of the Procrit she takes weekly. I expect her monthly out of pocket expenses to be around \$700 a month. Her Social Security is just over \$800 a month.

Her monthly out of pocket expenses are \$700; her Social Security is around \$800.

I can't imagine having to budget food and housing expenses along with medication on that kind of income. My husband and I will try to find a way to budget some of her medical costs into our own expenses. . . .

Many families are doing this across America.

. . . but we also care for my husband's mother.

My mother is still a viable part of society. She doesn't deserve to struggle just because she has chronic illness.

That is what this is about. It is not about procedures, and 60 votes versus 51 votes, and all of the other processes, objecting to proceeding with bills. This is what this is about.

Let me just share one other story. This is actually from Austin, TX. Jackie Smith wrote through my e-mail. I am sure she shared it with other colleagues as well. I appreciate it. She says:

My prescriptions will cost \$3,850 a month beginning August 15 [of this year].

Madam President, \$3,850 a month for prescriptions.

That is when my COBRA benefits—which allowed me to continue my health care coverage through my employer—will run out. I will then qualify for Medicare with no prescription drug coverage.

Between my disability policy benefits and Social Security disability my fixed income is

\$2,000 a month. I have no idea where to turn for help.

Madam President, \$2,000 a month in income, \$3,850 a month in prescription drug costs. She describes her situation and ends by saying:

Thank you so much for working for a meaningful drug benefit.

That is what this is about. If we want to fix it, we will. We don't need another campaign issue. This is about getting it done. We can do that if we want to do that. We are here thanks to the leadership of our majority leader who understands that it needs to be done and allocated 2 weeks in a schedule with a lot that needs to happen. Because of the importance of this issue, he said we will take 2 full weeks on this and work through it. Instead of doing it on Monday or on Tuesday, it will be tomorrow—Wednesday—before we start. OK. But let us get started. Let us get it done. If we want to do it—we have bright people on both sides of the aisle—we can do it. If we want to just argue process, we can argue process. But this is a bill which for 5 years has been under consideration by the Finance Committee. If it is not possible to get a meaningful, real Medicare benefit, and we instead do it on the floor—I have only been here for 1½ years; I have seen an awful lot of bills not go through committee and go directly to the floor, an awful lot of them on both sides of the aisle with both leaders of different parties. The reality is that when you are not able to do what you believe needs to happen it frequently goes to the floor.

The issue is how we are going to get it done. Are we going to do what is long, long overdue? I believe the American people are getting tired of hearing us talk. They want us to get it done. I hope we will.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Madam President, I wish to take a moment to respond to some of the comments by my distinguished colleague from Michigan regarding the process. I agree that the process in many cases does not matter. Normally, the American people do not care about process. Instead, they care about results. They care about their pains and their families' pains, and they are concerned about the future.

But if you have a process that is a prescription for failure, then process matters. If you have a process that is set up to ensure there is no result, then process matters.

I say to my distinguished colleague from Michigan that it is easy to ridicule concerns about the process, but when the process results in 60 votes needed for passage instead of 51 votes—a process which is going to guarantee that we don't get a prescription drug benefit for our seniors, and that is exactly the situation—then process matters. If the fact that we didn't go through the Finance Committee, and the fact that we didn't have a markup

in the Finance Committee results in a point of order that sets the bar so high that we are not going to get a bill through, then it matters. If the process ensures that we are going to pass a bill with a pricetag that CBO has not even given us yet, perhaps in the range of \$800 billion, and we send it to conference with the House bill that is much, much smaller, and it assures we are not going to have a result, then process matters.

I would suggest that the process we have been given—for legislation that provides for an enormous change in policy and the most significant legislation that some of us will vote on and many of us will debate in our entire careers—is less than adequate because we are being given a bill that has not had the benefit of a markup in committee.

As an Arkansan, I have colleagues in this body who serve on the Finance committee who are being denied their right to have input into the product that comes out. It is my understanding that members of the Finance Committee are ready to vote on a prescription drug bill, and the votes are there; that we could send a product to the Senate floor right now that we could debate and use as our vehicle. But instead we are going to have a bill presented that no one on this side has had the opportunity to read and that has not yet been scored by the Congressional Budget Office. It is a moving target. That is no way for us to do significant and important legislation.

My colleague from Pennsylvania said he has the second highest per capita senior population in the Nation. He is accurate in that, I am sure. But I would point out to him that in my home State, unfortunately, we have one of the highest percentages of low-income seniors per capita. This is an issue that is very important to seniors in Arkansas. And it is important not so we have a political issue for the campaigns that are less than 4 months off. It is important because there are millions of seniors who are making do with a Medicare system that is out of date and that is headed towards obsolescence.

Medicare today was a wonderful system when it was developed in the 1960s. But health care has changed. Insurance has changed. It would be like going back to a 1960 model automobile. Prescription medicines today are an integral part of patient care. Medicare denies seniors those needed drugs. These are drugs to ease the symptoms of Parkinson's, Alzheimer's, and arthritis—drugs to control cholesterol, blood pressure, and to fight other life-threatening diseases such as cancer. Many seniors, even though they are prescribed these drugs, simply go without because they cannot afford them.

My colleague from Michigan is right about that. Seniors are what this debate is about. It is not whether or not at the end of next week, when all the dust has settled, we can campaign on an issue as we go into the election sea-

son. It is about whether or not millions of seniors are going to get the help they need.

Mary McDaniel from Crossett, AR, wrote and said:

I am in favor of a program that promises affordable medication to all senior citizens but not a Medicare pharmacy policy that may take away my rights to choose my pharmacy and one that offers false promises. I want to be able to get the medication my doctor prescribes and not something the Government says I can have.

The fact is that prescription drugs improve lives and in many cases they save lives. Coverage for prescription drugs needs to be a part of our Medicare system.

The 21st Century Medicare Act—called the tripartisan bill—creates a prescription drug benefit which is permanent, available to all seniors, and does not jeopardize the stability of Medicare for future generations. That is so important.

What benefit are we giving our seniors if we pass a prescription drug benefit that is so expensive that it is like a barnacle on the ship that is the Medicare system, dragging it down to bankruptcy? A responsible benefit must be one that does not jeopardize the stability of the system for future generations.

Seniors will be able, under the tripartisan bill, to voluntarily sign up for this prescription drug benefit, which has an affordable monthly premium of \$24, the lowest premium of any of the prescription drug bills introduced so far.

For low-income seniors, the bill provides additional support. Madam President, 11.7 million lower income beneficiaries with incomes below 150 percent of poverty will receive a generous subsidy for their prescription drug costs. Those below 135 percent of poverty will have 80 to 98 percent of their drug costs covered with no premium at all. For the State of Arkansas, that means for those beneficiaries under 135 percent of poverty—there are 179,378 such seniors in Arkansas out of 453,598 total Medicare beneficiaries—these seniors will have their entire premiums paid for and most of their drug costs covered as well.

This legislation also provides catastrophic coverage to protect seniors against extremely high out-of-pocket drug costs that exceed \$3,700 per year.

The 21st Century Medicare Act also seeks to modernize Medicare benefits by allowing seniors to choose a new, enhanced benefit called Medicare Part E. This new benefit eliminates copays for important preventative health benefits such as mammograms, prostate cancer screenings, bone mass measurements, and medical nutrition therapy. It also streamlines hospital benefits, eliminating per-day copays and other limits.

If seniors do not like this option, they can always stick with traditional Medicare. This bill does not weaken

traditional Medicare, but it makes it better and stronger. It does not make it more expensive. It does not make it less accessible.

To further ensure that seniors have choices, the 21st Century Medicare Act requires qualified providers of the prescription drug benefit to have "bricks and mortar" pharmacies in their network.

Let me pause here to tell you just how important our Nation's pharmacies are to seniors and to all Americans. You can give seniors prescription drugs, but if they don't know how to use them, they don't get any benefit.

Pharmacists play a critical role in counseling seniors and other patients about drug interactions and medication use in general. During the debate on how to structure a Medicare prescription drug benefit, we cannot forget that pharmacists will play, and must play, a critical role in making this a quality benefit.

So I am very pleased to be one of the cosponsors of the 21st Century Medicare Act. I intend to work to enhance the bill in regard to the role of pharmacists in the future.

I have received, as I am sure we all have, many examples of those who have written to express their support for a Medicare prescription drug benefit. I have also heard this sentiment expressed in town meetings across the State of Arkansas. During the Fourth of July recess, there was no issue more on the minds of my constituents than the rising cost of prescription drugs and how Congress is going to deal with it.

Ruth Blair, from Rogers, AR, writes:

Please vote for help with prescription drugs for senior citizens. We either eat or take medicine. It's a tradeoff.

That is the sad situation for millions of Americans and tens of thousands of Arkansans on Medicare.

In 2001, more than 15 million Medicare beneficiaries had no prescription drug coverage at all, according to the Kaiser Family Foundation. Almost 400 new drugs have been developed in the last decade alone to fight diseases such as cancer, arthritis, heart disease, and diabetes. While 98 percent of employer health plans offer coverage of these often lifesaving therapies, Medicare does not. That is the issue before us. That is what we must address.

Dorothy Adams from England, AR, writes:

Please support a prescription drug benefit. My husband and I have \$300 to \$400 drug bills every month.

That adds up to \$3,600 or \$4,800 per year. Under the tripartisan bill, the Adams family would have 90 percent of their drug costs covered after reaching \$3,700 in drug costs. That is the kind of help we can give.

We have this phantom bill that is going to be brought to the floor by the Senate Democrats. It has not been scored by the Congressional Budget Office. We do not know what the pricetag is going to be. And there are different

estimates out there as to what it is going to cost.

The original Graham-Miller-Daschle-Kennedy bill, the temporary benefit bill that was introduced, has a sunset provision. So you have a benefit that is truly an illusion. It starts late and ends early.

The Graham-Miller bill, which is the only bill we have to analyze right now, establishes a prescription drug benefit for seniors, and then it takes it away by terminating the benefit in 2010. That is the cruelest of all hoaxes. That is the ultimate use of a sensitive issue for vulnerable people for political purposes. And it is no way to fulfill our promise to America's seniors. They do not need a benefit that will disappear a few years after they sign up.

This gimmick is intended for one reason, and that is to reduce the price tag of the Democrat proposal.

AARP has said that a prescription drug benefit should be "a permanent and stable part of Medicare." The key word is "permanent." The benefit created under Graham-Miller bill is neither permanent nor a stable part of Medicare.

The Graham-Miller bill supposedly costs \$450 billion over 7 years, according to the bill's sponsors. But by others' calculations, the bill could cost as much as \$600 billion or, without the sunset, easily \$1 trillion.

A benefit that costs \$600 billion over the next 10 years would require cutting 10 percent of all Government programs other than Medicare. That includes education, health care, and national security programs. That is not responsible.

If we want a bipartisan bill, if we want a bill that Republicans and Democrats have worked together on and have consulted on and cooperated on—then we have a tri-partisan bill that we can vote out, and we have the prospect of actually having a responsible, realistic, achievable prescription drug bill to give the President this year.

But if the House passes a partisan bill, and if the Senate leadership insists that we are going to bypass the Finance Committee and bring a purely partisan bill to the floor of the Senate, it is a prescription for doing nothing this year. I suggest that in fact—though it will never be admitted—such failure is exactly what some people want to happen.

The Graham-Miller bill is partisan and does not currently have the support of Finance Committee Chairman MAX BAUCUS. It is apparent that the Graham-Miller bill could not pass out of the Finance Committee, and I would suggest that may be why the Finance Committee was not allowed to mark up a bill.

If the majority leader were serious about getting a prescription drug bill enacted into law this year, I would suggest that he would not bypass the Finance Committee. Is it a real accomplishment, achievement, that we want,

or is it an election issue for November that is sought?

The majority leader has, I believe, turned a blind eye to the fact that there is in fact a bipartisan bill—a tripartisan bill as it is being called; it was introduced on Monday by Senators GRASSLEY, JEFFORDS, BREAUX, SNOWE, and HATCH—which I have cosponsored. It could pass out of the Finance Committee today if the committee were allowed to bring it up.

If Democrats and Republicans are willing to work together, we could make meaningful progress for our seniors.

In 1999, Republicans supported legislation based on the bipartisan Breaux-Thomas proposal which would have spent \$60 billion over 10 years on a Medicare prescription drug benefit. That was 1999. But Democrats rejected this proposal and offered a \$111 billion proposal. That was in 1999.

In 2000, Republicans proposed a drug benefit that would have spent \$140 billion over 10 years on a Medicare prescription drug benefit, but Democrats again rejected this proposal as inadequate and offered a \$338 billion proposal. That was in the year 2000.

In 2001, Republicans and Democrats agreed on a budget resolution which provided \$300 billion for a Medicare prescription drug benefit. The House of Representatives has passed a \$350 billion proposal, and there is a bipartisan bill in the Senate which is a \$370 billion proposal. Yet the other side now says that is not enough.

I suggest that nothing will be enough because they do not want an accomplishment, they do not want an achievement, they do not want a prescription drug benefit this year. They want a campaign issue.

If we are serious about providing seniors with a Medicare prescription drug benefit, in the days ahead we should look at the only truly bipartisan bill that has a majority of support. Senator GRASSLEY, Senator BREAUX, Senator JEFFORDS, and others, who I have now joined as a cosponsor, have crafted a responsible, achievable, doable prescription drug benefit that can be conferenced, passed, and sent to the President.

So if we really mean it—when we say that the issue is not process, but our seniors—then the time to act, on a bipartisan basis, is now, instead of going down the road of a purely partisan political exercise.

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

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

21ST CENTURY MEDICARE ACT

Mr. GRASSLEY. Madam President, Medicare has not kept pace with the

improvements in health care since its inception in 1965. It was a plan that was put together based on the practice of medicine in 1965, which you might expect to be natural for any program written at that particular time. At that particular time, the practice of medicine was to put almost anybody in the hospital who had anything very serious wrong with them. Today, the practice of medicine is to keep people out of the hospital environment as much as we can. Prescription drugs are very much a part of the medical plan to keep people out of hospitals.

Back in 1965, the cost of prescription drugs as part of the total cost of medicine was about 1 percent. Today the practice of medicine and the cost of medicine related to the total practice of medicine is about 10, 11 percent. So quite obviously, if Medicare is to be brought into the 21st century, we have to modernize it by including a prescription drug program for everybody, not just like it has been, prescription drugs for people who are in the hospital, but once you leave the hospital, no prescription drugs.

We have assumed a responsibility, some of us. I think maybe all 100 Senators agree on this issue, although they may not agree on how to do it, but we have all come to the conclusion that if you are going to strengthen and improve Medicare for the 21st century, Medicare must include a prescription drug program.

