the FAA after the authorization and appropriations process has been completed.

AIRPORT IMPROVEMENT PROGRAM FORMULA DISTRIBUTIONS

[Estimated FY98 entitlement and State allocations, Total formula funds at $2.1 billion][1]

Alabama	$5,823,950
Alaska	31,277,460
Arizona	8,759,576
Arkansas	4,577,601
California	31,086,667
Colorado	7,958,160
Connecticut	2,809,935
Delaware	635,295
District of Columbia	468,506
Florida	13,064,255
Georgia	8,040,687
Hawaii	1,186,786
Idaho	5,134,047
Illinois	11,777,613
Indiana	6,148,104
Iowa	5,065,177
Kansas	6,193,550
Kentucky	4,932,788
Louisiana	5,778,788
Maine	2,734,919
Maryland	4,298,977
Massachusetts	5,091,338
Michigan	12,190,141
Minnesota	7,873,545
Mississippi	4,490,016
Missouri	7,558,689
Montana	8,289,328
Nebraska	5,247,768
Nevada	6,692,991
New Hampshire	1,334,174
New Jersey	6,348,164
New Mexico	7,508,916
New York	16,573,616
North Carolina	7,827,567
North Dakota	4,180,687
Ohio	10,647,533
Oklahoma	6,061,992
Oregon	7,247,957
Pennsylvania	11,505,588
Puerto Rico	2,632,148
Rhode Island	832,693
South Carolina	4,302,524
South Dakota	4,559,359
Tennessee	5,936,395
Texas	26,942,447
Utah	5,752,302
Vermont	933,033
Virginia	6,947,024
Washington	7,410,694
West Virginia	2,638,950
Wisconsin	7,204,305
Wyoming	5,421,196
Insular areas	2,564,100
Total	388,500,000

[1]The list includes airport entitlement funds and State funds that would be foregone in fiscal year 1999, assuming the Senate AIP appropriations level of 2.1 billion dollars. These figures don't include discretionary grants & LOI payments.

(Source: United States Senate Report 105–249, Department of Transportation and Related Agencies Appropriations Bill, 1999; pp. 80–1).

(Note: This does not include funds allocated to states for general aviation, relieve, and non-primary commercial service airports, nor does it include nearly half a billion dollars in discretionary grants the FAA will allocate in FY99.)

Mr. MCCAIN. Mr. President, I will be prepared shortly, perhaps in half an hour, to propound a unanimous consent agreement on amendments. Again, I urge my colleagues to have their amendments. I repeat our determination to have completed legislative action on this legislation by the close of business tomorrow night.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that I may be recognized to speak as in morning business.

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

THE BLOODSHED IN KOSOVO

Mrs. FEINSTEIN. Mr. President, I note that both Senator MCCAIN and Senator SMITH came to the floor to present their thoughts on Kosovo. I would really like to join them and second their remarks.

Mr. President, it is estimated that at least 250,000 Kosovar Albanians have been displaced by the violence and bloodshed of the past several months, and that many are currently living in the forests, without access to adequate food, shelter or medical care. With winter soon approaching, we are on the verge of a major humanitarian catastrophe in Kosovo, which is the direct result of a cruel and intentional policy directed by President Milosevic and carried out by Serbian security forces in Kosovo.

The time has come—indeed, it is my belief that the time came long ago—for the United States, our NATO allies, and the entire international community, to back with resolve that what happened in Bosnia must not be allowed to happen again in Kosovo. For too long, we have stood by passively while Milosevic has acted in bad faith. He has made numerous commitments to halt the violence, such as that contained in his joint statement with President Yeltsin on June 16, and he has honored none of them.

In July, the Senate unanimously passed a bipartisan resolution which called on the United Nations War Crimes Tribunal to indict President Milosevic for his crimes in Bosnia. That resolution has not yet been carried out. In my mind, the time has come for the United States to call an end to the charade of taking at face value the word of a man the U.S. Senate believes should be indicted as a war criminal.

If thousands, or tens of thousands, of people in Kosovo now die because they have been systematically forced from their homes, forced into the forests, denied access to food, warmth, shelter and medical care, it is a crime worthy of the world's condemnation.

