

water for irrigation, at the expense of power production. Or vice versa.

Or to set more space aside for flood control. Each year, the planning process starts by measuring the snowpack and predicting the runoff.

In a particularly wet year, like 1997, operational changes may be needed to prevent downstream flooding, by setting aside more storage space in upstream reservoirs.

In a particularly dry year, operational changes may need to be made to allocate scarce water among competing uses.

In many of these cases, under the rider, the agencies could only act if they received specific Congressional approval.

Mr. President, we all know how hard it is to get anything passed around here. Any change that is at all controversial can be at least delayed, and maybe stopped completely.

Do we really want decisions like this, that may need to be made quickly in response to constantly changing circumstances, to require specific Congressional approval?

To sum it all up, this is no way to run one of the world's largest and most complex river systems. That's why we have expert federal and state agencies, like the Northwest Power Planning Council and BPA.

Congress should set clear legal standards. When necessary, we must improve those standards. That's why I support S. 1180, a bill to improve the Endangered Species Act.

Congress also should conduct careful oversight.

But we should not require Congressional approval of the complex decisions that managers must make so that the river system functions smoothly.

By requiring Congressional approval of any changes that diminish the use of the system below "present operational plans," the rider goes too far.

Mr. President, I yield the floor.

ON THE DEATH OF TOM BRADLEY

Mrs. FEINSTEIN. Mr. President, for me, this is a sad day. Someone in politics whom I have very much respected passed away this morning, and that was Tom Bradley, former mayor of Los Angeles. Tom was one of America's finest mayors, a tireless advocate on behalf of the cities of America. I had an opportunity to work closely with him during the 1980s when we were both mayors.

I saw firsthand how he would go about solving a problem. He was kind and gentle, but he was tenacious about promoting the city of Los Angeles that he so deeply loved.

He leaves a rich legacy for Los Angeles and for the entire State of California. No Californian—and particularly no Los Angeleno—will ever forget the pride of hosting the 1984 Olympics. Tom Bradley showed that an American city could host a profitable and spirited Olympic ceremony.

His other accomplishments are many: Bringing public rail transportation to his city; building an international airport—Tom Bradley Airport—and a port that generated hundreds of thousands of jobs for the region; opening the doors of city government so that city workers reflected the rich cultural diversity of Los Angeles.

One particular vision I have of Tom Bradley which I will never forget is when we met, of all places, on the Great Wall of China as mayors in June of 1979. I was there to secure a sister city relationship between San Francisco and the city of Shanghai. While San Francisco got that relationship, Tom Bradley went right out and secured a similar relationship between Los Angeles and Guangzhou.

Tom knew the importance that the Pacific Rim would play in his city's future and he would literally travel anywhere in the world to help promote the city. He was a forceful and successful advocate for the cities of America every time cities needed a strong voice. His presence was matched by a wonderful and soft gentleness that I, personally, will never forget.

My deepest sorrow goes to his family and to his many friends. Mr. President, I know we all will do our part to see that Tom Bradley's vision for Los Angeles lives on and on for generations to come.

INTERNET TAX FREEDOM ACT— MOTION TO PROCEED

The PRESIDING OFFICER (Mr. GORTON). The clerk will report the motion to proceed to S. 442.

The legislative clerk read as follows:

Motion to proceed to the consideration of S. 442, a bill to establish national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exaction that would interfere with the free flow of commerce via the Internet, and for other purposes.

The Senate proceeded to consider the motion.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I was under the impression that we had time to speak in the time allocated under the cloture motion; am I correct?

The PRESIDING OFFICER. That is correct. Time allocated under cloture has begun. The Senator has one hour to speak.

Mr. KENNEDY. I thank the Chair.

Mr. President, I had voted in favor of moving ahead with the legislation itself because it is important. However, I daresay that I want to take a few moments of the Senate's time here to review the bidding about where we are on legislation and where we are not on legislation.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. I want to address the Senate this afternoon because of my continued concern that we are not addressing one of the most important areas of concern for American families, and that is the legislation which is known as the Patients' Bill of Rights. I and a number of our colleagues have cosponsored Senator DASCHLE's legislation. I had hoped that we could debate and reach conclusion on this legislation. I believe the overwhelming majority of our colleagues on this side of the aisle are in support of this legislation and, if we had an opportunity to debate this issue, I think we would have support as well from Members on the other side.

Basically, it is a fundamental issue that I think all Americans can understand. This issue centers around whether doctors are going to make decisions with regard to the treatment of patients in our country, or whether we are going to have those decisions made by accountants—whose primary interest is enhancing the profits of the HMOs rather than the health of its patients. That is really at the heart of the Patients' Bill of Rights. There are other important protections, but that is at the heart of it.

This issue affects about 160 million American policy holders. Our legislation is supported by more than 180 leading health care organizations—virtually all of the major doctors' organizations, nursing organizations, and consumer organizations.