Several of us in this body—Senators BREAUX, JEFFORDS, SNOWE, and HATCH, and this Senator—have introduced a plan that we call the 21st Century Medicare Act. To cite the most obvious example of Medicare being outdated, many conditions that used to be treated in the hospital are now treated with prescription drugs. For that reason, employer-sponsored health plans have changed with the times since 1965 and now cover prescription drugs. But Medicare does not cover prescription drugs outside of the hospital environment.

Imagine that private health insurance for a long period of time has been including prescription drugs, but the Government-run Medicare Program is still back there in the 1960s, not covering prescription drugs.

There is another example of the outdated Medicare Program. The practice of medicine has evolved to focus on preventive benefits, since everyone knows that an ounce of prevention is worth a pound of cure. For this reason, many private health plans have eliminated cost sharing for preventive benefits. But the 1960s Medicare plan, run by the Government, has not covered preventive medicine in the same way that private health plans have by eliminating cost sharing. We still have cost sharing in the 1960 plan.

We ought to have Medicare come into the 21st century from the standpoint of eliminating cost sharing for preventive benefits in order to make sure that we emphasize an ounce of prevention weighed against a pound of cure.

There is a third example of Medicare being out of step. For those of us with employer-sponsored coverage—and Members of the Senate would fall into that category—these programs provide a limit on how much we will have to spend out of pocket if we become seriously ill. Yet the 1965 brand of Government-run health program, Medicare, offers no such protection for our senior citizens.

I will give three examples of the 1960-era, Government-run Medicare plan that does not give seniors adequate protection. Most important among all those is not having a prescription drug program.

I could go on and on, but I would rather focus on the good news. There is a compromise that can be enacted into law this year so that we can finally get to the business of bringing Medicare into the 21st century; in other words, to have a Government-run Medicare Program for seniors that parallels the practice of medicine in the 21st century.

This compromise, once again, is the only bipartisan compromise inside the beltway or outside the beltway. It is offered by Senators BREAUX, SNOWE, JEFFORDS, HATCH, and this Senator.

I emphasize the importance of bipartisanship. Nothing can get through the Senate that is strictly Republican or strictly Democrat. The Senate was meant to function for the last 214 years based on the proposition that minority points of view would be protected and considered. Consequently, with no limit on debate, with efforts of people to stymie the process, it is very essential that we work from day 1, if you want to get anything done, in a bipartisan way to craft a bill.

The five of us didn't just decide to do this. We started last summer to work on a prescription drug bill that could garner bipartisan support. We even announced about a year ago some basic principles, very broad principles, but we immediately got to work on filling in details. We had most of the details filled in back in March—not everything specific, but pretty much the principles and the details filled in.

I suppose people are asking: Why just now has this bill been introduced? We have even had some of the legislative language written a while ago.

Well, the reason we couldn't present our colleagues in the Senate this bipartisan approach was because we had to wait for the Congressional Budget Office to do the scoring and also, based upon preliminary scoring, some fine tuning on our part. It was just over the weekend that we, after we did our final fine tuning, got the final figures so that the bill could be put before the people of the country yesterday.

I want to mention bipartisan because obviously the President—there is one person there, one party—when he puts forth a proposal, it is partisan. There is a House Republican proposal that was passed. That is obviously a partisan proposal. There was a House Democrat

alternative. It was obviously a partisan proposal. And there is a Senate Democrat proposal that is obviously partisan. There is no Republican proposal, something that represents the point of view of just Republicans in the Senate. But there is this bipartisan plan put together by Senators BREAUX, SNOWE, JEFFORDS, HATCH, and myself that is the only bipartisan plan, and not hastily put together, as 1 year of work on it indicates.

Consequently, it seems to me that if the Senate majority leader had allowed the Senate Finance Committee, which has jurisdiction, to work its will—and there is a majority of the Senate Finance Committee that is backing this proposal—we would have something out here for the Senate to consider, a bipartisan proposal.

That doesn't prove it would get 60 votes, but it has to be further down the road to accomplishing that very important goal than any of the proposals here in Washington, DC. Any coverage will have to be a compromise, a beginning. It is not something perfect.

I applaud Senator BAUCUS for seeking a reasonable compromise that can pass the Finance Committee. He has held a lot of rump sessions to discuss these things and understand them. But we have not had the opportunity to have the formal session to actually debate and amend and vote out a compromise. So after working on this for over a year, I can say this bill is that compromise. This level of total spending—\$350 billion—is the level that can gain a majority of the votes in the Senate Finance Committee. In moving it up some to satisfy some people, or moving it down to a lower figure to satisfy some other people, it begins to lose votes from the high end or from the low end.

Nobody, including me, considers this a perfect plan, but it is the only deal that can be struck, and it is the only bipartisan proposal in Washington, DC. I urge Senator DASCHLE to allow the Finance Committee to work on my bill. Let any Senator, in a free exchange and consideration in the Senate Finance Committee, offer amendments. That is the only way to have a product that can get 60 votes.

As I have already written to Senator DASCHLE, to bypass the Senate Finance Committee when it can put out a bipartisan project is probably to kill any chance of a drug bill, and I hope he will reconsider.

Let me be very candid. Drug spending by the senior population is exploding. The cost between the bill a year ago, when we started, until now—as I said, it evolved over 12 months—has gone up \$70 billion, but not because we as Senators working on this bipartisan compromise decided we wanted to spend \$70 billion more, no; that is the way the drug market is today. So if Senator DASCHLE wants an issue instead of a program for seniors, then we come back next year, and it doesn't matter who controls the Senate. We will come

back next year and we are going to spend another \$70 billion to \$100 billion more. Why don't we decide to put that money into the program and save it by adopting something right now, when we know, based upon the projections of prescription drugs, what is going to happen.

Let me suggest to you that the passage of strong legislation is going to be a damper on those exploding drug prices. So we have an opportunity and, if we miss it, it is going to cost Medicare a tremendous amount of money. Maybe \$100 billion is a little bit high, but \$70 billion to \$80 billion to \$90 billion would not be out of the realm of possibility. And we should also do it now so that baby boomers who have these good corporate plans they want to retire on are not shocked with a big difference between what 1965 Medicare is and what they have. They won't have to go through that if we have this bipartisan plan that gives seniors an option of having a new and improved and strengthened Medicare plan that is much closer to what they have now in the world of work.

The baby boomers are going to start to retire in only 8 years. So a new drug benefit could be incredibly expensive and could even put the existing Medicare Program at risk. In light of these facts, the truth is that we cannot afford an extravagant benefit. If we get to work and get it done now, it is not going to be so expensive.

The other main component of the bill that I have already made some reference to is a new, enhanced Medicare option, and it is not something seniors have to take if they don't want to. If they want to keep what they have right now, they can keep it, but if they want something a little closer to what they have in the private sector, they will have that available.

I talked about Medicare or a prescription drug program, but there is a new and enhanced Medicare option that reflects 21st century health care. The enhanced option removes all cost sharing on preventive benefits. Just think. If somebody under the present Medicare has an opportunity to take a prostate cancer test, and they have a 20-percent copay, and they say: "I just cannot afford it," or "I don't want to pay that copay," you are going to discourage that person from taking that test. And one out of three men might need an operation to catch it ahead of time so that cancer hasn't spread. No copay. That is more apt to be. That is an ounce of prevention worth a pound of cure. It brings Medicare into the 21st century. It adds protection against devastating costs due to serious illness. It features a single deductible of \$300 and a rational cost sharing rather than the irrational cost sharing in the existing fee-for-service system. It offers new, cheaper Medigap options. And with the improved coverage, beneficiaries might decide they don't need to buy Medigap at all.

This would create a tremendous savings for them and, potentially, for

Medicare. The enhanced options resemble what beneficiaries had when they were still working, and they might decide to take it. But this is all entirely voluntary. We don't say to a single senior citizen in America that they have to do this. It is their choice. If they like what they already have, what has been on the books since 1965, they can have it.

The cost of our reform provisions—this new and improved and enhanced Medicare—is only \$30 billion over 10 years.

Now, the AARP held a news conference today. Everyone around here knows that Senator DASCHLE's partisan approach cannot lead to 60 votes and can only lead to deadlock. Failure is not acceptable to the people of Iowa and it is not acceptable to me.

Let me comment on the substance of my bill, the 21st Century Medicare Act. The drug benefit we offer is a voluntary benefit with affordable premiums of \$24 a month. Unlike some proposals, it will provide drugs in a cost-effective manner, which is crucial. It will protect all seniors with drug costs, with special protections for low-income beneficiaries and those who incur very high costs. By law, at least two plans will be available everywhere in America, including rural areas, which is so important to me.

The Congressional Budget Office tells me that virtually all beneficiaries will find this drug benefit a good deal and will elect to take it. In fact, when you hear people demanding that "Cadillac" drug coverage be added to Medicare, what that tells you is that person doesn't really want legislation to pass. They just want an issue on which to campaign.

I have been very surprised and somewhat disappointed at the recent activity of the AARP on this issue. They ran ads this past weekend and they held a news conference today supporting the bill that Senator DASCHLE, we are told, plans to bring to the floor. In the same breath, they say they want a drug benefit that is permanent. They should make up their minds because Senator DASCHLE's bill is not permanent. That is because making it permanent would reveal how unaffordable it is. It is difficult to understand why they are sowing such confusion on the issue. Do they believe we should sunset the Medicare Program as a whole, as that bill does? I do not think we are going to sunset senior citizens. When the prescription drug program ends in 2009 or 2010, do they think the senior citizens of America are not going to need prescription drugs the next day? I hope AARP's members will tell Senator DASCHLE that is quite ludicrous, and they would be right.

Believe it or not, my bill—I should not say "my bill" because I have never had the pleasure of working with so many politically different people as Senator HATCH, Senator SNOWE, Senator BREAU, Senator JEFFORDS, and myself—I am different, too. Over the

course of a year, we had give and take by people with so many different political philosophies, bringing us to where we are with this bill. So many times along the way we thought everything would fall apart, but we would come back together because people of good will working together can get things done.

That same good will is on the Senate Finance Committee if we just have an opportunity to work the will of the committee. But we have produced a product—and I said I am embarrassed it was this Monday; it could just as well have been May 1, but we just could not get the Congressional Budget Office to score the bill. Maybe it is legitimate. It is a whole new Government program. They had to take into consideration putting people on board. I suppose CBO had to do a lot of education of their own staff. All I can say is, it is here, and it is not here too late.

Believe it or not, this bill is the only true bipartisan bill in all of Washington, DC, to add a drug benefit to Medicare. If ever there was an issue where true bipartisanship was needed, it is in this bill, it is needed beyond the authors of this bill to the entire body, and we can get something done this year rather than wait next year to spend another \$100 billion more with the costs rising.

In short, the bipartisan 21st Century Medicare Act is the reasonable, pragmatic approach that can work even in an election year if Senator DASCHLE wants us to do it.

I thank the Chair.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Nevada.

Mr. REID. Mr. President, I will be brief. The Senator from Utah has been waiting for some time. I am not going to talk long in this regard, but I say to my friend from Iowa, for whom I have the deepest respect—I consider him a friend and a fine Senator—that AARP supports Graham-Miller because it is good legislation. I do not think anyone could ever consider the AARP as some wild-like liberal group. They are very careful with the legislation they sign on to.

I also say to my friend from Iowa, it is too bad we had not been able to start debating his amendment and other amendments earlier. Every time we bring a bill up, we have to fight to get it on the floor, but we are going to continue to do that. As on the other bills I listed earlier today which we had to fight to pass, we are going to work hard on this bill. We are going to pass prescription drug legislation because it is necessary we do that.

2002 NATIONAL PEACE ESSAY CONTEST SOUTH DAKOTA WINNER, JESSICA HICKS

Mr. DASCHLE. Mr. President, I am honored today to present to my colleagues in the Senate an essay by Jessica Hicks of Rapid City, SD. Jessica is a student at St. Thomas More High

School and she is the National Peace Essay Contest winner for South Dakota. "Taking the Middle Ground: The Role of the Military in International Peacekeeping With Focus on Rwanda and Bosnia" is a call to U.S. leaders to seek an active American role in international peacekeeping that never loses sight of our national security interests. Jessica has tackled a vitally important subject with compassion, realism, and maturity. I can only hope that she continues to share her wisdom with the world, and I commend her essay to my colleagues' attention.

I ask unanimous consent that Jessica Hicks' essay be printed in the RECORD.

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

TAKING THE MIDDLE GROUND: THE ROLE OF THE U.S. MILITARY IN INTERNATIONAL PEACEKEEPING WITH FOCUS ON RWANDA AND BOSNIA

(By Jessica Hicks)

"Never doubt that a small group of deeply committed citizens can change the world. Indeed, it is the only thing that ever has" (qtd. Mead). The U.S. military is composed of a group of "committed citizens" that works to serve the U.S. and its interests. As of late, the U.S.'s interests have turned to international conflicts and peacekeeping. International peacekeeping involves outside countries aiding in stabilizing an area through mediation, presence, and humanitarian aid. The military's role in international peacekeeping has often been called into question. Many feel that the U.S. military should only work to end conflict and to ensure peace in areas of interest to the U.S. Others believe that the U.S. should take an isolationist approach toward peacekeeping, with the focus of the military on protecting U.S. borders.

Critics may not agree, but the U.S. military does have an important role in international peacekeeping, a role that was especially apparent during the 1990s. During this decade, genocide occurred in Rwanda and Bosnia. In Bosnia, the U.S. military took an active part in peacekeeping efforts ("Why the Troops Should Go"), whereas in Rwanda, the U.S. did not contribute to the United Nations (UN) initial peacekeeping mission (Onumah). In the next decade, the U.S. military should follow a "middle ground" policy in international matters, so as to be able to maintain national security and to participate in peacekeeping (Hull 77).

The Rwandan genocide that occurred in 1994 was a result of past tensions (Goble). In 1919, Belgium colonized Rwanda, whose majority population is composed of two ethnic groups, the Hutus and the Tutsis (Freeman 16). Belgian colonizers increased differences between the two groups by issuing ethnic identity cards and placing the Tutsis in high government positions, though the Hutus were in the majority (Prunier 28).

Frustrated by their lack of power, the Hutus overthrew the monarchy of Rwanda in 1959 (Giles 59). As a result of this change of power, many Tutsis were killed, and approximately 200,000 became refugees in neighboring countries ("Rwanda"). In 1962, Rwanda gained independence from Belgium, and the Hutus gained control of the government (Iliffe 251). In 1973, Habyarimana, a Hutu general, became president of Rwanda. His attempts to include minority parties in the government were unpopular with Hutu extremists (Prunier 74-75).

