short items today, the first of which is the Patients' Bill of Rights legislation, which we hope the Senate will take up perhaps as early as this week. Some suggest that there isn't a need for legislation to ensure the quality of care provided by managed care plans. They believe, I suppose, as some insurance companies do, that things are just fine in managed care and health care in this country. But others, and that includes most of the American people, know better. They worry that health care in this country is now often directed not by doctors or other medical professionals but by some accountant in an insurance office 500 or 1,000 miles away from where the patient is.

Let me describe, as we have nearly every day for some weeks, a case that illustrates why the American people are so anxious about what is happening in our health care system. This is the example of Mr. Vaughn Dashiell. Vaughn Dashiell is one more reason why HMO reform, or managed care reform, in the form of the Patients' Bill of Rights, should be brought before the Senate.

Vaughn lived with his wife, Patricia, and their three children in Alexandria, VA, not too far from the U.S. Capitol. He owned and operated his own printing company. On November 20, 1996, Vaughn stayed home from work. He had awakened that morning sick, suffering from a sore throat, a dry mouth and tunnel vision that limited his sight to only 18 inches. He tried to get an appointment to see a doctor within his HMO network but was told there were no appointments available at his designated facility. He was able to speak only to an HMO-employed nurse on duty over the phone. She could have told Vaughn to go to an emergency room for treatment, but instead she told him to make a regular appointment, even though none were available. So here is someone who has health care coverage, wakes up ill, calls the HMO, can't speak to a doctor, instead speaks to a nurse, and the nurse says, ''Make an appointment,'' but no appointments are available.

As Vaughn's symptoms worsened, he called his HMO again requesting permission to see a doctor somewhere, or to go to a nearby emergency room for treatment. He was told only to wait and that he would receive a call back from a doctor on duty. When the doctor on duty was consulted, he agreed that Vaughn should go to an emergency room, but neither made a call himself, nor followed-up to see that Vaughn was contacted. And that night Vaughn Dashiell was not contacted—not by the nurse, not by the doctor, or by any other HMO staff regarding his condition and the request he had made for health care.

The next morning, Patricia Dashiell found her husband incoherent, with his eyes rolling. She hurriedly called the HMO hoping for an answer to Vaughn's problem, and they advised her to call 911. She called 911 and Vaughn arrived at the hospital at 9:18 a.m. in a diabetic coma. His blood sugar level was more than 20 times greater than the normal level. Just 2 hours after being rushed to the emergency room, Vaughn was dead from hyperglycemia. He was 39 years old. He had health insurance coverage, but he couldn't get care when he needed it, and he died.

This should not happen in this country. Health insurers should not put profits ahead of patients. And too often these days, they do. Vaughn Dashiell's condition would have and could have been treated if his health plan had enabled him to get care when he needed it. But all over this country, we are hearing of patients who need health care and are told by those who have covered them with health insurance, ''It is not now available.''

The Patients' Bill of Rights we have offered in the Senate is very simple. This legislation says that people who have health insurance coverage ought to get the health care they need when they have an urgent need for it. They ought to be able to seek emergency room care if a reasonable person would consider it an emergency. They ought to be able to see the doctor they need for the health care problem they are experiencing. Patients have a right to know all of the options for the treatment of their problem, not just the cheapest, and there are a whole series of other provisions to ensure that medical care will be practiced in a doctor's office or a hospital room, not an insurance office 1,000 miles away.

I have told, often, of the woman who, having fallen from a horse and hitting her head severely, was in an ambulance, with her brain swelling, on the way to the hospital. She had the presence of mind to tell the ambulance driver that she wanted to be driven to the hospital further away rather than to the nearby hospital. And when she recovered, she was asked why she had insisted, as she was lying there injured in the back of the ambulance with her brain swelling, on being taken to the hospital further away. She said it was because she knew the reputation of the closer hospital, and she knew that it was a for-profit institution with a reputation for being interested in its profit and loss margin than its patients' care. She did not want her body delivered to an emergency room where she would be looked at in terms of dollars and cents.