I have read the comments of some of our colleagues on the other side of the aisle. They distort the provisions of this legislation and talk about it as legislation which is unnecessary and legislation that will complicate the current practice of medicine. But, listen to the doctors. They say it will simplify the practice of medicine.

It does seem to me valuable to consider what the doctors say about this, what the nurses say about this, and what the overwhelming, virtually unanimous sense of the health professionals is about it, and they say that they strongly support our legislation. They are opposed to the Republican legislation. But all of them are asking when will the Republican leadership yield and permit us—permit us meaning the Senate—to take up this legislation and debate it and reach a resolution on these various issues. That is the matter I am addressing here this afternoon.

Over the period of the last 2 weeks in the Senate we have had votes on the salting legislation. I bet if we asked the Americans who are listening or watching this afternoon what the salting legislation is really all about and where it fits on their list of priorities, many of them would not know what it is all about. It is basically a technique which is used—and used effectively and legitimately according to the Supreme Court with its unanimous vote—to permit the organization of workers in

sites across this country. But some of our Republican friends desired to repeal that legislation. So we had votes on that.

We have had votes on the bankruptcy legislation which affects about 1,200,000 of our fellow citizens. We have had votes on the so-called Child Custody Protection Act. We have now been debating in the last day or two the Vacancies Act. We are also considering the Internet tax provision. The majority leader has talked about financial services legislation. And then we are going to come into a situation, perhaps next week, where we are going to have the opportunity to address the tax cut proposal of our Republican friends in the House of Representatives. They want to use tax revenues which have been paid into the Treasury, which are Social Security revenues, to provide tax breaks for the wealthiest individuals in our country.

But we understand the surplus this year and in future years is the result of funds that have been paid in by workers to fund Social Security benefits. When you exclude these Social Security benefits, you see that we really do not have a surplus. What we have is money raised by working families to pay for Social Security. Our Republican friends want to take some \$80 billion of that and use it for tax breaks that would primarily benefit the wealthiest individuals in our society.

I see one provision in their plan will decrease the estate tax for millionaires. Let me tell every taxpayer who might be watching that you will have an interest in this provision only if you intend to leave more than \$600,000 to one of your children. This Republican-sponsored provision will permit you to leave \$1 million. It affects only 2 percent of the taxpayers, but it will cost some \$18 billion—\$18 billion out of funds that are paid in by workers to pay for Social Security. The majority plans to take that money out and use the \$18 billion to offset the revenue losses that will result if the Republicans pass their particular proposal to expand the estate tax. We will have a chance to debate that issue.

But, Mr. President, where in this agenda is the issue of the Patients' Bill of Rights, something that is of fundamental concern to virtually every working family? Are we trying to suggest that the salting legislation or the Vacancies Act or even the Internet tax issue is of nearly the consequence or importance of the Patients' Bill of Rights? Not so. But still the majority leader refuses to permit us to debate and discuss it in the Senate.

The Republican leadership didn't permit it last Friday when most Americans were out working and the Senate effectively closed down at about 11 o'clock. There were Members who spoke after 11 o'clock, including myself, and we pointed out that we could have been debating HMO reform on Friday afternoon. We could have been debating it on Monday—when most of the

afternoon was taken up in quorum calls before the vote in the late afternoon—or even debated it on Monday evening.

Mr. President, I am not going to take the time to review with the Senate the amount of hours we have spent in quorum calls over the period of the last 2 weeks. We could have debated this, taken votes on these measures, and resolved these matters in a way that I think would have yielded some very important and basic protections for families.

I think we would have resolved this in favor of protecting children in our country. I think we would have carried overwhelmingly in the Senate the provisions that would have permitted families with a sick child to bring that child to the nearest emergency room. I think we would have won that in the Senate. I can understand why our Republican friends do not want to vote on that issue, and show the American people where they stand. I hope that at least a majority of them would have supported our provision, if they were given the opportunity.

I think they would have supported our provision to guarantee specialty care for children who have dread diseases like cancer. I think they would have supported ensuring that a child with cancer should have access to an oncologist who is trained to work with children and with the cancer of the particular child. I think we would have done that, just as I think we would have provided additional specialty care protections for adults who have certain medical needs, whether it is physical or mental disabilities or challenges or chronic conditions like arthritis or diabetes. I think we would have won those.

I think we would have been successful in debating and reaching a successful conclusion in ensuring access to clinical trials for women who have breast cancer and other patients with life-threatening diseases. With all the possibilities that are out there for breakthrough therapies, why are we continuing to deny women the opportunity to go into clinical trials? We guarantee that in our Patients' Bill of Rights. The other side does not. Why aren't we debating whether we are going to increase access to clinical trials for women or children who have cancer, or patients with other diseases that do not respond to conventional therapies? I think we should be able to debate that issue.