Meanwhile, the exiled Tutsis created the Rwandan Patriotic Front (RPF), an army

rebel group. In 1990, the RPF launched a civil war against the Hutus (Giles 59). The United Nations Assistance Mission to Rwanda (UNAMIR) was sent in to support Habyarimana's plan to share power with minorities (Shawcross 21). However, tensions between the Hutus and the Tutsis continued to increase, and in 1994, Hutu extremists shot down Habyarimana's airplane. Beginning in April of that year and continuing over the next three months, 800,000 Tutsis and moderate Hutus were killed in a genocide by the Hutus (Shawcross 21). The genocide ended in July, 1994, when the Tutsis regained control of the government. As a result, about two million Hutus left Rwanda, becoming refugees ("Rwanda"). When the killing began, most of the UNAMIR troops left Rwanda, and the genocide continued practically unrestrained by foreign influence (Goble). Although the U.S. sent humanitarian aid to Rwanda, it neglected to contribute much needed troops to initial UN peacekeeping efforts (Onumah).

The response of the U.S. military was different in Bosnia. Bosnia's tensions largely began with the creation of Yugoslavia after the First World War (Fromkin 135). Three ethnic groups have traditionally existed in Bosnia: the Croats, the Serbs, and the Muslims (Borden 16). Bosnia was part of communist Yugoslavia in the 1980s, and declared its independence in 1992 (Dragnich 192). Bosnian Serbs set out to create a "greater Serbia" by means of ethnic cleansing (Allen 44). In 1992, the UN responded by imposing naval blockades and trade sanctions on the former Yugoslavia (Ricchiardi 59). Croats and Muslims fought each other, as well as the Serbs. The United Nations unsuccessfully created six "safe havens" (protected cities) for the Muslims and the Croats in 1993 (Donia and Fine 243).

The U.S. helped to reduce the ethnic groups' fighting by mediating the signing of a peace agreement between the Croats and the Muslims in 1994 ("Fact Sheet: Human Rights Issues . . ."). Finally after atrocities committed by both sides, peace was reached in 1995, when, with the U.S.'s help the warring groups agreed to peace (to end war) in Dayton, Ohio ("Bosnia and Herzegovina"). To aid in peacekeeping, NATO sent in 60,000 troops as part of "multinational military Implementation Force" (IFOR) with U.S. soldiers comprising one-third of the troops ("Why the Troops Should Go"). The U.S. provided appropriate peacekeeping measures in Bosnia through mediation, presence, and humanitarian aid. Today, a reduced number of troops continues to remain in Bosnia to aid in keeping peace (Burg and Shoup 387).

The U.S. military has a vital role in international peacekeeping. Because of U.S. military influence, U.S. military involvement is critical to the success of peacekeeping efforts (Fromkin 49). The U.S. has access to resources that are essential to the peacekeeping process. In Rwanda, the U.S. initially did not want to be involved, and did not contribute troops, thus delaying peace in Rwanda (Jenish 24). In Bosnia, the U.S. military successfully worked through NATO to provide peacekeeping forces (Burg and Shoup 377-379). However, the U.S. should not dominate the peacekeeping process. A "middle ground" must be found in foreign policy. The "middle ground" policy involves the U.S.'s contributing military troops and aid, in cooperation with the UN, NATO, and other countries (Hull 77).

The U.S. military must determine whether its involvement is necessary in foreign conflicts. International peacekeeping turns the U.S. military away from its primary duty to protect the American borders and people. The U.S. must determine if the results of the conflict will affect its interests, such as na-

tional security (Fromkin 168). The U.S. military recognized that unrest in Bosnia could eventually cause conflict in Europe, whose stability is vital to the U.S. ("Why the Troops Should Go").

However, the U.S. also sends in military based on its ideals, such as recognition of a need for peace and stability (Fromkin 171). The U.S. has been accused of not being consistent in its involvement in international peacekeeping, and of becoming involved only when benefits are apparent for the U.S. The U.S. became involved in Bosnia partially because civilians felt that great injustices were occurring, and that peace was needed (Vulliamy 118).

Over the next decade, the U.S. military needs to continue aiding in international peacekeeping. However, a "middle ground" policy is a necessity when dealing with international matters. By maintain a "middle ground" policy, the U.S. can sustain a sufficient force at home for national security purposes (Hull 78). The U.S. military can also work with the UN, other countries, and regional organizations in peacekeeping. By taking the middle course, the U.S. military will be able to do its part in international affairs, while still protecting the American people.

In cooperation with the UN, the U.S. can work to provide mediation, presence, and material aid. Mediation was important in solving the Bosnia conflict. The U.S. helped arrange to have Bosnian leaders meet in Dayton, Ohio, acting as a mediator at the peace talks (Burg and Shoup 408). The U.S. can contribute military troops to the UN forces to help local officials maintain peace. The U.S. military can help ensure that minority groups are not threatened. As illustrated in Rwanda, the U.S.'s hesitancy to send troops to aid the UN forces in 1994 prevented the cessation of the genocide in its early stages ("Rwanda Revisited: A Look Back . . ."). Regional organizations should be utilized or established to help in peacekeeping actions, such as the distribution of humanitarian aid (Hull 93). When such organizations are not employed, aid can be misdirected, as in Rwanda, where corruption prevented appropriate distribution ("Humanitarian Efforts Threatened . . ."). Regional organizations are at the ground level of the problem, and, therefore, know who needs aid. Misappropriations of aid, as in Rwanda, can thus be avoided. These actions of mediation, presence, and material aid will be vital in the next decade.

The U.S. military has an important role in international peacekeeping, which was especially apparent in the 1990s. The U.S. military took an active part in Bosnian peacekeeping efforts. In Rwanda, however, the U.S. military failed to help in initial peacekeeping actions. The U.S. military should have a "middle ground" policy in dealing with international peacekeeping. This policy would allow the U.S. to maintain national security and to be active in international peacekeeping efforts. Because of the complicated nature of peacekeeping, the U.S. goals may not always be realized; but U.S. involvement is imperative for peace. As Theodore Roosevelt said, ". . . the man who really counts in the world is the doer, not the mere critic—the man who actually does the work, even if roughly and imperfectly, not the man who only talks or writes about how it ought to be done." The U.S. military aspires to take on this role in international peacekeeping.

WORKS CITED

Allen, Beverly. *Rape Warfare: The Hidden Genocide in Bosnia-Herzegovina and Croatia*. Minneapolis, MN: University of Minnesota Press, 1996.

Borden, Anthony. "The War in Bosnia: Seeds of Wars to Come." *State of the Peoples: A Global Human Rights Report on Societies in Danger*. Ed. Marc S. Miller. Boston, MA: Beacon Press, 1993. 15-22.

"Bosnia and Herzegovina." CIA—The World Factbook 1 Jan. 2001. 27 Dec. 2001 <<http://www.cia.gov/cia/publications/factbook/geos/bk.html>>.

Burg, Steven L., and Paul S. Shoup. *The War in Bosnia-Herzegovina: Ethnic Conflict and International Intervention*. Armonk, NY: M.E. Sharpe, 1999.

Donia, Robert J., and John V.A. Fine, Jr. *Bosnia and Herzegovina: A Tradition Betrayed*. New York: Columbia University Press, 1994.

Dragnich, Alex N. *Serbs and Croats: The Struggle in Yugoslavia*. New York: Harcourt Brace, 1992.

"Fact Sheet: Human Rights Issue in the Balkans." US Department of State Dispatch 15 Dec. 1995. Infotrac. Rapid City Public Library. 27 Dec. 2001. <<http://infotrac.galegroup.com/menu>>.

Freeman, Charles. *Crisis in Rwanda*. Austin, TX: Steck-Vaughn, 1999.

Fromkin, David. *Kosovo Crossing*. New York: The Free Press, 1999.

Giles, Bridget, ed. *Peoples of East Africa*. New York: Facts On File, 1997.

Goble, Paul. "Rwanda's Forgotten Genocide." *United Press International* 8 Apr. 2001. 26 Dec. 2001. <<http://www.comtexnews.com>>.

Hull, Mary. *Ethnic Violence*. San Diego, CA: Lucent Books, 1997.

"Humanitarian Efforts Threatened by Security Problems: International Tribunal Created." *UN Chronicle* Mar. 1995, 32.1. Infotrac. Rapid City Public Library. 26 Dec. 2001. <<http://infotrac.galegroup.com/menu>>.

Lliffe, John. *Africans: The History of a Continent*. New York: Cambridge University Press, 1995.

Jenish, D'Arcy. "'Preventable Genocide': A New International Report Says the 1994 Slaughter in Rwanda Did Not Have to Happen." *Maclean's* 17 July 2002:24.

Mead, Margaret. qtd. *Thinking Quotes* 31 Dec. 2001. <<http://www.2think.org/quotes.html>>.

Onumah, Chido. "Revisiting the Genocide in Rwanda." *Africa News Service* 11 Aug. 2000. 26 Dec. 2001. <<http://www.comtexnews.com>>.

Prunier, Gerard. *The Rwanda Crisis: History of a Genocide*. New York: Columbia University Press, 1995.

Ricchiardi, Sherry. *Bosnia: The Struggle for Peace*. Brookfield, CT: Millbrook Press, 1996.

Roosevelt, Theodore. "Quotations of Theodore Roosevelt." *Theodore Roosevelt Association* 30 Dec. 2001. <<http://www.theodoreroosevelt.org/life/quotes.html>>.

"Rwanda." CIA—The World Factbook 1 Jan. 2001. 27 Dec. 2001 <<http://www.cia.gov/cia/publications/factbook/geos/rm.html>>.

"Rwanda Revisited: A Look Back at the Biggest Bloodstain on the World's Conscience in the 1990s." *The Economist* 25 Dec. 1999: 5.

Shawcross, William. "The Deadly Sin of Staying Neutral." *Newsweek International* 27 Dec. 1999: 21.

Vulliamy, Ed. *Session in Hell: Understanding Bosnia's War*. New York: St. Martin's Press, 1994.

"Why the Troops Should Go." *The New Republic* 18 Dec. 1995, 213.25. Infotrac. Rapid City Public Library. 27 Dec/ 2001. <<http://www.infotrac.galegroup.com/menu>>

FUTURE OF ANTI-TERRORIST COOPERATION IN COLOMBIA

Mr. THURMOND. Mr. President, I rise today to draw attention to the

plight of the people of Colombia. For decades they have been plagued by the scourges of drugs, war, and terrorism. Today, thousands, if not millions of Colombians live under constant threat of attack by leftist guerrillas and right-wing paramilitary groups. However, in the recent elections the Colombian people overwhelmingly voted to bring the forces of terror and violence to their knees.

In support of their fight against terror, I believe it is the responsibility of our great Nation to offer its unwavering moral support to the people of Colombia and their democratically elected leaders. Since President Monroe first offered a vision for our Nation's involvement in the Western Hemisphere, the United States has been the guarantor of peace and democracy for all the peoples of the Americas. This is a tradition we must continue.

Consequently, it is time for us as a Nation to explore further extending our support, both moral and physical to the cause of developing the institutes of justice and governance in Colombia. In doing so, we help the Colombians achieve a better way of life and further our own fight against the forces of global terror.

In closing, we should not forego this opportunity to help a neighbor and an ally. I offer my firmest support to the people of Colombia and their fight to eradicate terrorists and criminals in their own country.

Mr. John Norton Moore is a distinguished professor of law and is the Director of the Center for National Security Law at the University of Virginia. He has written thoughtfully on this matter. I found his remarks to be highly valuable and wish to share them with the Senate. Therefore, I ask unanimous consent that an article written by Professor Moore be printed in the RECORD.

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

ENDING TERRORISM IN COLOMBIA

(By John Norton Moore)

The people of Colombia, after years of negotiation with the forces of terror, have courageously voted for their own war on terrorism. For almost four decades, the people of Colombia have been beset with drug lords, old-thinking leftists, and paramilitaries waging war against their democracy and their humanity. Every year in that war a much smaller country than the United States loses more people than were killed in 9/11. Kidnapping runs rampant and the force of law is held hostage to the law of force. It is time for the World to notice Colombia's plight and to join with them to decisively end the terror.

Why should the United States and others help? Simply because unchecked terrorism left free to ravage democracies anywhere ultimately affects us all. Simply because the drug business in Colombia will never be tamed without an end to the armies of terror it feeds. Simply because economic development in Latin America and an extension of hemispheric trade requires the rule of law. Simply because a decisive hemispheric victory over terrorism in Colombia will have

powerful deterrent legs in the global war against terrorism. Simply because the people and democracies of Latin America matter. And simply because, as the people of Colombia have just attested, four decades of terror is enough.

How can the United States help? Visualizing the ghost of Vietnam, the body politic in the United States has been reluctant to become directly involved in what many see as a domestic struggle in Colombia. Human rights abuses from all sides have further discouraged assistance. Political consensus has only permitted an increased program of aid said to be directed at the war on drugs. Even in a post 9/11 World, it is unlikely that the American body politic wants an Afghan style American military presence on the ground in Colombia. Moreover, America has a full plate in the fight on terror at present, and an important agenda for peace in the Palestinian/Israeli dispute and now the India/Pakistan dispute. But the alternative is not, and has never been, simply a U.S. military presence in Colombia or terror as usual.

The United States should take the lead in consultations with the new leadership of Colombia and the Organization of American States to put together a powerful Inter-American coalition under the Rio Treaty to decisively and permanently restore the reach of democracy over all of Colombia. The Rio Treaty, as the security arm of the Inter-American system, preceded NATO and, indeed, NATO was largely modeled on it. The Inter-American system as a whole has as a central purpose the protection of democracy and human dignity throughout the region. The Rio Treaty pledges the collective action of all of the American states to deal with threats to the peace to those ends. It is time to put that system to the test.

To be successful such as Inter-American effort would need the full agreement and co-operation of the new Colombian Government. In addition, it must be designed to field an overwhelming response against terror on all fronts and to prevail decisively and promptly. To do this would likely require a sophisticated package with major ground units from leading Latin American states, logistics, technological and intelligence assistance from the United States, a substantial package of economic aid, perhaps coordinated from Nations around the World, and a vigorous human rights effort to accompany the necessary military action. The action should also be coordinated with the United Nations Security Council even though as a matter of international law Colombia has every right simply to request assistance from any nation or the organization of American States to deal with its problem of terror. Further, the action should properly be placed in the global war on terror. Once the plan for overwhelming response has been adopted under the Rio Treaty, a requirement experience shows will lessen casualties on all sides, then the groups in Colombia resisting the rule of law should be given an opportunity to turn over their weapons and unconditionally accept democratic rule from the properly elected Colombia officials. If the perpetrators of terror refuse, the Inter-American plan should be carried out promptly and decisively to restore the rule of law and democracy throughout the proud nation of Colombia.

For many years I have heard brave representatives from Colombia describing the daily terror in their country. I have listened to the stories of car bombs, kidnappings, and a rural judiciary that had to wear running shoes to Court in order to be able to jump out of the window and run when the terrorist arrived. It is time to put those running shoes on those who challenge the rule of law.