With winter imminent in the Balkans, the U.N. Security Council is prepared to vote on a resolution threatening force under article 7 of the U.N. Charter unless Milosevic calls a ceasefire and negotiates with Kosovo's Albanian separatists.

At the end of this week, Secretary Cohen will be meeting with other NATO defense ministers. According to press reports, the Clinton administration has already asked the North Atlantic Council to seek commitments of arms, material and troops from NATO members to complete plans for a multinational force.

I hope and trust that this means that a plan of action to halt the violence and bloodshed in Kosovo—a plan with clear benchmarks for success and a clear exit strategy—will be at the top of the NATO defense minister's agenda.

I trust that Secretary Cohen will take a strong leadership position at this meeting, and that Secretary Albright is taking an equal stand on this issue in discussions with her counterparts. Although I wish it were not the case, we have seen all too often that when Washington hesitates, our Europe allies become paralyzed.

And, lastly, I hope and trust that this time NATO, acting in coordination with the United Nations, will develop a plan consistent with this pressing humanitarian need, which will be quickly implemented, and not just talked about.

Mr. President, it took us 4 years to develop the courage to join and urge NATO to intervene in Bosnia at the cost of 200,000 dead and 2 million displaced. Hundreds, if not thousands have already been killed in Kosovo, and hundreds of thousands have been forced from their homes. What more needs to happen before the international community acts?

There is no doubt that the search for peace in Kosovo has thus far proved elusive, and that finding a solution which provides Kosovar Albanians with full political rights and civil liberties will be difficult.

But the time has come for the international community to take action: We must keep our promise not to allow Kosovo to become another Bosnia, and, unless Milosevic halts the violence immediately and unambiguously, to commit ourselves to the course of a much-needed humanitarian intervention in Kosovo.

Mr. President, I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I was over in my office earlier in the afternoon. I heard the quorum calls. Now again we are wasting time in the middle of the afternoon. We are talking about a Wednesday afternoon at about quarter of 5. The Senate is in a quorum call when we could be debating the issue of the Patients' Bill of Rights.

I have taken the opportunity at other times to remind the Senate about the importance of that debate. Last week, we had the Republican leadership effectively close down the Senate for 5 hours, by essentially prohibiting Members of the U.S. Senate to speak at that time on the issue of the Patients' Bill of Rights. And, as has been pointed out by our Democratic leader, Senator DASCHLE, the Republican leadership shows an unwillingness to debate this issue during the evening times, which would allow us to do the country's business and do the people's business.

I rise again today to talk a bit about this issue, and the importance of it, because it is of such compelling importance to millions of Americans—more than 160 million Americans.

Every time I go back to Massachusetts—and I think it is generally true with others as they travel across the country to their States—I run into the people who have faced the kinds of situations that I will mention in just a moment or two. These are situations that cry out for action. Still we don't take the action.

We have considered other pieces of legislation that have some importance. But I daresay that none of the recent pieces of legislation that we have considered, I believe, rise to the importance of the debate and discussion on the Patients' Bill of Rights.

Mr. President, I want to include in the RECORD today the testimony and the comments of some leading American citizens who are very concerned about ensuring adequate protections for consumers of mental health services—protections that are included in the Patients' Bill of Rights, which has been introduced by Senator DASCHLE, and are not included in the Republican proposal.

In the forum that was held this afternoon, 36 groups—representing patients, families, psychiatrists, psychologists, social workers, and others who are concerned about quality of health care for people with mental illness—begged the Senate to act to pass the Patients' Bill of Rights. With every day that passes, these patients and their families are suffering because of abuses by the managed care systems. In too many instances, the stories they told were tragic. They involved suicide, spousal abuse, anxiety attacks inflicted on a Vietnam veteran, and successful courses of treatment cruelly interrupted because insurance companies are putting their bottom line first and their obligations to patients last.