I think we ought to be able to debate the issues around having access to the kind of prescription drugs that are recommended by doctors, instead of being limited to the medications preferred by the plan. We have had heard testimony from the mental health community that indicates that many of the individuals who need certain kinds of prescription drugs are required to take older, less effective drugs that are on the HMO's list. Before the plan will even consider giving them access to the

drugs that the doctor knows is best, the accountant in that HMO says, No, you can't use that one until you have shown that the previous two failed to work. Mr. President, these patients are only given access to the drugs that the doctor knows are best after they have shown that the plan's drugs failed to work at least two times. I think we could have debated that. And I think we could have been successful in that debate as well.

And the list goes on, Mr. President, including whether patients should have the right to a timely and independent review, if an HMO denies care. I think we could have won that particular measure, too.

We also should address whether we are going to say that HMOs should be held accountable if their actions, as a result of negligence, result in the loss of life or grievous bodily injury.

Who else is going to be the breadwinner for a family if an insurance company's negligent actions result in the loss of life of that individual? Why is the Republican leadership allowing the insurance industry to remain the only particular protected industry in the United States of America? If these companies are going to take certain action that is going to result in the death or serious disability to an individual, why should they be free from accountability? They should not be. We ought to be able to debate that in the U.S. Senate.

These are just some of the points that are in the Daschle legislation which we wanted to debate. But, no. Instead, we are debating salting legislation, we are debating the Vacancies Act, the Internet tax, and we will soon be debating financial services legislation, but not the issues that affect the quality of life of our children, our parents, our loved ones, our families. Why? Because the Republican leadership refuses to do it. Why? Because evidently they think we may have the votes to pass it.

We are still asked, is there enough time to pass this? Absolutely. Evidently our Republican leaders think there must be, too, because they continue to refuse to let us have the chance to debate this.

Senator DASCHLE has requested time and time again the opportunity to debate these issues. "No way," says the Republican leadership. "No way." They even closed the Senate down a little over a week ago when they refused to let Members speak on the floor of the U.S. Senate. "No," the Republican leader said, "We set the calendar, we set the schedule, and you are not even going to have the time-honored process that is guaranteed under the rules of the Senate of being able to amend a piece of legislation, because if you are not going to behave yourselves"—in other words, "if you are not going to accept our gagging you," as so many of the HMOs are doing in terms of gagging doctors from making recommendations about what is the appropriate kind of health treatment for

the illness and sickness of the patients they are dealing with—"we are not going to even debate that bill. We are going to pull the bill. We are going to take it off the floor, and we are going to put it back on the calendar," as he has done.

That is what is happening in the U.S. Senate these days. We were fortunate to have just had an opportunity to debate raising the minimum wage. We said that working men and women in this country, who work 40 hours a week and 52 weeks a year, ought to have a livable wage. We were not successful on the issue. We lost on that, but we had the opportunity to debate and go on record with our positions. What we are saying now is: Let us have a debate; let us have the debate on the questions of health care quality. This is something which is of enormous importance.

Mr. President, as I mentioned, this isn't just something a number of us have been in strong support of. I want to mention an editorial in Sunday's Washington Post that cut through the Republican leadership's smokescreen of evasion and distortion on managed care. The editorial was entitled "Double Loss on Managed Care." The author says:

Mr. Clinton . . . took the lead months ago in proposing that Congress pass a "Patients' Bill of Rights" to limit how far managed care companies and other insurers can go in denying care in order to cut costs. Democrats in both Houses built on his proposals. The initial reaction of House Republican leaders was to say no bill was necessary. By July, that had ceased to be a comfortable position and, to give their members more cover, they allowed a mostly token bill to pass.

In the Senate, the leadership also produced a token bill but refused to bring it to the floor unless the Democrats agreed to limit themselves to a handful of amendments, which the Democrats said would make a shell of the proceedings. To thwart the Democrats when they have tried to bring up their own bill, the Republicans have all but shut the Senate down.

There it is, Mr. President. That isn't Senator DASCHLE saying that or myself saying that or any number of my colleagues—Senator BOXER, Senator MURRAY, Senator DURBIN. You can call the roll on so many of our colleagues. That isn't any individual Member saying that. Here it is in a Washington Post editorial, which has captured in two paragraphs exactly what we have been saying day after day after day, week after week after week, month after month after month. They understand it, Mr. President, and the American people understand.

The editorial goes on to say that it disagrees with some provisions of the Democratic bill but, in its words:

That could be dealt with in the normal legislative process, if only the Republicans would allow the process to occur. For a combination of political and doctrinal reasons, they won't, anymore than earlier in the year, they allowed tobacco or campaign reform legislation to pass. They ought to be made to answer for their record, but so far they have not.