ACCOUNTING REFORM

Mr. NELSON of Nebraska. Mr. President, I rise to express my support for the accounting reform bill and the underlying goals of the legislation. I wholeheartedly endorse the principles expressed in this bill to root out corruption in our accounting industry.

The need for this bill is enormous. The accounting scandals that have rocked this Nation over the past nine months have shaken Americans' faith in our free market system. We simply cannot allow this attack at the bedrock of our economic system to pass unanswered. Those who have propagated corporate greed, those who have engaged in unethical business practices, and those who have willingly and knowingly turned a blind eye must be punished.

Moreover, we need to assure all Americans that they can and should have faith in American business. The loss of confidence caused by a lack of accountability has caused nearly as much damage as the economic impact of these surfacing scandals.

The perpetrators of these scandals are certainly in the forefront of our minds as we have debated this legislation. But, in the end, this bill is not about those who have violated the trusts of their employees and shareholders. This bill is really about those employees and shareholders who have been violated, it's about average Americans who are now being penalized and disadvantaged because of the corporate greed of a privileged few. And it is about those honest accountants whose integrity and profession have been scarred by a few dishonest individuals.

I need look no further than my home State of Nebraska to see the human aspect of these fraudulent accounting practices. Before it merged with Houston Natural Gas in 1985, InterNorth, the forerunner of Enron, was based in Omaha. In the year following the merger, the newly named Enron relocated to Houston, but it still had roots in Nebraska as well as thousands of InterNorth retirees.

Those retirees and employees have seen their lives turned upside down by the accounting trickery perpetrated by those at the top. Many have seen their retirement accounts evaporate while others have lost their jobs.

Not only has their trust been violated by the actions of Enron executives, they also have to witness the apparent disinterest of the accountants who were obliged to ensure honesty and integrity in bookkeeping. With the livelihoods and savings of tens of thousands on the line, a handful of accountants failed to do their duty.

When I was governor of Nebraska, we had a period of upswing in the distribution of dangerous drugs. In response, we stiffened penalties in our omnibus crime legislation. The same principle applies here. When there is an upswing in criminal and unethical behavior, we have to get tough.

Corporate greed is a scourge on Americans and those who are participating in it should be paying the price.

This legislation will ensure they do pay a price commiserate with the pain they have inflicted upon the American people.

I'd like to thank my colleague Senator SARBANES for his tireless work on this bill. His efforts to crack down on unethical accounting practices are greatly appreciated.

I urge all of my colleagues to join me in supporting this bill. Through this legislation, we can move away from the failures of the past, begin to restore investor confidence, help return to our strong economy and prove that a few bad seeds cannot bring down our great Nation.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 1, 2001 in Roanoke, VA. Two men and the pastor of a predominantly gay church were attacked by three men after a Bible study and prayer meeting, police and the pastor said. The Rev. Catherine Houchins was struck in the face as she tried to call 911 on her cellular phone after the initial attack. The attackers, who came out of an alley as the victims were getting into their cars, were heard to yell obscenities related to the victims' sexual orientation.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

COMMENDING THE DISTRICT OF COLUMBIA NATIONAL GUARD, THE NATIONAL GUARD BUREAU, AND THE ENTIRE DEPARTMENT OF DEFENSE

• Mr. DURBIN. Mr. President, I rise today in support of H. Con. Res. 378, which passed the Senate by unanimous consent on July 12, 2002. This resolution commends the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire congressional community in response to the terrorist and anthrax attacks of September and October 2001.

I would like to thank all of those who worked tirelessly for almost five months in response to the heightened state of emergency in the Capitol complex following the terrorist and an-

thrax attacks of September and October 2001.

We owe so much to the over 140 members of the District of Columbia Army National Guard, specifically the 260th Military Police Command, the 260th Regional Training Institute, the 74th Troop Command, the Headquarters District Area Regional Command, and the 33rd Civil Support Team, who answered the call to duty to assist the Capitol Police in protecting the Capitol complex. We here in the Capitol saw firsthand the cooperation between the National Guard and the Capitol Police. This time presented a challenging assignment for all involved, and the combined efforts of these two agencies served as a model for managing such a difficult situation.

Because of these men and women, we were protected around the clock and the activities in the Capitol were secure. Members of Congress, congressional employees, and visitors were confident of their safety here, and we were able to continue to serve the American people.

The dedication of the District of Columbia National Guard came at a price. These men and women worked an extreme number of hours under difficult conditions. The time they spent in order to serve their country was time away from their loved ones, and we are grateful for the personal sacrifices they made for our nation.

During the course of the Civil War, Abraham Lincoln came to Washington as the new president. The States began to divide into the Confederacy and the Union. When he arrived, this Capitol dome which you see outside was under construction. Many people went to the President and said: Mr. President, we can't afford to wage a war and build this Capitol dome. He said: "Yes, we can, because that Capitol dome represents the unity of this country and what we will be after this war." During the Civil War, he continued the construction of that great dome we see today. And Lincoln was right.

The National Guard protected not only the people within the Capitol complex, but the complex itself and the unity, liberty, and freedom it represents. I am honored to support this resolution commending the work of the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense, and I extend my personal gratitude for their service. •

IN MEMORY OF THE LIFE AND LEGACY OF FRANCES RILEY

• Mr. SMITH of New Hampshire. Mr. President, I rise today in remembrance of a cherished friend and former Republican State representative, Frances Riley.

Mrs. Riley's professional career as a representative from New Hampshire

can only be described as accomplished, passionate, and revered. As a House member from 1985 to 1998, Fran co-founded the Legislature for Limited Spending and was a valued member of the Manchester Federation Republican Woman's Club. She demonstrated an unyielding respect, not only for her position but for the positions of her colleagues as well. This was an important principle from which Fran never faltered, solidifying her role as a first-rate political official.

Riley is survived by her husband, Paul; their three daughters, Katherine James, Christine Riley, and Karen Godzyk, one brother, one sister, and four grandchildren.

Frances Riley had been a resident and active member of the Manchester community since she arrived there in 1957. My friendship with Mrs. Riley began some time ago and she remained a treasured and admired presence in both my personal and professional life. Her absence will be felt by all of us whose lives she touched and who were privileged to be her friend. Fran, I'll miss you.●

APPLAUDING DIVERSITY

● Mr. BUNNING. Mr. President, I rise today among my colleagues to pay tribute to Susy Aparicio of Lexington, Kentucky. Last week, in what will surely be a giant step for Lexington's Latino community, Mrs. Aparicio officially opened Biblioteca Hispana to the public.

Susy Aparicio, a native of Ecuador, and her husband, a native of Bolivia, met while they were both students at the University of Kentucky in the late 1970s. After a short stint in Bolivia, Susy and her husband returned to Lexington. Throughout their time living in Kentucky, they have taken notice of the severe deficiency of books, magazines and newspapers available in Spanish. The public library offers a few options, but transportation and language issues serve as unavoidable obstacles to many Spanish-speaking residents. Although both Susy and her husband understand the importance of their children learning and mastering the English language, they still prefer that their children and their children's children grow up with access to resources published in their native language. For nearly two decades, Mrs. Aparicio has dreamed of opening a library where the Hispanic community could have easy access to various reading materials in Spanish. This dream has now become a reality.

Using a grant from the Partners for Youth Foundation, Susy organized a collection of about 400 books and audio and videotapes, mostly geared towards children. Eventually, Susy would like to obtain more funding to expand the library to include more adult-oriented books and offer storytelling, tutorial and family-literacy programs. She hopes this project will provide an adequate gateway for the Latino community to revel in its rich culture.

America is a diverse land full of differences in opinion, prayer and language. While I firmly believe that to succeed in America one must fully embrace the English language, at the same time the new arrivals to America should be sure to remember and celebrate their traditional roots. Diversity has always been and will remain to be one of this nation's greatest strengths.

Mrs. Aparicio has worked extremely hard for the Hispanic community in Lexington, and in the end, Biblioteca Hispana will be a place where future generations can take their children to learn about their ancestry and where they came from.●

TRIBUTE TO ATOMIC VETERANS

● Mr. MILLER. Mr. President, I rise to acknowledge President Reagan's designation of July 16 as National Atomic Veterans' Day.

Between 1945 and 1963, the United States conducted over 235 atmospheric nuclear weapons tests in the Pacific and the American Southwest. At least 220,000 American servicemembers participated in these tests, or were stationed near Hiroshima and Nagasaki immediately following World War II. While they served our country patriotically, loyally, and proudly they were not informed of the dangers from exposure to ionizing radiation. For 50 years, these veterans have been one of the most neglected groups, even though they risked their lives for our freedom.

Despite their valuable contributions to the United States, these veterans have not received the recognition they deserve. It is only appropriate that the American people remember the service of these dedicated veterans today, National Atomic Veterans' Day.●

ARTTABLE LUNCHEON

● Mrs. CLINTON. Mr. President, on April 26, 2002, I had the opportunity to attend the 10th annual ArtTable Luncheon. ArtTable is a national organization for professional women in leadership positions in the visual arts. Founded in 1981, it provides a forum for its members to exchange ideas, experience and information through various programs. ArtTable is dedicated to promoting and advancing greater knowledge, understanding, and appreciation of the visual arts. At each year's luncheon, a different woman who has given her distinguished service is honored. The keynote speaker on this occasion was Dr. Kirk Varnedoe, Chief Curator of the Department of Painting and Sculpture at the Museum of Modern Art and Professor in Historical Studies at the Institute for Advanced Study, Princeton University.

Dr. Varnedoe has more than a dozen major exhibitions to his credit, both for the Museum of Modern Art and for other institutions. His work has often been at the forefront of the history of modern art and his extensive publications on European and North American

art of the nineteenth and twentieth centuries have helped reshape and open up a variety of fields in art history. His contributions began in 1972, at the age of 25, with his doctoral dissertation on the drawings of Rodin and the epidemic problem of forgeries of the later drawings. This work was so significant that its results were published in collaboration with Albert Elsen before the dissertation had even been submitted. His scholarship since that time has been instrumental in opening entire fields of inquiry, for example, Impressionism, Scandinavian modernism, and the influence of photography on painting, as well as bringing little known artists into the center of debate.

In his remarks at the luncheon, which I will ask be printed in the RECORD, Dr. Varnedoe spoke eloquently about his "personal odyssey with the art of Auguste Rodin" and the greater issues that journey brought to life. He discussed the ever-changing world of modern art and what it can teach us, especially during this incredibly challenging period of history through which we are living.

I am grateful to Dr. Varnedoe for his continued scholarship efforts in the area of art history and for sharing this history with us in a way that we can apply it to our experiences in the world today.

I ask that the remarks be printed in the RECORD.

ARTTABLE KEYNOTE

April 26, 2002

(By Kirk Varnedoe)

I have had a personal odyssey with the art of Auguste Rodin. It's a love that I share—along with a great regard for her late husband Bernie—with Iris Cantor. Rodin was once for me an intense and special passion, a singular entry point into the history of art. And now, that body of work seems somehow seen at a distance, more coolly, and that artist one among many with whom I've worked, and from whom I've taken inspiration. Today, I would like to take that small and really trivial personal trajectory into and through Rodin and ruminate on it in relationship to a larger pattern: to use it to think about the way that the modern tradition metes out its gains and losses, the way it gives and takes; and then also to use my little journey to suggest much larger issues about learning and growth—about what we want from art as we change and learn.

Modern art, as is notorious, kills, and it kills mercilessly. In the late 19th Century as it was just being born it laid waste to the Salon world of Gérôme and Bouguereau. And then as it built up steam in the early 20th Century it decided to start slaying some of its own parents and godparents. After World War II modern art killed Rodin like a bright young barbarian gladiator taking down an aging, opulently garlanded emperor—in sheer exhaustion at the achievement of Rodin's weight and complexity, people found themselves gagged to surfeit by the ancienne cuisine richness of this enormous oeuvre, and yearned for a leaner, cleaner psychic and physical life in art. That is perhaps exemplified most pointedly by the beautiful polished surfaces of Brancusi's sculpture. Where once Rodin's flesh roiled volcanically, now you had a still-waters-run-deep beautiful gleam, more like armor than palping flesh; compression/density replaced extension/elasticity;

wit and elegance took over for brooding and suffering; and abbreviated, pithy economic certainties were set up against the older anguished overflowing desire and doubt; fulfillment replaced yearning, and the sticky sweet humidity of Rodin's world was replaced by slick machine cool. And then in the 20's and 30's, the curse of the word "Victorian" descended on The Kiss on The Thinker and on so much else of Rodin's work. A curse that I might say is still enacted at the Metropolitan Museum of Art, if you go look at the installation of the former Andre Meyer Galleries where there is a special kind of purgatory off to the right of Cezanne Degas, and Manet, where The Age of Bronze strides in pride next to Rosa Bonheur and Bastien-Lepage.

But just as certainly as the modern movement took away, it so eventually gave back. Modern art is a sure killer but it is also a fantastic resuscitator. And it works its growth through pulses of recovery. One of those main pulses came in the 1960's with scholarship by men like my mentor Albert Elsen at Stanford, and by Leo Steinberg, who wrote a key essay at the time of Elsen's Retrospective of Rodin at the Modern in the late 60's. Elsen re-found a new Rodin, via his training under Meyer Schapiro, and by his engagement as a young man in the 50's with Abstract Expressionism. And his show in the late 60's was the culmination of new interest, in everything about Rodin's bronzes that was spontaneous, painterly, seemed to depend on accident, and broadcast a kind of heroic drama of angst that seemed in tune with Pollock, with Rothko etc.. While Steinberg, on the other hand, via his experience of Jasper Johns and Judd, pointed us to a new awareness of the formal strategies of Rodin: his techniques of repeating single molds to form new compositions; his processes of fragmenting and hybridizing the body's anatomy, against nature, towards new expressive devices. In these radical, small gestures of handling material, he found a new and more relevant Rodin for the late 60's, the age of minimalism.

Moving on, recuperating, resuscitating, the way that Modern art does it, involves, not simply leaving behind, but finding new ways to carry forward. We know that for example that Cezanne said that his goal was to redo Poussin after nature. Modern art has always had a steady urge to reinvent the past and to recapture it in terms that translate its values into ours, to reinvent, to make new, and this means not only old masters like Poussin, but its immediate forerunners. So in the 1960s, you not only have the reinvention of Rodin, but the re-invention of Russian Constructivism through minimalism, Marcel Duchamp reborn in the work of Richard Hamilton, Jasper Johns and Bruce Nauman, and Futurism in Pop Art, especially British. A whole new parentage was reinvented, often outside the traditional "school of Paris" lineage, for Modernism. And the "recovery" of Rodin was a part of this revivification.