One of our speakers, the president of the National Alliance for the Mentally Ill, NAMI, focused on an important provision of our legislation that has not received as much attention as some of the other issues—access to needed prescription drugs that are not on a health plan's approved list. For mental patients, the last few decades have seen a significant growth in the number of new medicines that can treat their diseases. For many patients, these new drugs represent genuine medical miracles and opportunities to resume lives that have been devastated by these cruel diseases. But too often managed care plans have said ''no'' to these patients and their doctors. They say: ''The new drugs are too expensive. You will have to make do with older, cheaper drugs that are on our approved list. If they don't work for you, that is just too bad.'' That should be unacceptable to every American.

Our legislation will guarantee that no family with a mentally ill member will ever be subjected to this kind of abuse again.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement of the Mental Health Liaison Group.

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

MENTAL HEALTH LIAISON GROUP,
Alexandria, VA, September 23, 1998.

Hon. TRENT LOTT,
Senate Majority Leader,
Capitol Building, Washington, DC.

DEAR SENATOR LOTT: The undersigned members of the Mental Health Liaison Group (MHLG) are writing to urge the Senate to pass meaningful legislation protecting consumers now enrolled in managed care before the end of the 105th Congress. If Senate passage is accomplished in an expeditious manner, ample time remains to initiate a conference committee with the House and achieve final passage of this important legislation.

Our community has a large stake in timely consideration of consumer protection legislation. Today, over 160 million Americans receive their mental health care from a mere handful of managed care plans. Virtually every organization signing onto this correspondence has received reports of:

Consumers being denied access to emergency services despite being in psychiatric crisis.

Health care plans applying rigid utilization review criteria that radically reduce the availability of outpatients mental health services.

Treatment plans, diagnoses and related clinical decisions being reviewed by health plan personnel with no prior medical or mental health training whatsoever.

HMO drug formularies insisting upon the lowest-cost psychotropic medications, which may be clinically inappropriate for individuals with more serious mental disorders.

Procedural disputes should not inhibit free and fair debate of consumer protection legislation on the floor. Key issues like access to specialists, medical necessity, point of service, legal accountability and related matters should now be considered by the full Senate. The starting point for debate could involve any of the wide array of comprehensive bills now pending, including the measures endorsed by the House and Senate Republican leadership.

In our view, at this time, the only bill that represents meaningful reform is S. 1890, the Patients' Bill of Rights Introduced by Senator Daschle.

Sincerely,

American Academy of Child and Adolescent Psychiatry; American Association for Marriage and Family Therapy; American Association for Psychosocial Rehabilitation; American Association of Children's Residential Centers; American Association of Pastoral Counselors; American Association of Private Practice Psychiatrists; American Board of Examiners in Clinical Social Work; American Counseling Association; American Federation of State, County and Municipal Employees; American Family Foundation.

American Group of Psychotherapy Association; American Nurses Association; American Occupational Therapy Association; American Orthopsychiatric Association; American Psychiatric Association; American Psychiatric Nurses Association; American Psychoanalytic Association; American Psychological Association; Anxiety Disorders Association of America; Association for the Advancement of Psychology.

Association for Ambulatory Behavioral Healthcare; Association of Behavioral Healthcare Management; Bazelon Center for Mental Health Law; Child Welfare League of America; Children and Adults with Attention Deficit Disorder; Clinical Social Work Federation; Corporation for the Advancement of Psychiatry; International Association of Psychosocial Rehabilitation Services; National Alliance for the Mentally Ill; National Association for Rural Mental Health.

National Association of Protection and Advocacy Systems; National Association of Psychiatric Treatment Centers for Children; National Association of School Psychologists; National Association of Social Workers; National Council for Community Behavioral Healthcare; National Mental Health Association.

Mr. KENNEDY. Mr. President, we heard today from Jackie Shannon. She is the president of the National Alliance for the Mentally Ill, NAMI, and the mother of a son with schizophrenia. I would like to read from her very, very moving testimony. This passage refers to a woman named Pam Childs from Miami, Florida and her problems with manic-depressive illness:

Pam was a Ph.D. psychologist who specialized in treating children and adolescents . . . Repeatedly, Pam's HMO told her that the treatment being recommended by her doctors were ''not part of the plan.'' On several occasions, doctors who made progress in treating Pam were later told that they were ''being taken off the plan.'' Pam Childs never got the treatment she needed, and this story did not have a happy ending. On July 2 of this year, at 34 years of age, Pam took her own life by leaping from the window of her father's 15-story apartment.