That story and the tragic story of Vaughn Dashiell and so many others like it that we have presented to the Senate daily now for so many weeks, describes the anxiety and concern people have in this country. We have the best health care in the world in many respects, but it is available to people in need of health care only if they are able to access the kind of doctors they need when they have need for that medical specialty.

It is available only if they are able to get to an emergency room when they have need for emergency care. When we have American citizens—thousands and thousand and thousands of them—who are denied care because someone in an office 500 miles away said, ''Well, gee, that care is not needed, it is not to be delivered, it is not available,'' then the American people have a right to say, ''What on Earth kind of health care system is this?''

One of the stories we presented earlier on the floor of the Senate was of a young boy with cerebral palsy whose managed care officials determined that he had only a 50 percent chance of being able to walk by age 5. And because he had only a 50 percent chance of being able to walk by age 5, plan officials decided that was a minimal benefit and they would withhold it from that young child; it was not cost effective. It was a minimal benefit to have a 50 percent chance of being able to walk when you are 5 years old.

Shame on the people who make those judgments. Shame on them.

We are saying with the Patients' Bill of Rights that those who need medical treatment in this country have certain rights, and those who deliver medical treatment certainly should be cost conscious, but cost ought not take precedence over quality. Those who have coverage for their health care needs ought to be able to expect to get their needs taken care of and responded to adequately. That is, regrettably, not the case in many parts of our country today.

We are led to believe that perhaps this week we will take up some form of the Patients' Bill of Rights. If that happens, it will be the right subject to be debated. It is a subject Americans expect to be addressed. I, as a cosponsor of the Patients' Bill of Rights, feel, as will many of my colleagues, that it is time for us to address this important issue on behalf of the American people.

FARM CRISIS

Mr. DORGAN. Mr. President, I want to make some remarks on the subject of the farm crisis that exists in North Dakota and other parts of the country, and discuss some legislation a number of us intend to offer in the coming days and weeks dealing with that issue.

As a way of describing that issue, the New York Times had a front-page story yesterday that talks about it. The article reports, ''As the national economy is booming, lawmakers have begun to focus on one of the few places in the country where times are bad—the northern plains where wheat and livestock prices have plunged and many farmers are desperate.''

The story goes on to describe the condition in North Dakota and some other States where we have a serious agricultural crisis. Collapsing profits in agriculture mean that we are seeing family farmers going out of business at a record pace.

Let me describe that with one chart for those who watch these proceedings. In my home State of North Dakota, net

farm income has dropped 98 percent in 1 year. That's right; a 98-percent drop in net farm income in 1 year.

Then ask yourself what this statistic means. Ask yourself what would be the result for you, your neighbor, or your community, if you experienced a 98-percent drop in net income? That is what the farmers of North Dakota are facing because of collapsed grain prices and the worst crop disease in a century. The primary crop disease they face is called scab, or fusarium head blight, and it has devastated wheat and barley crops and some others. The combination of crop disease and a collapsed grain price has produced a farm crisis that is very, very serious and to which this Congress must respond.

In the same New York Times article, it says some who wrote the current farm bill two years ago—which I did not support and voted against it—say that a free-market agricultural policy is the best. It quotes the authors of the farm bill as saying ''Farmers can best be helped by people staying out of their hair and promoting export markets.''

I want to describe part of the problem that farmers face with this kind of free-trade philosophy. There really isn't free trade for farmers. There isn't a free market for farmers. On both ends, they are pinched badly and hurt badly. On one end where they are trying to sell their product, they are trying to sell up through the neck of a bottle. The iron fist around the neck is the grain trade firms, the millers, the railroads where three, four, or five firms control virtually all of it and they squeeze back down resulting in increased costs for farmers and depressed farm prices. So there is no free market moving up.

How about on the back side of it all? Is there a free market in trade? No; through our backdoor comes a flood of Canadian grain which is unfairly subsidized in my judgment, and undercuts our farmers and their prices.