There it is, Mr. President, clear as can be for all to see, and the American

people are increasingly aware of the current situation. That editorial captures it. It is clear what is going on here. It is clear to the Washington Post. It is clear to every Member of the Senate. It should be clear to the American people.

The American people want Congress to pass strong, effective legislation to end the abuses by HMOs, managed care plans and health insurance companies. The Patients' Bill of Rights, sponsored by Senator DASCHLE and other Senate Democrats, provides the needed and long overdue antidote to these festering and growing abuses. Our goal is to protect patients and see that insurance plans provide the quality care they promise in brochures but too often fail to deliver.

Our bill has been on the Senate calendar since March. Earlier legislation was introduced more than a year and a half ago, but the Senate has taken no action because the Republican leadership has been compounding the HMO abuses by abusing the rules of the Senate to block meaningful reform.

This record of abuse should be unacceptable to the Senate, and, certainly, unacceptable to the American people. One of the most indefensible gaps in the Republican plan is its failure to cover public employees. The GOP plan offers no protection for the 23 million people who serve the public by working for State and local governments. The Republican leadership is saying "No" to the police officers and the firefighters who put their lives on the line every day to safeguard the public; "No" to the schoolteachers who educate our children; no to nurses; "No" to social workers, doctors, and others who spend their days caring for people in public health agencies and State and county hospitals; and "No" to countless other professionals who serve the public through State and local governments.

I will take just a few moments of the Senate's time to refer to three excellent commentaries that we heard today. I will have the full statements printed in the RECORD. First, we will hear from Jerry Flynn:

My name is Jerry Flynn. I am a police officer with the City of Lowell, Massachusetts Police Department. I am also the National Vice-President of the International Brotherhood of Police Officers. . . .

Unlike the sham being proposed by the Republican Leadership, [the Democratic leadership plan] is the only legislation that would actually protect patients and address the abuses of managed care.

Of particular concern to me, is the fact that the Senate Republican Leadership bill does not apply to public employees. This means all state and local government employees in Lowell, as well as millions of other public workers who are covered under managed care plans, would not be protected under the limited provisions of the Republican version of the bill.

The fact is that the Republican bill leaves out more than 100 million Americans with private insurance. Of that group, we have some 23 million who are public employees.

Let me continue with Jerry Flynn's comments:

Don't public employees deserve the same protections as other Americans? Don't public employees deserve the same medical treatment as other Americans? It's high time Senate Majority Leader Trent Lott and the rest of the Republican Leadership stop treating public employees as second class citizens.

As police officers, we know the importance of comprehensive medical coverage.

Whether the injury is slight or life threatening, whether it involves a civilian or fellow officer, whether it involves an elderly person or a small child, the single most important factor is that we get the best medical treatment possible—and that the quality of care be determined by need, not by cost.

Mr. President, listen to Tom McEachin:

. . . I am a fire fighter in Prince George's County, Maryland. Fire fighters and paramedics are the first responders to the overwhelming majority of acute medical incidents in this nation. Every day we see the faces of those Americans that the Patients' Bill of Rights Act would protect. We see the look of fear on their faces as they react to the emergency situations their loved ones face. They're not only afraid for the lives of those they love, they're also afraid about what the accountants at their HMOs will say about the decisions they have just made. They're afraid they'll be denied coverage and have to find a way to pay astronomical bills or face long-term indebtedness. The way the system's set up now, they sometimes end up hoping that there's something seriously wrong with their loved ones, because they're afraid of what the bean counters will say if they decide it wasn't a true emergency.

Listen to these last few lines, Mr. President.

Fire fighters work in the worst of conditions. We go where the danger is the greatest, during careers that can last more than 20 years. Each year, more than half of us are injured on the job, and the environmental hazards we face have been proven to cause various forms of cancer, heart disease and other life-threatening diseases. All we ask in return for the risks we take is the simple guarantee that our health coverage will protect us and our loved ones when we need it. The Patients' Bill of Rights will do just that.

The 23 million state and local public employees who are not covered by the Republican leadership's bill deserve better. The citizens we serve deserve better. The American public deserves better. As a fire fighter, all I'm asking for is that my elected leaders treat me as I would treat them or their family members if I had to rescue them in an emergency situation. It's only fair.

Listen to that, Mr. President. This is from a firefighter. He is left out of the Republican bill, but protected in our bill. Let's debate whether he and his colleagues should be included or excluded. That is what we are saying to the Republican leadership. And we have silence over there. This is what Thomas McEachin said:

The citizens we serve deserve better. The American public deserves better. As a fire fighter, all I'm asking for is that my elected leaders treat me as I would treat them or their family members if I had to rescue them in an emergency situation. It's only fair.