Mr. President, Jackie Shannon also told us about the problems the mental health community faces in terms of access to various prescription drugs. The prescription drug formularies used by insurance companies limit access to the newest and most effective medications. I would like to read from her testimony:

Over the past decade, the most far-reaching advances in the treatment of brain disorders such as schizophrenia and manic-depressive illness have all been in the area of prescription drugs. These new medications are highly effective in treating severe symptoms, without many of the disturbing side effects associated with older medications. While some of these medications may cost more at the front end, they deliver significant long-term savings through fewer and

shorter hospitalizations, and, more importantly, a higher quality of life for consumers.

Unfortunately, managed care plans too often use formularies—restrictive lists and bureaucratic rules—to limit access to the newer, more effective medications. What kind of rules? A 1997 survey of managed behavioral health plans by NAMI revealed widespread use of policies such as prior authorization, and what they call ''twice-fail'' requirements as parts of the formulary.

These ''twice fail'' rules are especially offensive to the NAMI members. Our survey found that some managed care plans actually require patients to fail on older, cheaper medications multiple times before being able to access the newer medication. NAMI believes that psychiatrists and their patients should be able to select the medication that is right for them based on clinical effectiveness, not on a managed care plan's financial bottom line. The best treatment available should be the treatment of first choice.

Do we understand that, Mr. President? The best treatment available ought to be the treatment of first choice. The Democratic version of the Patients' Bill of Rights guarantees that. It would allow the doctors to overrule a plan's restrictive drug formulary when it is in the patient's interests. The Republican bill would not.

Now, Mr. President, this is an issue of particular importance to persons with mental illness who need these newer drugs. We hear case after case of patients who would be helped if they had access to the newest and most effective medications. We heard of one young person whose plan required him to use the cheaper drugs and demonstrate their failure not just once, but twice, before they would even be eligible for the right drugs. This is one of the reasons that we provide this kind of protection in our Patients' Bill of Rights. We believe it is important to ensure that the doctor can to say, This is the kind of prescription drug that is necessary to deal with your particular health need and that the plan will cover it, if the plan offers drug coverage.

That is a very important protection. We would like to debate that issue. If the Republican leadership does not believe that we ought to provide that kind of protection, they should come to the floor of the Senate and let's call the roll. This is not a complicated issue. It is not a very complicated issue. But it is one of the very important protections that exist in our bill and which does not exist in the Republican bill.

The American people have been effectively denied—with the various proposals that have been offered by the majority leader in terms of the debate of the Patients' Bill of Rights—from seeing where the Senate stands on these important issues. The leadership has said, in reference to their proposal, You can either take it or leave it. They are attempting to gag not only the doctors in this country from giving the best advice on health care needs, but they are also attempting to gag the Senate from having any kind of debate or discussion on these issues, let alone a vote on them. That is very, very important, Mr. President. The National Association of Mentally Ill feel that access to prescription drugs is of enormous importance to their membership. Their view is shared by all of the leading mental health organizations. That is why the 36 different groups have indicated strong support for the Democratic Patients Bill of Rights.

Mr. President, I refer right here to this chart that compares our Patients' Bill of Rights, which puts patients before profits, and the Republican legislation. Right here, No. 11—access to doctor prescribed drugs—the question is whether you will be able to get the kind of prescription drug—new or old, perhaps somewhat more expensive—that your doctor recommends, or be forced to take only those medications that are listed on the HMO plan and just do not work for you.

Mr. President, this forum that we had was just the most recent one in which we heard patients and doctors and nurses pleading with the Republican leadership to act on real managed care reform before the end of the year.

At today s forum, I spoke about a particularly tragic set of circumstances surrounding the case of a man who died because his plan denied necessary treatment. In this case, however, like too many others, the plan was not held accountable for its abusive actions. Let me just tell you, Mr. President, about this very tragic case.