But at what a cost? Steinberg's essay for example, was explicit in saying we have to begin by disregarding so much. We have to begin by eliminating all of the public Rodin, all of the finished works, indeed virtually all of the most ambitious parts of his work, which are seen in a scornful way, as part of the desire to please too large a public. Steinberg wants to favor instead the intransigent truculence of a private experimenter, showing no compromise at all with the tastes or demands or emotions of the public of his time. In Steinberg's case it is particularly modern irony that imposes the great divide between our cooler, sophistication, and a rejected messier world of sentiment pathos, and earnest heroism in Rodins.

"Our" Rodin, then, relevant, sanitized and censored—not the Rodin of The Kiss, the

Thinker, or the marble works, and surely not the Rodin before whom Cézanne fell embarrassingly to his knees, and to whom Rainer Maria Rilke dedicated his pen and his time. Is that the inevitable price of progress in knowing art? To narrow-hew, in order to make newly vivid/relevant? To diminish and deform as we try to reform, pick and choose?

This audience in this room is a kind of aristocracy, or meritocracy, of special knowledge about art. We work at it. We are typical of those the self-elected and self-organized elites and cenacles and Salons that have made Modern art get up and go from the beginning and all along. And this group too is typical of the kind of voluntary assemblages—shooting associations, stamp guilds, glee clubs, softball leagues and debating societies—that, far from being anti-democratic in nature, have been seen by observers since Tocqueville as being central to the health of our plural society, and indeed the unscripted backbone of democracy's difference from mere mob rule. Now it's an article of faith in this room that knowing more about art, being more sophisticated, is certainly a good way of forming a club, of defining one's self, gathering together with fellow feelers. But is it a legitimate corollary that more sophistication and knowledge is necessarily greater moral intelligence about the larger world, or indeed about all art? The dirty truth is that there is always a price to be paid, in the deadening of our capacity to respond to joys that once moved us, sealing us off from others in our iced and ironic superiority.

We have been living for years now in a time of great surprises, unpredictable events and changes that have deeply affected us—the coming of AIDS, and with it a new sense of fatality and mortality; the fall of the wall and what did not come in the wake of its euphoria; the haunted resurgence of Holocaust memory—and then, finally the massive rent in the historical fabric that took place just over six months ago. It is not just that the art of Louise Bourgeois, of Ghormley and Munoz, of Kiki Smith and Charlie Ray have for years now been asking us to rethink Rodin's heritage of the vulnerable body. Nor certainly am I dealing with only the question of suddenly now considering the specific memorial, monumental and public ambitions of the best sense of memory and tragedy in this one artist, Rodin—though both of these reinventions and rethinking seem overdue. But what seems subliminally an issue now is the broader confrontation with what our sophistications may cost us more generally—in a lack of access to the heroic, or to tragic, when these terms seem suddenly, newly apposite and relevant. Is it we slick pros who are irrelevant, and bound in? Inadequate to our time, as it has to our great surprise changed faster than we seem to be able to? This is a question I know many artists have been asking themselves, and it is one worth our asking ourselves too.

We need to rethink the balance of continuity, and relevance in art, the two things I think, that we go to art for. On the one hand for a vivid sense of our own life, of being alive, but also for a sense of things outside ourselves, other minds, other ways of feeling. And that other shifts as we change, and grow, and can include the parts of ourselves, the passions that got us here but that we have abandoned and closed up to some ostensible hipper and better good. What does it mean to grow up? (Baudelaire felt that true genius was only childhood recovered at will, now equipped with adult means of communication) What does it mean in the art world that we all inhabit, to be a pro? Is it a dead ideal that it could entail for ourselves, and those we advise and instruct an effort always towards a broadening, increasing sympathy for a wider range of life experience, more en-

compassing, more fully human? It might—if we could be less hidebound, a little more sure of ourselves—it might be a goal to be more alive to the possibilities of our peculiar moment in history, if we truly work at it.●

CONGRATULATIONS TO WESTMINSTER CHRISTIAN ACADEMY

● Mr. BOND. Mr. President, I would like to congratulate Westminster Christian Academy of St. Louis, Missouri for their second place award in the "We the People . . . The Citizen and the Constitution" competition held in Washington, D.C. from May 4-6, 2002. These outstanding young people competed against 50 other classes from across the nation and demonstrated a remarkable understanding of the fundamental ideals and values of American constitutional government. I commend these students for their hard work and keen understanding of the Constitution and the Bill of Rights and the principles and values they embody. Congratulations to Chelsea Aaberg, Erin Aucker, Claire Barresi, David Baxter, Jordan Chapell, Eric Dalbey, Matt Frick, Brandon Furlong, Matt Georges, Megan Ghormley, Kate Gladney, Abi Haas, Elisabeth McClain, Alyson Miller, Becky Miller, Emily Munson, Amy Myers, Anu Orebiyi, Lauren Petry, Cassie Reed, Terra Romar, Matt Schrenk, Drew Winship, and Bethanne Zink.●

TRIBUTE TO LT. GEN. MICHAEL A. NELSON, U.S. AIR FORCE, RETIRED

● Mr. WARNER. Mr. President, I rise today to pay tribute to an exceptional leader—Lieutenant General Mike Nelson, United States Air Force, Retired—in recognition of his remarkable career of service to our country.

General Nelson has a truly distinguished record, including 35 years of commissioned service in the U.S. Air Force uniform, that merits special recognition on the occasion of his retirement as President of The Retired Officers Association (TROA).

Born in East Los Angeles, California, he graduated from Stanford University and entered the Air Force as a second lieutenant in 1959, then earned his pilot's wings the following year. His subsequent military career exemplifies what the Air Force expects from its best and brightest.

General Nelson demonstrated valor and leadership throughout his 35 years of dedicated military service to his country, and has been a positive role model and mentor for countless officers of all services in his dedication to protecting the welfare of those who serve and sacrifice in uniform. That dedication and excellence has not diminished in his subsequent service to our nation's military community since 1995 as President of The Retired Officers Association, the position from which he is now retiring.

Under his thoughtful and inspired leadership, The Retired Officers Association has played a continuing, vital

role as a staunch advocate of legislative initiatives to maintain readiness and improve the quality of life for all members of the uniformed service community—active, reserve, and retired, plus their families and survivors.

General Nelson has been a key supporter of the Armed Services Committee's efforts to improve long-term retention and readiness through a competitive compensation and retirement package for active and reserve forces, restoration of lifetime health care and fair disability treatment for retired personnel and their families, and enhancing protections for the survivors of deceased service members. Guided by his personal leadership efforts, TROA has been an invaluable source of information in the committee's deliberations on a long list of compensation and benefits issues during this extraordinarily productive period.

General Nelson's long and exceptionally distinguished career of leadership and personal dedication to protecting our Nation and those who serve in our armed forces is an inspiration to all who care about maintaining a strong national defense. Our very best wishes go with him for long life, well-earned happiness, and continued success in service to his nation and the uniformed service members whom he has so admirably led and served.

As a former Sailor and Marine, I offer General Nelson a grateful and heartfelt salute.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 6:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3214. An act to amend the charter of the AMVETS organizations.

H.R. 3482. An act to provide greater cybersecurity.

H.R. 3838. An act to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes.

H.R. 3988. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

H.R. 4755. An act to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the "Clarence Miller Post Office Building".

H.R. 4807. An act to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 408. Concurrent resolution honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs.

H. Con. Res. 413. Concurrent resolution honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary; to the Committee on the Judiciary.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3214. An act to amend the charter of the AMVETS organization; to the Committee on the Judiciary.

H.R. 3482. An act to provide greater cybersecurity; to the Committee on the Judiciary.

H.R. 3838. An act to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes; to the Committee on the Judiciary.

H.R. 3988. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion; to the Committee on the Judiciary.

H.R. 4755. An act to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the "Clarence Miller Post Office Building"; to the Committee on Governmental Affairs.

H.R. 4807. An act to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 408. Concurrent resolution honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs; to the Committee on Environment and Public Works.

H. Con. Res. 413. Concurrent resolution honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2. A bill to amend title XVIII of the Social Security Act to provide for a medicare

voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

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-7898. A communication from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the 2001 Annual Uranium Industry Report; to the Committee on Energy and Natural Resources.

EC-7899. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "New Mexico Regulatory Program" (NM-042-FOR) received on July 10, 2002; to the Committee on Energy and Natural Resources.

EC-7900. A communication from the General Counsel, National Science Foundation, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Revise National Science Foundation's Misconduct in Science and Engineering Regulations at 45 CFR Part 689" (RIN3145-AA39) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7901. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, transmitting, pursuant to law, the report of a rule entitled "Child and Adult Care Food Program: Implementing Legislative Reforms to Strengthen Program Integrity" (RIN0584-AC94) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7902. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Housing Assistance for Native Hawaiians; Native Hawaiian Housing Block Grant Program and Loan Guarantees for Native Hawaiian Housing" (RIN2577-AC27) received on July 9, 2002; to the Committee on Indian Affairs.

EC-7903. A communication from the Associate Deputy Administrator for Government Contracting and Business Development, Small Business Administration, transmitting, the report of a delay in submitting the Minority Small Business and Capitol Ownership Development Report for Fiscal Year 2001; to the Committee on Small Business and Entrepreneurship.

EC-7904. A communication from the Secretary of Education, transmitting, pursuant to law, a report with respect to the recommendations contained in the report of the President's Advisory Commission on Educational Excellence for Hispanic Americans; to the Committee on Health, Education, Labor, and Pensions.

EC-7905. A communication from the Comptroller General of the United States, General Accounting Office, transmitting, pursuant to law, a report concerning U.S. General Accounting Office (GAO) employees who were assigned to congressional committees during Fiscal Year 2001; to the Committee on Governmental Affairs.

EC-7906. A communication from the Director, Office of Personnel Management, Employment Service, Staffing and Restructuring Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Career Transition Assistance for Surplus and Displaced

Federal Employees" (RIN3206-AJ32) received on June 26, 2002; to the Committee on Governmental Affairs.

EC-7907. A communication from the Administrator and Chief Executive Officer, Bonneville Power Administration, Department of Energy, transmitting, pursuant to law, the Annual Report for 2001; to the Committee on Governmental Affairs.

EC-7908. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Audit of Advisory Neighborhood Commission 8C for Fiscal Years 2000, 2001, and 2002 from October 1, 1999 through December 31, 2002; to the Committee on Governmental Affairs.

EC-7909. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "NAFTA Procurement Threshold" (DFARS Case 2002-D007) received on June 26, 2002; to the Committee on Armed Services.

EC-7910. A communication from the Acting Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, Amtrak's Route Profitability Systems Results Report for Fiscal Year 2001; to the Committee on Commerce, Science, and Transportation.

EC-7911. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Assistance to Firefighters Grant Program" (RIN3067-AD21) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7912. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Twenty-Fourth Annual Report concerning the Fair Debt Collection Practices Act for 2002; to the Committee on Commerce, Science, and Transportation.

EC-7913. A communication from the Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Development, transmitting, pursuant to law, the Federal Housing Administration's Fiscal Year 2001 Annual Report on Initiatives to Address Management Deficiencies; to the Committee on Banking, Housing, and Urban Affairs.

EC-7914. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Assessments on Security Futures Transactions and Fees on Sales of Securities Resulting From Physical Settlement of Securities Futures Pursuant to Section 31 of the Exchange Act" (RIN3235-AI49) received on July 9, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7915. A communication from the Executive Director, Air Transportation Stabilization Board, transmitting, pursuant to law, the report of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC-7916. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent U.S. military personnel and U.S. individual civilians retained as contractors involved in the antinarcootics campaign in Columbia supporting Plan Colombia; to the Committee on Appropriations.

EC-7917. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, a report relative to specifying the projects and accounts to which funds provided in the Counter-Terrorism and Defense Against Weapons of Mass Destruction accounts are to be transferred; to the Committee on Armed Services.

EC-7918. A communication from the Assistant Secretary of the Army, Financial Management and Comptroller, Department of the Army, transmitting, pursuant to law, the Army Annual Financial Statement for Fiscal Year 2001; to the Committee on Armed Services.

EC-7919. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Ocean Transportation by U.S. Flag Vessels" (DFARS Case 2000-D014) received on July 9, 2002; to the Committee on Armed Services.

EC-7920. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Utilization of Indian Organizations and Indian-Owned Economic Enterprises" (DFARS Case 2000-D024) received on July 9, 2002; to the Committee on Armed Services.

EC-7921. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the National Defense Stockpile (NDS) Annual Materials Plan (AMP) for Fiscal Year 2003, and revisions to the Fiscal Year 2002 AMP; also included are AMPs for Fiscal Years 2004 through 2007; to the Committee on Armed Services.

EC-7922. A communication from the Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "TRICARE; CHAMPUS; Bonus Payment in Medically Underserved Areas" (RIN0720-AA60) received on July 10, 2002; to the Committee on Armed Services.

EC-7923. A communication from the Secretary of State, transmitting, pursuant to law, a report on verification of The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions signed May 24, 2002 in Moscow (the Moscow Treaty); to the Committee on Foreign Relations.

EC-7924. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the Annual Report on U.S. Government Assistance to Eastern Europe for Fiscal Year 2002; to the Committee on Foreign Relations.