Why can't we debate that? That is true with every firefighter in this country. It is true about every police

officer in this country. It is true about every teacher in this country—all of them are excluded under the Republican bill. Can't we debate that? Twenty-three million Americans left out, left behind. We are not discussing this in the Senate—no, no. We have to debate the Vacancies Act. We have to debate Internet tax. We have to debate salting. We have to debate child custody. We have to debate all of those issues. We have to debate all of those issues, but we cannot debate the concerns raised by Thomas McEachin. We cannot seem to make every Member in this body accountable for their vote. I can understand why the Republicans do not want to go on record with their position. I can understand why they do not want to. But that is not a good enough answer.

Mr. President, the statements keep coming. Here is one from Doris Brightful, a registered nurse, now retired after 32 years with the Baltimore City Health Department. And I will include, as I mentioned, in the RECORD all of these statements.

... I am not just here today as a health care professional. Nurses are also health care consumers. Nursing is a dangerous profession, and nurses are often injured on the job or exposed to dangerous infectious diseases. We know that, sooner or later, we will need medical care. My family members and my loved ones also will one day need health care. Therefore, I am outraged that Senator Lott and other Republicans would exclude me, my family and some 23 million other state and local public employees from even those few protections that are offered in their health care proposal. School teachers, firefighters, public safety officers—and, yes, doctors and nurses working in public health facilities—work hard every day looking out for the well-being of our communities. Yet, the Republican bill would deny us many of the same protections that our patients would have under this plan.

All they want are the same protections—"the same protections that our patients would have under this plan." Nurse Brightful concludes:

In closing, I would just like to point out that the first guiding principle in the Health Care Consumer Bill of Rights, as set forth by the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry was this: All consumers are created equal. The Republican bill violates this principle, and should be rejected.

Instead, the Senate should pass S. 1890, the Patients Bill of Rights, so that all Americans are protected.

Here it is, Mr. President. These are the real stories of what is happening out across America. These are the comments of three of our fellow citizens—a firefighter, a police officer, a nurse—talking about the kinds of inequities that exist out there. There are 23 million Americans in their situation, and still we cannot get this legislation up on the floor.

The Republican leadership says we have too many bills to debate but, Mr. President, the American families know what is going on here. The doctors know what is going on. The nurses understand what is going on. The news-

papers around this country know what is going on. We are being denied the opportunity to have a debate of this bill and to try to pass something that would be worthy of the Senate's actions.

Mr. President, this is just one aspect of the differences between the Democratic and Republican health programs. We have tried, over the period of recent weeks, to bring examples of those that would be affected by either the inclusion or exclusion of the various protections in the proposals, and to bring those examples to the attention of the Senate over the period of recent days and weeks. We will continue to do so.

How much time, Mr. President?

The PRESIDING OFFICER. Thirty minutes.

Mr. KENNEDY. Mr. President, at other forums we heard about the need for access to specialty care—one of the most important ways in which managed care plans shortchange patients. This is a right guaranteed in our Patients' Bill of Rights but not in our Republican plan.

Dr. Mirtha Casimir, a distinguished oncologist from Houston, Texas, outlined the tragedy she sees every single day because HMOs unduly restrict access to specialists. This is what Dr. Casimir's statement was:

Cancer patients today are facing a painful irony. At a time of unprecedented progress in the understanding of the genetic and cellular origins of cancer, as well as parallel advances in drug development and design, the insurance industry is exposing new cost containment.

Many medical oncologists are concerned about timely access to cancer care and how the significant delays and referrals are impacting early diagnosis and the outcome of therapies in the first and subsequent courses of treatment. Not uncommonly, I now see in my practice delays of 2 to 4 months in a diagnosis of a new primary cancer or the detection of a recurrence.

And what the doctor continues to point out is that when she finally sees these cases, it is often too late. For example, she sees women in her practice who have started out with a very, very small tumor in their breast, and then they have been delayed access to a specialist and denied various kinds of treatment. Their appeals go on and on through the HMOs, and finally, when they get to a skilled oncologist, after weeks and months, often it is too late—often it is too late. The tumor has spread too far.

And Dr. Casimir said that more often than not when she flips to the front part of the chart, she will see that the patient is covered by an HMO. She will see that the initial request was denied for the kind of treatment that she could provide. And more often than not, she believes, as a skilled physician, that she could have saved the life of that individual if they had been able to get the prompt kind of a treatment and care. She wraps up in her statement by saying:

Poor quality of care is always more expensive, both in human terms as well as in the

resources expended to try to right the wrong. If the Patients' Bill of Rights is not passed, patients will continue to experience the hostility of this turbulent health care environment in which care is constrained, physicians are controlled, needs of cancer patients are not addressed, and critically important quality of life interventions are viewed as dispensable.

That is the statement from one of the top oncologists in the country, and the rest of the testimony spells out additional reasons in support of those points.

On September 15, we heard from the past president of the American Academy of Neurology, Dr. Ken Viste from Wisconsin:

This country needs fair and compassionate legislation establishing the national standard for all health plans in order to help not harm people with chronic conditions or disabilities.