Richard Clarke of Haverhill, MA, was struggling to deal with a serious problem of substance abuse. His health plan clearly covered 30 days of inpatient rehabilitation. But when Mr. Clarke's doctor admitted him to a detoxification program, the plan provided only 5 days of treatment. His treatment was cut short, and his pattern of abuse and inadequate treatment continued. Shortly after the first hospitalization, his doctor again tried to admit him. But his HMO approved just 8 days of inpatient rehabilitation. And 24 hours after this discharge, Mr. Clarke attempted suicide. Again, he was referred for additional inpatient treatment, but this time the HMO refused to pay for any additional services—even though his policy clearly should have covered 17 additional days.

At this point, a judge committed Mr. Clarke to a State correctional center. Mr. Clarke was abused in that center and received only minimal treatment. Tragically, just a few weeks after being discharged from the correctional center, Mr. Clarke committed suicide at age 41. He left a widow and four children and 17 days of inpatient rehabilitation coverage on his insurance policy—17 days that were not used, 17 days that were repeatedly denied by the HMO. And he took his life.

His widow took the insurance plan to Federal court. But Judge William Young had no choice but to reluctantly dismiss the case because the Federal law protected the HMO from accountability for its actions.

Judge Young was frank in his opinion:

> Federal law has evolved in a shield of immunity that protects health insurers. . . and other managed care entities from potential liability for the consequences of their wrongful denial of health benefits. The Federal law thwarts the legitimate claims of the very people it was designed to protect.

There it is, Mr. President, an example of an individual who needed help, consolation, rehabilitation, and attention, but was denied it by the HMO. A tragic, tragic ending, with the HMO responsible—I believe, just from a reading of these facts—or certainly contributing to the anxiety and ultimately to the untimely death, and the loss of this father of four children. And, under current law, the HMO is able to stand back and say, no, we can't be sued. And they cannot be, Mr. President.

That particular issue is addressed in our legislation. Right here on the chart where we say ''ability to hold plans accountable.'' But it is not in the Republican legislation. We looked through their bill. It is not there, but it is in ours. Another issue to debate. Another issue to discuss. Another issue to vote on. It is not very complicated. Are you going to hold a plan accountable when its decisions result in the death or serious injury of an individual who may be the breadwinner for a family? Are you going to deny a family the opportunity to hold insurance companies responsible if a loved one has been the recipient of negligent treatment?

We ought to be able to vote on that. It is not very complicated. But no, no, we cannot even bring that up. We cannot even debate it. It is a crucial matter, certainly, to the Clarke's or any other family in this situation. It is a crucial matter to millions of other families.

Mr. President, there are millions of Americans who have that kind of protection today, but it is not guaranteed to over 120 million Americans who receive their insurance through employers in the private sector. It is not guaranteed. It is effectively excluded. Mr. President, more than 40 million Americans can hold their HMOs accountable, but more than 120 million others cannot. The others cannot. Why not, we might ask? Because the power of the special interests will not permit us to get to this legislation, to consider it, debate it, and call the roll on it.

Mr. President, this forum was just the most recent one in which we have heard the patients and doctors and nurses pleading with the Republican leadership to act on real managed care reform. Several weeks ago, we heard from Dr. Charlotte Yeh, an emergency doctor from Boston who also is a leader in the American College of Emergency Physicians. In fact, we have had the leaders of many of these professional groups appear in these forums—representatives of from many of the more than 180 different groups of patients and doctors, nurses, health professionals that support our legislation.

Dr. Yeh described cases where HMOs denied treatment that patients needed because of managed care penny-pinching. She indicated she was appearing at the forum ''representing the concerns of 20,000 emergency physicians, on behalf of 90 million patients we see every year.'' She went on to say, ''For emergency physicians protecting patients is not just a job, it is our lives.'' They are strongly in support of our legislation. They strongly believe that we ought to have an opportunity to debate this legislation. They are strongly opposed to Republican leadership, and are concerned about the leadership s refusal to let us have an opportunity to debate the legislation. This is what Dr. Yeh commented on:

For the last several years, the tactics of the managed care industry with respect to coverage of emergency care has become a national issue.

* * * * *

We've all heard the stories.

In Detroit, a 46-year old woman collapsed in her husband's arms and was rushed to the hospital by ambulance. She died of cardiac arrest after a failed resuscitation attempt. Unbelievably, her managed care plan later denied payment for her treatment because she did not call for prior approval.