EC-7925. A communication from the Assistant Bureau Chief for Management, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Establishment of Policies and Service Rules for the Non-Geostationary Satellite Orbit, Fixed Satellite Service in the Ku-Band" (FCC 02-123) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7926. A communication from the Deputy Chief, Telecom Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers" (FCC 02-171) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7927. A communication from the Assistant Bureau Chief, International Bureau, Policy Division, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of 2000 Biennial Regulatory Review, Amendment of Parts 43 and 63 of the Commission's Rules" (FCC 02-154) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7928. A communication from the Assistant Chief, Telecom Access Policy Division,

Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers" (FCC 02-181) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7929. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pipeline Safety: Drug and Alcohol Testing for Pipeline Facility Employees" (RIN2137-AD55) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7930. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Boeing Model 757-200, 200CB, and 200PF, and 767-200, and 300, and 300F, Series Airplanes" ((RIN2120-AA64)(2002-0313)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7931. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "McDonnell Douglas Model MD-90-30 Airplanes" ((RIN2120-AA64)(2002-0314)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7932. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Retention of Shipping Papers" (RIN2137-AC64) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7933. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pipeline Safety: Hazardous Liquid Pipeline Accident Reporting Revisions" (RIN2137-AD56) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7934. A communication from the Office of Managing Director, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Assessment and Collection of Regulatory Fees for Fiscal Year 2002" (MD Doc. No. 02-64, FCC 02-205) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7935. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "1998 Biennial Regulatory Review—Conducted Emission Limits Below 30 MHz for Equipment Regulated under Parts 15 and 18 of the Commission's Rules" (ET Doc. No. 98-80, FCC 02-157) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7936. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Part 15 of the Commission's Rules Regarding Spread Spectrum Devices" (ET Doc. No. 99-231, FCC 02-151) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7937. A communication from the Deputy Chief, Policy and Rules Division, Office

of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems" (ET Doc. No. 98-253, FCC 02-48) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7938. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Alexandria, MN" (MM Doc. No. 01-207, RM-10206) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7939. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Station; Calais, ME" (MM Doc. No. 01-167, RM-10180) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7940. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Pierce, Nebraska; Coosada, Alabama; Pineview, Georgia; Diamond Lake, Oregon" (MM Doc. No. 01-340; 01-341; 01-342; 01-343) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7941. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Cocoa, FL" (MM Doc. No. 01-162; RM-10183) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7942. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Lakin, KS" (MM Doc. No. 02-3, RM-10349) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7943. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Bryan, TX" (MM Doc. No. 00-124; RM-9893) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7944. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Charleston, SC" (MM Doc. No. 01-128, RM-10133) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7945. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Boca Raton, FL" (MM

Doc. No. 00-138; RM-9896) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7946. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Woodbury, GA; Reliance, WY; Eagle Lake, TX; Montana City, MT; Plainville, GA; Rosholt, WI; Morgantown, KY; Boswell, OK; Frederic, MI" (MM Doc. No. 01-13, 01-20, 01-80, 01-81, 01-102, 01-103, 01-114, 01-136, 01-201) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7947. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Huntington, WV" (MM Doc. No. 01-56) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7948. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, and Section 73.606(b), Table of Allotments, TV Broadcast Stations; Springfield, IL" (MM Doc. No. 02-27) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7949. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Clarksburg, WV" (MM Doc. No. 01-165) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7950. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Request for Comments Eurocopter France Model AS332L2 Helicopters" ((RIN2120-AA64) (2002-0316)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7951. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Wickenburg and Salome, AZ" (MM Doc. No. 01-345) received on July 11, 2002, received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7952. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes" ((RIN2120-AA64) (2002-0308)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7953. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pratt and Whitney (PW) PW2000 Series Turbofan Engines" ((RIN2120-AA64) (2002-0310)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7954. A communication from the Paralegal Specialist of the Federal Aviation Ad-

ministration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Bell Helicopter Textron Canada Model 407 Helicopters" ((RIN2120-AA64) (2002-0311)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7955. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Eurocopter France Model AS332L2 Helicopters" ((RIN2120-AA64) (2002-0315)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7956. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace; Rockford, IL Modification of Class E Airspace; Rockford, IL Correction" ((RIN2120-AA66) (2002-0114)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7957. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Portsmouth, OH" ((RIN2120-AA66) (2002-0112)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7958. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Freemont, NE Class E Airspace Area" ((RIN2120-AA66) (2002-0113)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7959. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Honeywell International, Inc. (formerly AlliedSignal and Textron Lycoming) ALF-502 and LF507 Turbofan Engines" ((RIN2120-AA64) (2002-0307)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7960. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Flint, MI" ((RIN2120-AA66) (2002-0010)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7961. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace, St. Ignace, MI" ((RIN2120-AA66) (2002-0111)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7962. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace, Washington Court House, OH" ((RIN2120-AA66) (2002-0108)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7963. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mount Vernon, OH" ((RIN2120-AA66)

(2002-0109)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7964. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Cincinnati/Northern Kentucky International Airport Class B Airspace Area; Kentucky" ((RIN2120-AA66) (2002-0107)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7965. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Raytheon Aircraft Company Models E55, E55A, A56TC, 58, 58A, 58P, 58PA, 58TC, and 58TCA Airplanes" ((RIN2120-AA64) (2002-0312)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7966. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Jet Route" ((RIN2120-AA66) (2002-0106)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7967. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Change Using Agency R-4305, Lake Superior, MN" ((RIN2120-AA66) (2002-0105)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7968. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Naval Submarine Base Bangor and Naval Submarines, Puget Sound and Strait of Juan De Fuca, WA" ((RIN2115-AA97) (2002-0117)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7969. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Portsmouth Harbor, Portsmouth, NH" ((RIN2115-AA97) (2002-0119)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7970. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Pilgrim Nuclear Power Plant, Plymouth, MA" ((RIN2115-AA97) (2002-0115)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7971. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port Valdez and Valdez Narrows, Valdez, Alaska" ((RIN2115-AA97) (2002-0114)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7972. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Charles' Engagement Fireworks Display, Black Point, CT" ((RIN2115-AA97) (2002-0118)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

((RIN2115-AA97) (2002-0118)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7973. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Force River Channel—Weymouth Fore River—Weymouth, MA" ((RIN2115-AA97) (2002-0121)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7974. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Corpus Christi Inner Harbor, Corpus Christi, TX" ((RIN2115-AA97) (2002-0124)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7975. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Navigation and Navigable Waters—Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments" ((RIN2115-ZZ02) (2002-0001)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7976. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Offshore Gran Prix Powerboat Race, Long Beach, CA" ((RIN2115-AA97) (2002-0116)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7977. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Chesapeake Bay, Hampton Roads, James River, VA" ((RIN2115-AA97) (2002-0125)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7978. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Macatawa Triathlon, Holland, MI" ((RIN2115-AA97) (2002-0127)) received on July 11, 2002; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 7: A bill to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets. (Rept. No. 107-211).

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. GRAHAM (for himself and Mr. NELSON of Florida):

S. 2730. A bill to modify certain water resources projects for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida and Alabama; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 2731. A bill to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Ms. SNOWE):

S. 2732. A bill to allow a custodial parent a bad debt deduction for unpaid child support payments, and to require a parent who is chronically delinquent in child support to include the amount of the unpaid obligation in gross income; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2733. A bill to amend the Internal Revenue Code of 1986 to expand retirement savings for moderate and lower income workers, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. HOLLINGS, Ms. LANDRIEU, Mr. BAUCUS, Mr. BINGAMAN, Mr. DASCHLE, and Mr. JOHNSON):

S. 2734. A bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought; to the Committee on Small Business and Entrepreneurship.

By Mr. ENSIGN:

S. 2735. A bill to amend title 49, United States Code, to provide for the modification of airport terminal buildings to accommodate explosive detection systems for screening checked baggage, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HAGEL (for himself, Mr. ENSIGN, Mr. LUGAR, Mr. GRAMM, and Mr. INHOFE):

S. 2736. A bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs; to the Committee on Finance.

By Mrs. LINCOLN:

S.J. Res. 40. A joint resolution designating August as "National Missing Adult Awareness Month"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 318

At the request of Mr. DASCHLE, the names of the Senator from Rhode Island (Mr. REED) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 318, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance.

S. 532

At the request of Mr. DORGAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 532, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Michigan

(Ms. STABENOW) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds \$1,200, adjusted for inflation.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 1002

At the request of Ms. SNOWE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1291

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Kansas (Mr. BROWNBACK), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. DEWINE), the Senator from Washington (Mrs. MURRAY), the Senator from Indiana (Mr. LUGAR), the Senator from Nevada (Mr. REID) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1291, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien college-bound students who are long term United States residents.

S. 1655

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1794

At the request of Mr. CLELAND, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1794, a bill to amend title 49, United States Code, to prohibit the unauthorized circumvention of airport security systems and procedures.

S. 2047

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 2047, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

S. 2119

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr.

MILLER) was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2188

At the request of Mr. BREAUX, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 2188, a bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act.

S. 2246

At the request of Mr. DODD, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2512

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2570

At the request of Mr. NELSON of Nebraska, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2570, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program, and for other purposes.

S. 2613

At the request of Mr. LIEBERMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2622

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2647

At the request of Ms. SNOWE, the name of the Senator from Louisiana

(Ms. LANDRIEU) was added as a cosponsor of S. 2647, a bill to require that activities carried out by the United States in Afghanistan relating to governance, reconstruction and development, and refugee relief and assistance will support the basic human rights of women and women's participation and leadership in these areas.

S. 2679

At the request of Mr. BAUCUS, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2679, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for offering employer-based health insurance coverage, to provide for the establishment of health plan purchasing alliances, and for other purposes.

S. 2700

At the request of Mrs. LINCOLN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2700, a bill to amend titles II and XVI of the Social Security Act to limit the amount of attorney assessments for representation of claimants and to extend the attorney fee payment system to claims under title XVI of that Act.

S. 2712

At the request of Mr. HELMS, his name and the name of the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 2712, a bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from New Jersey (Mr. TORRICELLI), the Senator from Florida (Mr. GRAHAM), the Senator from Kentucky (Mr. BUNNING), the Senator from Connecticut (Mr. DODD), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as "Put the Brakes on Fatalities Day".

S. RES. 270

At the request of Mr. CAMPBELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as "National Cystic Fibrosis Awareness Week".

S. RES. 302

At the request of Mr. BUNNING, his name was added as a cosponsor of S. Res. 302, a resolution honoring Ted Williams and extending the condolences of the Senate on his death.

STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mr. NELSON of Florida):

S. 2730. A bill to modify certain water resources projects for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida and Alabama; to the Committee on Environment and Public Works.

Mr. GRAHAM. Mr. President, the locals call it "God's country." The Apalachicola River, beginning at the confluence of the Chattahoochee and Flint River, near the borders of Alabama, Florida, and Georgia, was and remains an important waterway in the southeast. The river's purpose as a waterway, however, has changed since its colonial fame.

The Apalachicola is the largest river east of the Mississippi. In its heyday, the Apalachicola was an important tributary that served as the largest port on the Gulf of Mexico, harboring ships carrying cotton to Europe and New England.

In the 21st century, while no longer an essential route of transport, the Apalachicola River is an important environmental and commercial asset. The history of the Apalachicola River is an Army Corps of Engineers project began in 1945 with the Rivers and Harbors Act, which authorized dredging of navigation channels. Over the past 57 years, millions of taxpayer dollars have been swept down the river in an effort to dredge and maintain the 9 foot deep channel.

The Corps has had difficulty maintaining the channel, and combines dredging with water releases in order to raise water levels and provide navigation windows. This system is hopelessly flawed. Dredging is unmanageable and navigation windows are unreliable, making the process a fiscal waste.

Add to this fact over the last few years, commercial barge traffic has slowed from an intermittent stream to a virtually non-existent trickle. River traffic dropped dramatically in the late 1990's, with fewer than 200 barges a year using the river system. By 2001, only 30 barges used the entire tri-river system with the cost of dredging the channel exceeding \$30,000 per barge. The past November, the only company that used barges to carry cargo on the upper reaches of the river ceased operations.

Furthermore, the Congressional Budget Office estimates that the average cost per ton-mile from 1995-98 at 14.1 cents, almost 24 times more than the cost of the Upper Mississippi River at .597 cents. In light of these circumstances, continuing to dredge Florida's largest river is not just wasteful, it is foolish.

Ending the dredging is not just about how wasteful this project is, it is also about the environmental destruction that is being inflicted on the Apalachicola River and Bay. There are now beaches of sand where there were once

river banks. There are now walls of sand, some towering like buildings four stories high, where the river waters used to meander. To date, dredged sand has resulted in the destruction of approximately one-quarter of the banks of the Apalachicola. The large amounts of sand have choked sloughs and cut off the water supply to surrounding habitat, ultimately threatening the local economy.

Navigation windows remain a threat to endanger species like the Gulf Sturgeon, the Fat Three-Ridge and the Purple Bank Climber. The April 2000 navigation window resulted in an almost complete failure of sportfish spawn along the entire Apalachicola River and reservoirs upstream. Sportfish populations have been in rapid decline along the river since 1990. This time frame corresponds with the Corps' continued reliance on water releases to provide adequate water for navigation.

The constant and gross interruptions of nature have degraded the environment of the Apalachicola River and quality of life of those who depend upon it. Because of this, the Apalachicola recently earned the designation by American Rivers as one of our nation's Most Endangered Rivers. The Apalachicola has also been included in the 2000 Troubled Waters Report and the 2001 and 2002 Green Scissors Reports.

Manipulation of the Apalachicola poses a serious risk to the local economy. Important businesses, such as farmers who produce Tupelo honey and the fishermen who harvest oysters and shrimp in Apalachicola Bay, are dependent on the river's overall health. Commercial fishing operations along the Gulf Coast also rely on the Bay for their livelihood.

The negative impacts of dredging and the low commercial use of the Apalachicola River led former Secretary of the Army for Civil Works, Joe Westphal, to describe the project as not "economically justified or environmentally defensible."

Dredging the Apalachicola exacts too high a price from both taxpayers and the environment. Clearly it is time to rethink this expensive and ecologically devastating practice. The bill I offer today, the Restore the Apalachicola River Ecosystem, RARE, Act, provides for the actions necessary to reform the Apalachicola River project.

First, my bill puts a stop to navigational dredging.

Secondly, it instructs the Corps to develop a comprehensive restoration plan to be submitted to Congress that corrects the past harms done to the Apalachicola.

This legislation is widely supported in the State of Florida. Governor Jeb Bush and his Cabinet recently passed a resolution that calls the end of navigational dredging on the Apalachicola. My bill is supported by the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Northwest Florida Water Management District, Tax-

payers for Common Sense, American Rivers, Audubon Society, Florida Wildlife Federation, the Apalachicola Bay and River Keepers, Help Save the Apalachicola River, the Nature Conservancy, the Apalachee Ecological Conservancy, the Chipola River Economic and Environmental Council, the League of Conservation Voters Education Fund, Florida PIRG, the Florida Fishermen Federation, and 1000 Friends of Florida.

The only way to restore the Apalachicola River to its former greatness is to cease navigational dredging. This designation of the Apalachicola as one of the nation's most endangered rivers should be a wake-up call to Congress and the Army Corps of Engineers to permanently end the dredging of the Apalachicola and allow the river to return to its natural state free of man's manipulation.

I urge my colleagues to support this legislation, which is both fiscally sound and environmentally responsible.

Mr. NELSON of Florida. Mr. President, I rise to day in support of the Graham-Nelson bill to de-authorize the dredging of the Apalachicola River.

The time has come to end the dredging of the Apalachicola river in north Florida. The detriments far outweigh the benefits of this expensive Army Corps of Engineers river project. The barge traffic is negligible; and the environmental and economic impact to the area surrounding this river are harmful.

Since 1998, fewer than 140 barges have used the Florida portion of the Apalachicola River. And of the barge traffic that does navigate this waterway, most is confined to a 6 mile long stretch of the Apalachicola-Chattahoochee-Flint ACF River System for the transport of sand and gravel, the principal commodity shipped on the system.

The dredging to keep this small amount of barge traffic going has resulted in sand mountains that have destroyed one-quarter of the banks of the Apalachicola River and choked sloughs cutting off water supply to surrounding habitat. In addition, the releases of large quantities of water to allow barge traffic to navigate the river disrupts the spawning behavior of three endangered species: the Gulf Sturgeon, the Fat Three-Ridge and the Purple Bank Climber.