The American Academy of Neurology said:

The House Republican leadership's bill, which passed the House, fails to protect the rights and address the needs of patients.

There it is, Mr. President, from the American Academy of Neurology. Dr. Viste continued:

It is critical for people who need a medical specialist's care to be able to seek the treatment from them directly, immediately, and without penalty. The Daschle-Kennedy bill answers this need by assuring that people with complex, chronic conditions have direct access to specialists within a health plan. And, if no specialist exists in the plan, consumers have a right at no cost to seek a specialist outside of the plan. We believe any adequate patient protection legislation must include these provisions.

Willis Lester, one of the speakers at the rally, explained when his employer switched to a managed care plan, his new primary care doctor took him off his blood pressure and cholesterol medications. Consequently, Lester suffered a stroke. According to Dr. Nancy Futrell . . . the stroke is a direct result of high blood pressure and high cholesterol, which would have been controlled by his medications.

Dr. Futrell added that Lester's plan has limited his physical therapy, "essentially impairing his recovery."

Explains Dr. Viste:

With the rise of managed care, we've seen many patients with chronic conditions denied access to quality, specialized medical care that they need. As a result, some of these patients suffer long-term effects and end up on disability, driving up costs to employers. Patients need a law with "teeth" that guarantees they will be able to see a specialist, appeal to obtain a medically necessary drug when denied such under a prescription plan, and appeal denial of care to an independent decision-making body.

Not only will the patient benefit, but in the end, the employers, as well.

The Epilepsy Foundation, the National Multiple Sclerosis Society, United Cerebral Palsy, the American Parkinson's Disease Foundation, the Brain Injury Association, the Consortium for Citizens with Disabilities joined the [American Academy of Neurology] leaders and members . . . in advocating the passage of S. 1890.

The Epilepsy Foundation, National Multiple Sclerosis Society, United Cerebral Palsy, Parkinson's Disease Foundation, Brain Injury Association—

every one of these groups say that our legislation provides the protections which are necessary for our families, and the GOP bill does not.

We don't even have an opportunity to debate or discuss this. The majority refuses to debate. We are still waiting to hear the name of that first major medical society that supports the Republican proposal. We are still waiting. They haven't been able to come up with one, not one. Virtually every major health care group supports our program. They all do.

We will make adjustments and changes in any legislation to try and move the legislation forward, but we are not going to compromise on vital protections. Every major medical professional group supports ours. None, not one, support theirs.

The list goes on. This is from a statement of Jeanne Carpenter, the president of the Epilepsy Foundation, in support of the Patients Bill of Rights:

The Epilepsy Foundation historically has been a strong advocate for patients rights. We support affordable and quality health care for all Americans. And that begins with giving consumers the choice of health plans, a feature we are pleased to see included in the proposed legislation.

We especially support several key provisions [in the legislation]—access to specialists and provider choice, detailed patient information, independent internal and external review of service denials, and coverage for nonformulary prescriptions where medically necessary.

Many patients and families tell us they are deeply frustrated being denied referrals to specialists and the full range of treatment options that specialized treatment centers can provide. Not only is patient quality of life adversely affected, but denial of services is a false economy. It produces added cost for unnecessary emergency room and dental services, lost productivity and other seizure-related expenses.

Seizure control for many epilepsy patients is a complex matter with important subtleties not always recognized in the primary care setting. Families whose children continue to have seizures need and deserve the opportunity to have their cases reviewed by third parties with full knowledge of the disorder and rapid progress is now being made in its treatment.

Patients' rights legislation is long overdue. Each day of delay, there are children whose chances in life are being jeopardized because of ongoing seizures. We strongly urge passage of these protections during the current session of Congress and at the earliest possible moment.

Do we hear that? Every day of delayed debate and inaction we are putting at risk children whose lives are being jeopardized because of ongoing seizures. How many are being jeopardized if we don't complete the Vacancies Act? Or the salting act or the Internet tax or the financial services legislation? How many? Here, Mr. President, are the real issues. This is what is really important in our remaining time this year.

It is very clear why all of these organizations support this proposal. We have built into it not only the guarantee of specialty care, but real internal and external appeals.

I will make a brief comment about the appeal procedures under the Republican proposal. Under their plan, the decision to allow a patient to proceed to a so-called independent appeal will be made by the HMO itself, in consultation with their lawyers. Talk about having the fox guard the hen house, this is putting the fox in there. Do you know what will happen under the Republican House plan? Even if the patient wins on the appeal, the plan doesn't have to accept it. If they choose, they don't have to follow it. So they can show a brochure to anybody buying insurance, look you have an appeal. But they probably don't explain that it is decided by the plan and that the plan doesn't have to follow the ruling if it benefits the patient.

Our Republican friends say yes, we have an appeal provision. They say yes, we have it in our proposal. But this is the appeal they have. It doesn't work in quite the same way as ours.