In Boston, a boy's leg was seriously injured in an auto accident. At a nearby hospital, emergency doctors told the parents he would need vascular surgery to save his leg and a surgeon was ready and available in the hospital.

Unfortunately, for this young man, his insurer insisted he be transferred to an ''in-network'' hospital for the surgery. His parents were told if they allowed the operation to be done anywhere else, they would be responsible for the bill. They agreed to the move. Surgery was performed three hours after the accident. But by then, it was too late to save his leg.

These are not episodes from the TV program, ''ER''. These are not anecdotes. They are real people with real lives.

A bipartisan majority in the Congress has called for enactment of standards that will put an end to episodes like the ones I just described. Last year, the Congress adopted the prudent layperson standard and other protections for Medicare and Medicaid patients seeking emergency care. Millions of Medicare and Medicaid beneficiaries have these protections, but not the 160 million people outside of those programs. They do not have these protections.

She continues:

We thought there was consensus on this issue. . . . But we are very disturbed about the way in which the emergency service protections were drafted in the Republican ''Patient Protection Act.'' As a physician, it seems that a little unnecessary surgery was performed on the ''prudent layperson'' standard to the point where barely recognizable as the consumer protection we envisioned.

Mr. MCCAIN. Will the Senator from Massachusetts yield?

Mr. KENNEDY. Yes.

Mr. MCCAIN. Just for a question. The Senator from Massachusetts, I know, wants to indulge his colleagues. We have Senator INHOFE on the floor on an amendment on pending legislation, and Senator ROTH to follow him. So if he could perhaps very quickly allow the amendment process to proceed, I would appreciate it very much. I thank the Senator from Massachusetts.

Mr. KENNEDY. Seeing Senators are here and ready to move ahead, I will just make some few concluding remarks on this issue and then get back to it at another time. I think we could have been debating this, rather than just filling in the time with the quorum calls, which we have been doing frequently. So I indicate to colleagues, I will make some concluding remarks for just a few more minutes and then yield the floor. Again, from Dr. Yeh's testimony:

What's the difference between the real ''prudent layperson'' standard included in the Balanced Budget Act and the Democratic Patients Bill of Rights and the imposter that has been included in the GOP Patient Protection Act?

The GOP Patient Protection Act would establish a weaker coverage standard for privately insured patients than what exists for Medicare and Medicaid patients.

This is not Senator DASCHLE or myself making this statement, this is a leading member of the American College of Emergency Physicians—doctors who deal with this problem every single day—talking about how the GOP Patient Protection Act is a fraud.

She continues along. I ask unanimous consent to have her full statement printed in the RECORD.

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

TESTIMONY OF CHARLOTTE YEH, MD, FACEP, CHAIR, FEDERAL GOVERNMENT AFFAIRS COMMITTEE, AMERICAN COLLEGE OF EMERGENCY PHYSICIANS

Thank you very much. I am Dr. Charlotte Yeh, a practicing emergency physician at the New England Medical Center in Boston, MA. I am here today representing the concerns of nearly 20,000 emergency physicians and on behalf of the 90 million patients we see every year. For emergency physicians, protecting patients is not just a job, it's our life.

For the last several years, the tactics of the managed care industry with respect to coverage of emergency care has become a national issue. I'm pleased to be here today as we try to enact meaningful patient protections that will ensure that patients get not only the care they deserve, but that they also get the coverage that their managed care plan promised them.

We've all heard the stories.

In Detroit, a 46-year old woman collapsed in her husband's arms and was rushed to the hospital by ambulance. She died of cardiac arrest after a failed resuscitation attempt. Unbelievably, her managed care plan later denied payment for her treatment because she did not call for prior approval.

In Boston, a boy's leg was seriously injured in an auto accident. At a nearby hospital, emergency doctors told the parents he would need vascular surgery to save his leg and a surgeon was ready and available in the hospital.

Unfortunately, for this young man, his insurer insisted he be transferred to an ''in-network'' hospital for the surgery. His parents were told if they allowed the operation to be done anywhere else, they would be responsible for the bill. They agreed to the move. Surgery was performed three hours after the accident. But by then, it was too late to save his leg.