Another concern is the effect of pulses of this fresh water on the balance of salt and fresh water in Apalachicola Bay. The Apalachicola Bay is the largest oyster harvesting area in the Gulf of Mexico and one of the principal nurseries for Gulf Shrimp and blue crabs. Commercial fishing operations along the Gulf coast rely heavily on the Bay for their continued prosperity. The fresh water influxes threaten this important industry. For these reasons, this project must end.

I urge my colleagues support for this important piece of legislation.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 2731. A bill to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today along with Senator TORRICELLI I am introducing legislation, the Crossroads of the American Revolution National Heritage Area Act of 2002, to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey. I am proud to be joining my New Jersey colleagues, Representatives RODNEY FRELINGHUYSEN and RUSH HOLT, who have introduced this legislation in the House of Representatives with the support of the entire New Jersey delegation.

This legislation recognizes the critical role that New Jersey played during the American Revolution. In fact, New Jersey was the site of nearly 300 military engagements that helped determine the course of our history as a nation. Many of these locations, like the site where George Washington made his historic crossing of the Delaware River, are well known and preserved. Others, such as the Monmouth Battlefield State Park in Manalapan and Freehold, and New Bridge Landing in River Edge, are less well known and are threatened by development or in critical need of funding for rehabilitation.

To help preserve New Jersey's Revolutionary War sites, this legislation would establish a Crossroads of the American Revolution National Heritage, linking about 250 sites in 15 counties. This designation would authorize \$10 million to assist preservation, recreational and educational efforts by the State, county and local governments as well as private cultural and tourism groups. The program would be managed by the non-profit Crossroads of the American Revolution Association.

A National Heritage Area would bring many benefits to New Jersey. First, it would help our communities and state preserve our history and educate our citizens. It would also encourage the protection of open space within the area, which is so critical to our quality of life. Finally, National Heritage Areas create significant economic opportunities, providing local communities with incentives and resources to work together to increase tourism in the region by highlighting historic sites and cultural events.

Simply put, we are the Nation that we are today because of the critical events that occurred in New Jersey during the American Revolution and the many who died fighting there. By enacting the Crossroads of the American Revolution National Heritage Area Act of 2002, we will pay tribute to the patriots who fought and died in New Jersey so that we might become a Nation free from tyranny.

I am proud to introduce this legislation to ensure that we properly honor New Jersey's pivotal role in our Nation's history as the true crossroads of the American Revolution.

By Mrs. BOXER (for herself and Ms. SNOWE):

S. 2732. A bill to allow a custodial parent a bad debt deduction for unpaid child support payments, and to require a parent who is chronically delinquent in child support to include the amount of the unpaid obligation in gross income; to the Committee on Finance.

Mrs. BOXER. Mr. President, the bill I am introducing today is long overdue. The Child Support Enforcement Act will bring much-needed relief to the millions of families who are not receiving the child support they are legally due.

The importance of this bill is clear. Each year, nearly 60 percent of parents owed child support receive less than the amount they are due. And more than 30 percent receive no payment at all. California is no exception: preliminary findings from the 2000 Census Report found that of the more than 2.3 million Californians who were owed child support, only 39 percent received those payments.

Clearly, millions of individuals, women and children, are in crisis when it comes to child support. It is time to treat delinquent child support the same way bad debt is treated in the tax law.

The Child Support Enforcement Act would allow custodial parents to deduct the amount of child support they are owed from their adjusted gross income on their income taxes. This is true for all taxpayers, regardless of whether they itemize. So while we are not providing the full amount they are due, this bill will provide much-needed relief.

This bill will also penalize the non-custodial parent who is not paying his or her legally obligated child support. It will force the deadbeat parent to add the owed amount to his adjusted gross income, creating a tax penalty.

This is not creating new tax law. It is extending current tax law on bad debts to delinquent child support payments. It's that simple.

The relief provided in this bill is extremely important for single parents. Child support payments can literally mean the difference between paying rent or being homeless; the difference between putting food on the table or being forced to let children go hungry; the difference between making ends meet or going on welfare.

I am pleased to be joined in this effort by Senator SNOWE. And Representative COX is introducing the House version of the bill today as well. As you can see, this is not a partisan issue, this is a family issue. It will help families and children nationwide. I urge my colleagues to cosponsor this bill.

By Mr. BINGAMAN:

S. 2733. A bill to amend the Internal Revenue Code of 1986 to expand retirement savings for moderate and lower income workers, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the "Retirement Security for All Americans Act," legislation that will help all of our Nation's workers save for their retirement. Although there are several ways to measure pension and retirement plan coverage, there is one constant statistic, less than half of the workers in our country are covered by an employer sponsored pension plan. In spite of numerous incentives provided by Congress over the years, our Nation's coverage rate has remained virtually unchanged for the past three decades. New Mexico, my home State is the worst, with a coverage rate of 30 percent. In real terms, this means that 70 percent of New Mexicans working in the private sector will have to fund their retirement on the other 2 legs of the proverbial 3 legged stool, personal savings and Social Security. In truth, it seems unlikely that private sector workers who do not have a pension or retirement plan will have any significant savings, leaving them to get by on a one legged stool, not an easy trick.

Not surprisingly, the coverage rate is substantially reduced for lower income workers and minorities. For example, the 1999 U.S. Census Current Population Survey illustrates that only 27 percent of Hispanics in the private sector have an employer sponsored pension or retirement plan while it is 47 percent for whites and 44 percent for all workers. The Census data further illustrates that minorities are more likely to work at jobs that do not offer their workers a retirement plan. For instance, only 40 percent of Hispanics work at jobs that offer retirement plans while 62 percent of whites and 58 percent of all workers have this employee benefit. If, on the other hand, an employer does offer its employees a retirement plan, the Census data indicates that all workers, regardless of race or ethnicity tend to participate at the same rate. While it is not conclusive, this data indicates that if workers are offered a plan, they tend to take advantage of this benefit and save for their retirement.

We cannot continue to have a national retirement policy that results in the majority of Americans not having adequate savings for what is supposed to be their golden years. This is unacceptable. The legislation that I am introducing today addresses this need by encouraging employers to not only offer plans, but to provide contributions to their lower paid workers. While each of these provisions standing alone would improve coverage and our national savings rate, combined, there is a strong synergic effect among the provisions, making passage of all three imperative.

The first provision expands and makes permanent the current Savers'

Credit that was signed into law last year. Under this new provision, employees earning up to \$15,000, \$30,000 for married couples, will receive \$0.50 for every dollar that they save in their 401(k) or IRA. The credit rate gradually phases down for those with incomes between \$15,000 and \$27,500, \$30,000 and \$55,000 for married couples. Currently, the Savers' Credit drops from 50 percent to 20 percent once a worker makes \$15,001. We get rid of this cliff by phasing the credit out so as to not have disincentives to save more.

For those taxpayers without income tax liability, we will provide a tax credit of 50 cents on the dollar for their contributions through a new series of indexed government bonds. These bonds are not transferable and not redeemable until the worker retires to avoid abuses and to guarantee the funds are saved for retirement. By giving new savers bonds, it will encourage them to save more and help them realize the benefits of long term savings plans.

The second provision of the bill requires all employers with more than 10 employees, who do not currently offer their employees a qualified retirement plan, to provide their workers with the option of a payroll deduction IRA. Presently, all employers remit payments to financial institutions for a variety of reasons, including the deposit of payroll taxes, it is something that they already have to do. This provision would simply ask them to set up accounts at a financial institution so that workers can to send part of their own paychecks directly to an IRA set up at a financial institution of the employer's choice.

To offset any administrative cost, a tax credit of \$200 for the first year and \$50 for subsequent years is provided to the employer, though in most cases there will be no additional expense. Employers are also allowed to remit the employee's contributions to their IRAs on the same schedule as they currently remit payroll tax deposits to the same financial institutions or the IRS.

The benefits to the employee are clear. A payroll deduction IRA will allow workers to save small amounts out of each paycheck instead of making periodic or annual contributions to an IRA. As little as \$10 a week saved could result in an employee saving over \$750 dollars a year when combined with the Savers Credit. Saving is a learned response, the first step is to get people to save the first dollar and experience the benefits of compounding interest.

The final section incorporates the Senate passed provision that was dropped in the Economic Growth and Tax Relief Reconciliation Act of 2001 conference that provides small businesses with a tax credit for their contributions to the retirement accounts of their non-highly compensated employees. This provision, which has been pushed by Chairman Baucus and others for many years, will greatly increase the amount that employers contribute to workers' retirement plans.

Essentially it allows employers to receive a 50 percent tax credit on contributions up to 3 percent of an employee's annual compensation, but only to the non-highly compensated. To keep the costs of the proposal down, it is only available for a limited time, 3 years, to new plans. This should encourage many employers to not only offer a plan for the first time, but create a noteworthy incentive to contribute to these employees' accounts.

I look forward to working with my colleagues to bridge this enormous gap in pension coverage in our country. We must be realistic about how much we can accomplish in one shot. Coverage hasn't improved in 30 years. We must therefore continue to advance proposals that will make gradual but meaningful improvements. We cannot allow ourselves to operate under the fiction that the system is currently working for all Americans. At a time when Social Security solvency is at issue, we must find ways to reduce the reliance of all our seniors on these benefits for their retirement needs. It was never the intent of Social Security to be a retiree's sole source of retirement income. This legislation will begin the slow process of increasing our national pension coverage. Because these benefits will not accrue over night, we must act now while the spotlight is still on retirement policy. I hope all my colleagues will join me in passing this important legislation.

By Mr. KERRY (for himself, Mr. HOLLINGS, Ms. LANDRIEU, Mr. BAUCUS, Mr. BINGAMAN, Mr. DASCHLE, and Mr. JOHNSON):

S. 2734. A bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, today I rise to introduce emergency legislation to help small non-farm businesses across this Nation that are in dire straits because of drought conditions in their State. They need assistance, particularly access to working capital to pay the bills and meet payroll, but they can't get it because they are falling through the cracks of Federal disaster loan programs.

Why? Well, this is hard to believe, but it is because a drought is not considered a disaster under the Small Business Administration's disaster loan program, and under the Department of Agriculture's disaster program, which does consider a drought a disaster, only agriculture-related businesses are eligible for disaster assistance.

This assistance is critical to the survival of thousands of small businesses that make their living in tourism and recreation industries, as well as other industries dependent on water. Droughts are a cruel phenomenon of nature. They are out of the control of a small business owner, and it isn't fair

that they aren't eligible for Federal disaster assistance but the victims of floods, fires, and hurricanes are.

With a very small change, we can make all the difference to affected small businesses. Specifically, I propose amending the Small Business Act in order to make a drought a disaster.

More than 30 States are struggling with drought right now, according to the National Drought Mitigation at the University of Nebraska, and far more than agricultural, forestry and livestock businesses are hurt. If you talk to the governors of your States, I am sure they will tell you how bad the situation is. In northern Massachusetts, we have been in a drought since last fall. In South Carolina, the conditions are so bad that small businesses dependent upon lake and river tourism have seen revenues drop anywhere from 17 to 80 percent. The victims range from fish and tackle shops to rafting businesses, from restaurants to motels, from marinas to gas stations. For those who are listening and discount the serious impact of drought on small businesses, ask the rafting businesses that went bankrupt in Texas in 1996. The rivers were so low that these established businesses lost everything.

I thank my colleagues who are cosponsors, Senators HOLLINGS, LANDRIEU, BAUCUS, BINGAMAN, DASCHLE, and JOHNSON. I invite my other colleagues with droughts in their States to cosponsor this bill and call on the Administration to work with our Committee in passing this emergency legislation before we go home for the break in August. These small businesses cannot wait.

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. 2734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOANS TO SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Drought Relief Act".

(b) FINDINGS.—Congress finds that—

(1) as of July 2002, more than 36 States (including Massachusetts, South Carolina, and Louisiana) have suffered from continuing drought conditions;

(2) droughts have a negative effect on State and regional economies;

(3) many small businesses in the United States sell, distribute, market, or otherwise engage in commerce related to water and water sources, such as lakes and streams;

(4) many small businesses in the United States suffer economic injury from drought conditions, leading to revenue losses, job layoffs, and bankruptcies;

(5) these small businesses need access to low-interest loans for business-related purposes, including paying their bills and making payroll until business returns to normal;

(6) absent a legislative change, only agriculture-related businesses are eligible for Federal disaster loan assistance as a result of drought conditions; and

(7) it is necessary to amend the Small Business Act to allow non-farm small businesses that have suffered economic injury

from drought to receive financial assistance through Small Business Administration Economic Injury Disaster Loans.

(c) EXPANSION OF DISASTER DEFINITION.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended by inserting “drought,” after “windstorms,”.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, July 17, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an OVERSIGHT HEARING on the Protection of Native American Sacred Places.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, July 18, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a HEARING on a bill to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

The Committee will meet again on Thursday, July 18, 2002, at 2:00 p.m. in Room 485 of the Russell Senate Office Building to conduct a HEARING on S. 2065, a bill to Ratify an Agreement to Regulate Air Quality on the Southern Ute Indian Reservation.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Tuesday, July 16, 2002. The purpose of this hearing will be to discuss the proposed ban on packer ownership and also the enforcement of the Packers and Stockyards Act. At 10:00 a.m. in SD-562

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 16, 2002, at 10:00 a.m. to conduct an oversight hearing on “The Semi-annual Report on Monetary Policy of the Federal Reserve.”

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on

Commerce, Science, and Transportation be authorized to meet on Tuesday, July 16, 2002, at 2:30 pm on the nomination of Jonathan Adelstein to be a member of the FCC.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Tuesday, July 16th, 2002, at 2:30 p.m. in SD-366.

The purpose of this hearing is to receive testimony on the Administration's plans to request additional funds for wildland firefighting and forest restoration as well as ongoing implementation of the National Fire Plan.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet jointly with the Committee on the Judiciary on Tuesday, July 16, 2002, at 10:00 a.m. to conduct a hearing to receive testimony on New Source Review policy, regulations and enforcement activities.

The hearing will be held in SD-106.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, July 16, 2002 at 10 a.m., to hear testimony on Homeland Security and International Trade.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on The Proposed Department of Homeland Security: Issues before the Help Committee during the session of the Senate on Tuesday, July 16, 2002 at 10 a.m. in SD-430.

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

COMMITTEE ON THE JUDICIARY/COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary and the Committee on Environment and Public Works be authorized to meet to conduct a joint hearing on “Clearing the Air: New Source Review Policy, Regulations and Enforcement Activities” on Tuesday, July 16, 2002 in Dirksen Room 106 at 10 a.m.

TENTATIVE WITNESS LIST

PANEL I

The Honorable Thomas L. Sansonetti, Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C.

The Honorable Jeffrey Holmstead, Assistant Administrator for Air and Radiation, U.S. Environmental Protection Agency, Washington, D.C.

PANEL II

The Honorable William H. Sorrell, Attorney General, State of Vermont, Montpelier, VT.