I see two of my good friends and colleagues here, so I will wind up. It is important to understand that this issue is not going to go away.

As I have mentioned many times, the provisions listed on this chart and included in our legislation have either been recommended by the President's bipartisan commission—which required unanimous support by its members—or were put in Medicare by the Congress or have been endorsed by the National Association of Insurance Commissioners or recommended by the American Association of Health Plans, which represents HMOs across the country.

And, while the President's Commission did not specifically draft legislation, they did not rule out legislation either. They simply said that all Americans should have these protections. Most of our bill reflects the Commission's recommendations. Many of these provisions currently protect our seniors in Medicare. There is a lot of overlap here. The HMO trade group and the State insurance commissioners—again, Republicans and Democrats alike—have said these are important protections. Virtually all of our proposals have been recommended or adopted by other health care programs or experts. Talk about a modest proposal.

This is really a reflection of the best of those who understand this issue and have studied it for some period of time—probably for 8 to 10 years.

That is what this is all about. It is sensible. It is responsible. It is common sense. It is common sense to take a sick child to the nearest emergency room and not across town. It is common sense to get a specialist to take care of a particular kind of need. That makes sense. It is common sense to give the best medical prescription drug to somebody who is ill. It is common sense, with the breakthrough technologies and unprecedented progress that we are making in medicine, to allow people who can benefit from clinical trials to be able to participate in

those clinical trials. It doesn't cost the HMOs very much more because they are going to have to pay for the basic routine care in any event, and that care will continue. The clinical trial pays for the additional treatment. So the cost isn't that great. But too many patients don't have this right, and those who think they do are increasingly denied it.

The list goes on. These are common sense proposals, Mr. President. It is common sense to hold people accountable for their actions. When you hold them accountable, you get better performance. The best testimony on the issues of appeals and accountability that we heard was when Senator SPENCER had his excellent hearing. We learned that court cases rarely occur, even when patients can hold their plans accountable. The 23 million employees of state and local governments can take their plans to court, as can the 15 million patients with individual health insurance. We know how that works. It is rarely used. Why? Because it is there. In most cases, the internal and external appeals resolve it before it needs to go to court. In the end, with few exceptions, it doesn't involve a court case. But what is clear—and the testimony is overwhelming because it is there—is that you get better quality. These plans can be held accountable for their actions, but we see that there is not as great a need when that right exists for patients.

That is what we are interested in. We are interested in the best quality. We believe the American people should be entitled to it.

These are some of the stories that we have heard in recent times. We can go right down the list of protections in our bill and in every one of these areas on this chart, you can find compelling stories. We just ask to debate and vote on these issues.

All we ask is that we cut back on some of the quorum calls that we have had here lately. All we ask is that we follow Senator DASCHLE's suggestion that we may debate these in the course of the evenings, at the end of this week and part of next week, and have some resolution of these issues. All we ask is that we give the American people at least an understanding that this institution is addressing something that is fundamentally important to their lives and the lives of their loved ones.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I concur with the sense of urgency that our colleague from Massachusetts just presented on this issue. With every day that goes by, another American family is at risk because they do not have these guaranteed protections; another American family is in a quandary because they do not have the kind of information that this would assure.

The Senator from Massachusetts has spoken in great detail—and the Senator from Rhode Island will shortly do

likewise—on this. If I could just focus on two items. The most contentious area between patients and their health maintenance organization is the emergency room. That is where the greatest number of disputes as to the appropriateness of service and responsibility for payment of service occurs.

Recognizing that fact, last year, this Congress passed a very strong provision for the 35 million Americans who receive their health care financing through Medicare, to protect them relative to their HMO in an emergency room setting. Basically, the standard is, if you are a reasonable lay person and you are suffering from symptoms that a reasonable lay person would feel appropriate for emergency room treatment—say, you have a pain in your left chest—you can go to the emergency room, receive treatment, and not be faced a month later with an enormous bill from that same emergency room because the HMO denied coverage. The HMO is required to provide coverage.

If you will notice on the chart, I believe it will indicate that both bills—the GOP's and the Democratic—have emergency room access. But that is not the end of the matter. It is not just a matter of getting into the emergency room and having assurance that somebody is going to look at you and determine whether your pain is angina or a heart attack. Then, after that decision is made, there is another critical period. That is what is called the postdiagnostic stabilization period, where something is done to you to bring you back to a level of health that will allow you to return home.

There is a significant difference, because the Democratic bill provides that that postdiagnostic stabilization period is also guaranteed to be covered. That is not the case with the Republican bill. So you can't just look at a chart with three or four words behind the number and assume that we are talking about parity protections. That is what we ought to be debating. Is there a rational reason to have emergency room access covered, as it is in Medicare, but not to have, as it is in Medicare, the postdiagnostic stabilization covered? We could have a good debate on that issue, and we ought to have that debate.