These are not episodes from the TV program, ''ER''. These are not anecdotes. They are real people with real lives.

A bipartisan majority in the Congress has called for enactment of standards that will put an end to episodes like the one I just described. Last year, the Congress adopted the prudent layperson standard and other protections for Medicare and Medicaid patients seeking emergency care. We thought there was a consensus on this issue!

Just a few weeks ago, we were delighted to see that Republican Task Forces in both the House and Senate had decided to include the ''prudent layperson'' standard in their respective patient protection measures.

But we are very disturbed about the way in which the emergency services protections were drafted in the Republican ''Patient Protection Act.'' As a physician, it seems that a little Unnecessary surgery was performed on the ''prudent layperson'' standard to the point where it is barely recognizable as the consumer protection we envisioned.

What's the difference between the real ''prudent layperson'' standard included in the ''Balanced Budget Act'' and the Democratic ''Patient's Bill of Rights'' and the ''imposter'' that has been included in the GOP ''Patient Protection Act?''

The GOP Patient Protection Act would establish a weaker coverage standard for privately insured patients than what exists for Medicare and Medicaid patients.

The Democratic bill would provide the same protections for all patients.

The GOP Patient Protection Act establishes a two-tiered test for coverage of emergency services and guarantees coverage only for a ''screening examination.''

The Democratic bill would require that health plans cover all services necessary to evaluate and stabilize the patient to anyone who meets the prudent layperson standard—no questions asked!

The GOP Patient Protection Act sets no limits on the amount of cost-sharing the managed care plans would be allowed to charge patients who seek emergency services from a non-network provider.

The Democratic bill would protect patients who reasonably seek emergency services to protect their health from being charged unreasonable co-pays and deductibles.

The GOP Patient Protection Act provides sets no guidelines for the coordination of post stabilization care, making it impossible for emergency physicians to coordinate and obtain authorization for necessary follow-up care with the managed care plans.

The Democratic bill would require health plans to adhere to new federal guidelines that require managed care plans to be available to coordinate post stabilization care, instead of just permitting the managed plan to turn off the phone at 5:00 o'clock.

Obviously, we are very troubled by the changes to the ''prudent layperson'' standard in the ''Patient Protection Act.''

Our assessment is that this legislation—Will provide less protection for privately insured patients than for Medicare and Medicaid patients; Will lead to more coverage disputes, not less; Will create even more barriers, not fewer; and Will create new loopholes for managed care plans to deny coverage of emergency services.

In four years, we have come so far, but we cannot support these provisions in their current form. We will do everything in our power to ensure that the ''prudent layperson'' standard that is enacted will be consistent with the meaningful protections that Congress enacted for Medicare and Medicaid beneficiaries. Hard-working Americans who pay their premiums deserve no less.

Mr. KENNEDY. We heard from cancer patients, and their doctors, who explained that the Patients' Bill of Rights is critical to ensuring patients

access to quality clinical trials. These trials are often the only hope for patients with incurable cancer or other diseases where conventional treatments are ineffective. They are the best hope for learning to cure these dread diseases.

Insurance used to routinely pay the doctor and hospital costs associated with clinical trials, but managed care plans are refusing to allow patients to participate. Our bill forces the insurance companies to respond to these needs, but the Republican bill does not. And they refuse to debate this issue. Here it is on the chart, ''Access to Clinical Trials.'' We provide this protection, and they do not.

Yet, this is very important for women who are battling breast cancer. It is important for children—like my own son, Teddy, who was able to get into a clinical trial when he had osteosarcoma at age 12, and survive that dread disease. He is alive today because he was in a clinical trial.

Mr. President, as I have pointed out before, these are the guarantees that are in our legislation. Under our proposal, the doctor, the medical professional, will make the decisions on medical treatment for the patient—be that you or your spouse or your child or your grandchild. Medical decisions will not be made by an insurance company accountant. That is what is at the heart of the differences between the two pieces of legislation.

We welcome an opportunity to just say we will take 10 of the issues on this list, and vote on those measures and vote on the legislation, while permitting our Republican friends to have a similar number of amendments. But let us at least get about it in these final days. It is not too late. It must not be too late, or we would not see the kinds of activity to deny or delay action on this legislation by our Republican friends each day.