The Honorable Eliot Spitzer, Attorney General, State of New York, New York, NY.

The Honorable Bill Pryor, Attorney General, State of Alabama, Montgomery, AL.

PANEL III

Mr. Eric Schaeffer, Director, Environmental Integrity Project, Rockefeller Family Fund, Washington, D.C.

Mr. Bob Slaughter, President National Petrochemical & Refiners Association, Washington, D.C.

Mr. Hilton Kelley, Port Arthur, TX.

Mr. Steve Harper, Director, Environment, Health, Safety, and Energy Policy, Intel, Corp., Washington, D.C.

Mr. John Walke, Clean Air Director, Natural Resources Defense Council, Washington, D.C.

Mr. E. Donald Elliott, Paul, Hastings, Janofsky & Walker LLP, Washington, D.C.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 16, 2002 at 10:00 a.m. and 2:30 p.m. to hold a closed hearing on the Joint Inquiry into the events of September 11, 2001.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. REID. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on “FBI Computers: 1992 Hardware—2002 Problems” on Tuesday, July 16, 2002, at 2:00 p.m. in Room 226 of the Dirksen Senate Office Building.

WITNESS

Ms. Sherry Higgins, Project Management Executive, Office of the Director, Federal Bureau of Investigation, Washington, DC.

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

PRIVILEGES OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Britt Gordon McKein, who is an intern, be granted the privilege of the floor during debate today.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent to grant floor privileges to my fellows, Stacy Sacks, David Dorsey, and Brian Hickey, for the duration of the floor debate on the bill.

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

Mr. REID. Mr. President, on behalf of Senator BAUCUS, I ask unanimous consent Alaine Perry, a detailee in his Finance Committee office, and Brian

Elbel and Jeri Weaver, interns in his Finance Committee office, be allowed floor privileges for the duration of the debate on S. 812, and all motions related to it.

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Richard McKeon, a fellow in my office, be granted the privilege of the floor for the duration of the debate on prescription drugs.

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

NOTICE—REGISTRATION OF MASS MAILINGS

The filing date for 2002 second quarter mass mailings is July 25, 2002. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510-7116.

The Public Record office will be open from 8:00 a.m. to 6:00 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224-0322.

MEASURE PLACED ON THE CALENDAR—S. 2

Mr. REID. Mr. President, it is my understanding that S. 2 is at the desk and is due for its second reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask that S. 2 be read a second time, and then I object to any further proceedings at this time.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 2) to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

The PRESIDING OFFICER. Objection to further proceedings having been heard, the bill will be placed on the calendar.

ORDERS FOR WEDNESDAY, JULY 17, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, July 17; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the motion to proceed to S. 812 regarding affordable pharmaceuticals, under the previous order.

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

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of the senior Senator from Utah.

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

The Senator from Utah.

MEDICARE PRESCRIPTION DRUG LEGISLATION

Mr. HATCH. Mr. President, I have heard my name being used a lot in this Chamber this afternoon, and I plan to make a comprehensive statement tomorrow that outlines my views on the Hatch-Waxman amendments contained in S. 812.

I might mention, I am very concerned about those amendments. I believe that the original Schumer-McCain bill was a bill that did not improve the Hatch-Waxman Act which was enacted in 1984. Of course, over the course of the last 18 years, it has been recognized as a very highly respected consumer protection law.

The reason is because that law has saved consumers between \$8 billion and \$10 billion every year since 1984—over the last 18 years. The reason it has saved them so much money is that it is a delicately balanced bill between the pioneer companies, that is, the large pharmaceutical companies, and the generic drug industry.

When we passed Hatch-Waxman, the generic industry had about 15 percent of the total drug business in this country. Today it has close to 50 percent. That is because of that delicate balance achieved through the Hatch-Waxman law. And I see that this underlying bill may very well disturb that delicate balance and disrupt a law that has worked well for consumers for many years.

I want to make sure that the bill approved by the Senate is a good bill, if, in the end if we are going to be amending the Hatch-Waxman Act. I put a lot of effort into that bill before it was passed in 1984.

It is an important law. It is a law that has really helped America. I have to say, if we disrupt that balance and we all of the sudden take away the incentives to put that \$30 billion a year into research and development costs to develop these lifesaving drugs, we will not have the drugs to put into generic form later. And, we could lose these businesses—they could all go offshore if we do not handle this exactly right.

So what has been in some measure demagogued today on the floor—if we do not watch that, we will wind up making questionable changes to a law that now saves the lives of millions of Americans and does so at affordable costs.

I will spend some time on that tomorrow because I think it needs a comprehensive discussion. I will say this: The underlying bill, what used to be Schumer-McCain to Kennedy-Edwards, has moved to a degree in the right direction but certainly not nearly enough. Frankly, I would like to make sure that the law bill that I put so much blood, sweat, and tears into over the years leading up to 1984 when it was passed, will not be disrupted because of politics on this floor, especially since that bill has worked so well for the American people.

My purpose this afternoon, however, is to discuss the Medicare prescription drug issue which we will be debating in the very near future. I have been working with four of my Senate colleagues—Senators GRASSLEY, JEFFORDS, BREAUX, and SNOWE—for the last year on a Medicare reform and prescription drug bill. It is called the Tripartisan bill because it has Republicans, Democrats, and the sole Independent in the Senate.

This legislation, the 21st Century Medicare Act, better known as the Senate Tripartisan Medicare prescription drug proposal, was introduced yesterday after months and months of hard work. This bill was introduced because the five of us crossed party lines and worked together. It was introduced because all five of us want a Medicare prescription drug benefit to be signed into law this year. We are tired of waiting for legislation that we could have passed 2½, 3 years ago, but every time it is brought up, politics is played with this legislation rather than doing what is right for our senior citizens and others in dire need of this legislation.

Medicare beneficiaries deserve nothing less than to get it done this year, but others in this body, in my opinion, feel differently.

Here we are on the verge of considering Medicare prescription drug legislation on the Senate floor without the Finance Committee ever being even a small part of it. Now I heard comments made that the Finance Committee has gone back and forth with this for years. That is not true. This is the first time we have really had a chance of passing a bill through the Senate that I think could very easily be accepted by the House, or in a conference certainly basically accepted by the House and the Senate.

The Finance Committee members, under the leadership of Chairman MAX BAUCUS, have been meeting for weeks to try and draft a consensus Medicare prescription drug bill. But due to artificial deadlines imposed upon us by the powers that be, we are not going to be given an opportunity to even consider a Medicare prescription drug bill in the Finance Committee itself before the full Senate considers the Medicare drug legislation.

Why even have a Finance Committee—which everybody would acknowledge is one of the great committees in the United States Congress—

when bills that are under its jurisdiction are brought up on the floor without even a hearing or a markup?

There were no delays. We could have had this markup and we could have passed this bill out today. We could have done it last week if we had had a markup. Sadly, politics is dictating policy, and I find that completely unacceptable, especially when it involves an issue as important as Medicare prescription drug coverage.

By putting politics before policy, we are not doing what is in the best interest of our senior citizens and our citizens as a whole.

I have also heard comments today that this is being filibustered. Nobody wants to filibuster this bill. That is always an old wives' tale that comes up when you do not have good arguments on your side.

I would like to take this opportunity, though, to talk about the tripartisan bill. When drafting this legislation, we tried to reach out to everyone who has a stake in this issue. It has required many hours of meetings, meetings among ourselves, with our staffs, CBO, CMS, seniors groups, insurance providers, PBM representatives, technical experts, and other interested parties. Let me assure you this has been a unified effort, one which has required some give and some take from all of us.

I truly believe this tripartisan bill is, in fact, the only bill capable of passing not only the Senate but the Congress in 2002.

We have worked with CBO constantly in order to come up with an affordable solution, and CBO has told us that our bill will cost \$370 billion over 10 years. As far as I know, the Daschle-Graham-Miller bill does not have a CBO score, but I expect it to be extremely expensive. As a matter of fact, the Daschle-Graham-Miller bill, as I know it today, would be well over \$800 billion over 10 years, and it has a sunset provision. So this isn't even a permanent benefit. I know my seniors in Utah will be surprised to hear that we're even considering such a bill.

In addition, there are no sunsets within our bill. Our Tripartisan bill is a permanent solution, not a temporary one, and CBO informs us that once our bill is implemented fully, 99 percent of all seniors will have drug coverage, which is truly remarkable.

So, the question is, how does a temporary solution truly help seniors in the long run? I do not think it does. Our Tripartisan bill provides all Medicare beneficiaries with affordable prescription drug coverage because we let innovation and competition determine the prices, not of Government bureaucrats. That is how we keep prices for drugs competitive.

I do not think it is a good idea to let the Government set the price, which is what will happen if the Daschle-Graham bill becomes law, and I do not think it has a chance of becoming law. I do not think it will get the necessary votes to become law. But our bill

could, with honest decent work by all of us.

We also provide additional subsidies to low-income seniors so that they, too, can afford to pay for their drugs. I find it absolutely appalling that there are people in our country who have to choose between buying food and buying prescription drugs. The Tripartisan group's goal is to put an end to that and provide additional help to those seniors who really need it.

In fact, all seniors need it. For example, the 10 million beneficiaries with incomes below 135 percent of poverty will have 80 to 95 percent of the prescription drug costs covered by this plan, with absolutely no monthly premium. These seniors are exempt from the deductible and will pay well under \$5 for their brand name prescriptions and their generic prescriptions. Enrollees at this income level who reach the catastrophic coverage limit will have full protection against all drug costs, with no coinsurance.

We also take care of the 11.7 million lower income beneficiaries with incomes below 150 percent of the poverty level. Enrollees between 135 percent and 150 percent of the Federal poverty level will also receive a more generous Federal subsidy that on average lowers their monthly premiums to anywhere between 0 and \$24 a month on a sliding scale. It also more than halves the cost of their annual drug bills.

All other enrollees will have access to discounted prescriptions after reaching the \$3,450 benefit limit and a critically important \$3,700 catastrophic benefit, which protects seniors from high, out-of-pocket drug costs. This is hardly a doughnut hole. My friend and colleague Senator SNOWE refers to it as more of a bagel hole.

It is also important to note that 80 percent of Medicare beneficiaries will never experience a gap in coverage. As far as drug coverage is concerned, we let Medicare beneficiaries choose from at least two drug plans, allowing them to select a plan that suits their individual needs. Seniors are in charge, not the Federal Government.

The Daschle-Graham bill, on the other hand, has a one-size-fits-all drug plan that is offered to Medicare beneficiaries. That is the type of solution that will lead us down a dangerous path, and before you know it the Federal Government, not the private marketplace, will be setting drug prices. We need to avoid that scenario at all costs.

Finally, our plan gives seniors a choice of Medicare coverage. Seniors may remain in traditional Medicare or they may opt for the new, enhanced Medicare fee-for-service program which is designed to look more like private health insurance and less like a program that is stuck in the mid-1960s.

We all believe that Medicare needs to be improved. Medicare has hardly changed since it was first created in 1965 and Medicare needs to become a 21st century program. So our bill pro-

vides seniors with a choice in Medicare coverage. Beneficiaries may stay in traditional Medicare or they may opt for the new, enhanced fee-for-service Medicare plan.

I want to emphasize that we do not force seniors to enter into the new, enhanced fee-for-service plan. We just offer it to beneficiaries as an option. If Medicare beneficiaries want to stay in traditional Medicare, that is fine. Our bill allows them to do so. If they decide they do not like the new enhanced Medicare plan, they can switch back to traditional Medicare. We need to give seniors choices concerning their health care coverage. They need to be able to keep the Medicare benefits seniors have today, but seniors must also be given improved health care choices.

I emphasize, once again, that CBO tells us that should our bill become law, 99 percent of all Medicare beneficiaries will have drug coverage. That would be tremendous for this country. We ought to do it this year. We should not be playing politics with it. We should not be setting up the Senate so this bill fails, so one side or the other can claim the other side refused to pass a bill this year.

I believe providing Medicare beneficiaries with their choice of coverage is key, and the Tripartisan group worked together for months to ensure that seniors get quality drug coverage for an affordable price.

I will conclude by saying we must make 2002 the year that Medicare is brought into the 21st century. This is the year that Medicare reform and prescription drug legislation should be passed by the Congress and signed into law. Our bill does more than just provide drug coverage. It includes Medicare reforms. It provides assistance to Medicare Choice.

We can start this process by allowing the Senate Finance Committee to do its job and consider Medicare prescription drug legislation before it is debated on the Senate floor. Bypassing the Senate Finance Committee and going directly to the Senate floor sends a message to the American people that we are more interested in playing political games than letting the legislative process work.

We need to have a markup in the Senate Finance Committee as soon as possible. We have Medicare bills to consider, both the Graham-Miller bill and the Tripartisan bill. We should have our Senate floor debate after the Finance Committee has approved legislation. It should not be the other way around. I believe Senators GRAHAM and MILLER are very sincere, fine people. They are good Senators. They believe in what they are doing. But if they do, we ought to have it come up in committee and vote. We are willing to have the Tripartisan bill voted upon. We have at least 12 votes out of 21 on the committee. That is probably the reason why the majority leader is determined not to bring up these matters in the Finance Committee.

I am hopeful we will be able to work this out and provide affordable prescription drug coverage for seniors through legislation considered by the Senate Finance Committee. This is a top priority of mine and many of my colleagues in the Senate. We have been hearing from seniors for years about their need for Medicare prescription drug benefits. Why are we playing political games with such an important issue?

I encourage my colleagues to work with us, to work with the Tripartisan group and others. I believe there is a majority, a significant majority, if we were allowed to do what is right, who would vote for the Tripartisan bill so seniors would finally get what they truly deserve, prescription drug coverage for the Medicare Program and bring Medicare into the 21st century once and for all.

Medicare beneficiaries deserve that opportunity. We owe it to them. This bill would allow that to happen.

I have been told this debate will take 2 weeks. I don't know why it has to take 2 weeks. We have three, four, or five different plans. We can vote on them. I personally hope we can vote on them. I believe if we are allowed to vote on them and people will get rid of the political aspects, we will pass a bill that will work this year for the benefit of seniors in the years to come. The Tripartisan bill does not have a sunset. The Tripartisan bill would continue on forever as far as we are concerned, to the benefit of all seniors in this country. I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands

in adjournment until 9:30 a.m., Wednesday, July 17, 2002.

Thereupon, the Senate, at 7:33 p.m. adjourned until Wednesday, July 17, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 2002:

SECURITIES AND EXCHANGE COMMISSION

ROEL C. CAMPOS, OF TEXAS, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2005, VICE ISAAC C. HUNT, JR.

DEPARTMENT OF STATE

ANTONIO O. GARZA, JR., OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MEXICO.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5044:

To be general

L.T. GEN. WILLIAM L. NYLAND, 0000