Secondly, the issue of informed judgment. Many citizens now have the opportunity to select from a variety of HMOs. They may be with an employer plan that provides multiple HMOs, or if they are purchasing from their own resources from the marketplace, what typically is absent is the means by which even the most concerned and conscientious citizen can make an informed judgment among this variety of plans.

So we have a provision for information to be made available on the quality of the plan: What kind of things might we anticipate would come from that information about performance outcomes? How many of the patients under one particular plan who, for in-

stance, have a particular type of surgical procedure have a successful outcome? If you are about to have surgery, you would be pretty interested in knowing what the prospects were of your having a positive result.

Another provision that is likely to be included is information about what will this plan do to help you maintain your state of good health? Will this plan, for instance, provide for screening tests and periodic examinations? Those kinds of things, we know, have the greatest potential of spotting a problem before it becomes a fatal condition, giving you the opportunity to do something to maintain the quality of your health. That provision is in the Democratic plan, but it is not in the Republican plan. I think that is a critical matter for Americans attempting to use their own best efforts to select a plan that will best protect the health of their family.

So, Mr. President, this is an urgent and critical issue. We are taking up a lot of matters in this last couple of weeks, and I would let the American people make a judgment as to our sense of priorities. Is it more important to be considering the Judicial Vacancies Act during the last 6 or 7 days of this Congress, or to be considering the Bill of Rights for 161 million Americans, in terms of their health care? That is a judgment that the American people should make. I think it is a judgment about which we in the Congress should feel a sense of responsibility to the citizens of this country—to prioritize our efforts on their behalf.

Mr. President, I am certain we will have more to say on this issue.

Mr. KENNEDY. Mr. President, I thank the Senator.

Mr. GRAHAM. Mr. President, I ask unanimous consent that my following remarks be included in the RECORD when the energy and water appropriations conference report is considered by the Senate.

The PRESIDING OFFICER. The Senator is informed that the energy and water appropriations bill is not on the calendar. It is scheduled to be on the calendar. The acting President does not believe the remarks today can be put in tomorrow's RECORD.

Mr. GRAHAM. Mr. President, in light of that comment, I will therefore defer my comments until the appropriate day when this matter will be considered. I would like to alert the Senate that it will be my intention at the appropriate time to provide such a statement and a colloquy among Senators DOMENICI, REID, MACK, and myself on the issue of funding for the Kissimmee River Restoration Project as part of the Everglades Restoration Project as it relates to that item within the energy and water appropriations conference committee.

Mr. President, in light of the comments of the Chair, the uncertainty as to whether this bill will be before us today, I will conclude my comments with that information to the Senate

and look forward to participating when this matter is before the Senate.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

ENERGY AND WATER CONFERENCE REPORT

Mr. HARKIN. Mr. President, first all, I thank my friend and colleague from Rhode Island for letting me jump in front of him. I will only take a couple minutes.

The chairman of the Budget Committee, Senator DOMENICI, was in the Chamber earlier talking about the fact that I had not permitted the energy and water conference report to proceed under a unanimous consent agreement. I objected to that. And the reason I did so not objection to the energy bill; I have none. Rather I objected because I wanted to once again bring the attention of the Senate to the fact that we have a very unfair situation presented to us in terms of the allocation of money for the defense portion of fiscal year 1999 Appropriations and for the nondefense portion.

I again ask Senators to look at the July 30 CONGRESSIONAL RECORD, page S9404, when I spoke, and there was a short colloquy with Senator SPECTER, myself, Senator LAUTENBERG, and Senator DOMENICI at that time.

Basically, it goes back to a letter that was written on April 2, 1998, by Senator DOMENICI to Senator STEVENS which basically said that by using OMB scoring figures and policy decisions, they had identified \$2.2 billion more in outlays for defense by using the OMB policy assumptions rather than CBO policy assumptions.

At the end of the letter Senator DOMENICI writes, "Pursuant to your amendment, we are also looking at the issue of nondefense outlay scoring and will report back to you shortly."

That was April 27, and we still don't have a report.

Right now, based on informal preliminary meetings being held with the House, it is clear that a considerable increase over the funding in the Senate bill will be required to meet all of the demands and get this bill signed into law.

Now, earlier today I spoke to Senator DOMENICI about this, and Senator DOMENICI mentioned something to me about \$300 million that he had already given. That unfortunately is not my understanding of where we officially stand. We still haven't seen it, and I do not know where it is. If it is \$215 million or even \$300 million, that still means we are going to have to trim over half a billion dollars from what the preliminary discussions with the House have led us to.

So where are we going to trim? Head Start? Are we going to cut IDEA, the Individuals with Disabilities Education Act? Are we going to cut community health centers? Are we going to cut the Ryan White AIDS Program? Drug