Just in conclusion, earlier in the day—although this was not advanced, it was circulated by the majority—there was a unanimous consent that was going to be proposed on the Internet tax legislation. I will include the whole provision in the RECORD.

This was circulated to see whether there would be any objection on the Democratic side. It basically allowed all types of amendments—unlimited first and second degree amendments or amendments that are not relevant to the Internet tax issues in the underlying bill—but, and this is important, no health care amendments. Here is the text that would have been spoken by the Majority leader, ''I further ask that during the Senate's consideration of S. 442 or the House companion, no amendments relative to health care be in order.'' There you have it: One piece of legislation, with possibilities for all other legislation, except one—health care, the Patients' Bill of Rights, guaranteed protections for more than 160 million people. Under this proposal from the Republican leadership, we are permitting other kinds of amendments, but we are going to say no amendments relative to health care be in order.

Thankfully, our Democratic leader rejected this, so it was not offered. But these are the tactics we are facing. We are as committed as ever to ensuring that we will have an opportunity to debate this issue—even if not on this particular measure. So we are going to continue to pursue it.

I thank the Chair and I yield the floor.

WENDELL H. FORD NATIONAL AIR TRANSPORTATION SYSTEM IMPROVEMENT ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. MCCAIN. I yield to Senator ROTH to offer an amendment.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3621

(Purpose: To extend the Airport and Airway Trust Fund expenditure authority)

Mr. ROTH. Mr. President, I send an amendment to the desk on behalf of Senator MOYNIHAN and myself.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. MOYNIHAN, proposes an amendment numbered 3621.

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

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

The amendment is as follows:

At the end of the bill add the following:

TITLE IV—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 801. EXTENSION OF EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking ''October 1, 1998'' and inserting ''October 1, 2000''; and

(2) by inserting before the semicolon at the end of subparagraph (A) the following ''or the Wendell H. Ford National Air Transportation System Improvement Act of 1998''.

(b) LIMITATION ON EXPENDITURE AUTHORITY.—Section 9502 of such Code is amended by adding at the end the following new subsection:

''(f) LIMITATION ON TRANSFERS TO TRUST FUND.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or credited to the Airport and Airway Trust Fund on and after the date of any expenditure from the Airport and Airway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

''(A) any provision of law which is not contained or referenced in this title or in a revenue Act; and

''(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

''(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2000, in accordance with the provisions of this section.''.

Mr. ROTH. Mr. President, this amendment contains the necessary conforming changes to the Tax Code required by this reauthorization bill. This amendment does not affect Federal revenues. Therefore, this bill remains a nonrevenue bill. This amendment will allow expenditures from the Airport and Airway Trust Fund to occur as authorized by the underlying legislation relating to airport construction, maintenance and technology.

It will also help ensure our air traffic control system continues to provide safe and efficient services.

It is my understanding that this amendment is acceptable to both sides of the political aisle. At the appropriate moment, I will urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the distinguished chairman of the Finance Committee. As always, he has been extremely cooperative and helpful as we have this kind of legislation out of the Commerce Committee, which sometimes has tax implications. I am very grateful for the continued cooperation and effort to not encroach on the jurisdiction of the Finance Committee and also to make sure that their views and their authority are well recognized.

The crucial programs in this legislation are directly dependent upon the ability of the FAA to spend moneys out of the aviation trust fund, and the trust fund itself is supported by revenues from the aviation excise taxes which are paid by all air travelers.

I thank Senator ROTH for his cooperation in our effort to keep necessary funds flowing to aviation programs. His amendment will help keep the FAA on sound financial footing.

He and his staff have been very helpful in our efforts on this bill. I want to clarify with the chairman that this amendment merely authorizes expenditures from the trust fund for 2 years and prevents expenditures from the trust fund without an authorization in place?

Mr. ROTH. Mr. President, I say to my distinguished colleague, that is correct; that is the intent of the amendment.

Mr. MCCAIN. Mr. President, I am not aware of any objection. In fact, I support the amendment. I will urge adoption of the amendment after the Senator from Kentucky speaks.