While that happens every day, I want to read another news story. It says: ''Official's Beanie Babies Stir Furor.'' I don't know what page this was on in the paper. It was a fairly large story about Beanie Babies—Beanie Babies, mind you. No offense to people who collect them and like them, but I have not spent a nanosecond of my life thinking about Beanie Babies.

This story is about the U.S. Trade Ambassador who came home from China and apparently had purchased some Beanie Babies in China. She discovered, I guess to her embarrassment, that you can't bring 40 Beanie Babies into this country from China. The Beanie Babies are made in China for an American firm. They make the Beanie Babies in China, and then they ship the Beanie Babies back to the United States for sale in the United States. But you can't buy 40 Beanie Babies in China and haul them back here. Apparently, visitors are restricted to one Beanie Baby from China to the United States. I am told also you are restricted to one Beanie Baby from Canada to the United States.

Those of us who live up near the Canadian border see a lot of things coming in from Canada. I went up to the Canadian border one day with Earl Jensen of Bowbells, ND. We had a little 2-ton orange 10-year-old truck. We tried to take a few bushels of durum wheat into Canada. All the way up to the border, we met 18-wheelers coming from Canada to the United States full of Canadian wheat. We saw truck after truck after truck after truck, all full of wheat, all the way to the border.

Earl and I got to the border with this little 10-year-old orange truck. Do you think we could get one quarter-truckload of durum into Canada? They said: No, you can't do that. You can flood the market in the United States with Canadian grain, but you can't get one little orange truckload of durum wheat into Canada.

When it comes to restricting imports to the United States, we say one Beanie Baby. Boy, we're tough on Beanie Babies. And if you exceed one Beanie Baby, you're apparently in huge trouble. But you can ship all the durum wheat, all the spring wheat and barley you want, and nobody is going to pay any mind at all. Nobody is going to care. In fact, if they unfairly subsidize it, as I am convinced they are doing, it still doesn't seem to matter. When we send auditors up to Canada to get into the books and records of the Canadian Wheat Board to check it out, the Canadian Wheat Board says, ''Go fly a kite, we don't intend to show you any information; we intend to give you no records about our trade into the United States.''

I say to those quoted in the New York Times and those in this Chamber who say, ''Gee, what we should do is rely on this free-market stuff,'' that there is no free market. There is no free market on either end, not the top end through which farmers market their products and not the back end through which they are facing unfair competition coming into this country with unfairly subsidized grain.

We have farmers going broke in record numbers. We face a very serious farm crisis. A new farm bill was written 2 years ago. When that farm bill was written, it was written by folks who said, ''Let's have the farmers operate in whatever the free-market system is.'' Some of us said the problem is, there isn't a free market and if farmers run into price collapse, we are in a situation where they will not be able to get over that pricing valley. When they hit a price collapse, there needs to be a bridge over that price valley. If you don't help family farmers over that valley, then they go broke.

Some people say, ''That's okay, it doesn't matter, we don't care if we have family farmers.'' I suppose some people don't. They don't care if we end up with big farms, agrifactories, farming from the west coast to the east coast. Does it matter? It seems to me it matters.

For those who haven't been on a farm, if you look out the plane at night and you see the yard lights dotting the landscape, each of those lights is a family living on a family farm.

These family farmers take more risks than almost anyone else in this country doing business. They risk whether they will get a crop. They put all their money in their crop, including the cost of seed and fertilizer, as they plant their fields in the spring. They have no idea whether there will be a dozen or more weather-related events that might destroy their crop. There is the threat of insects, the threat of hail, the threat of drought, the threat of too much moisture, among other things. Yet, if they are fortunate enough to get a crop, they might well end up seeing the market as it exists today with collapsed prices.

And they are facing big interests that clap about that. They say, ''Gee, that's great. We love collapsed prices.'' The big grain millers, they think that is just fine. Only four firms control almost sixty percent of the flour milling in this country. I suppose the grocery manufacturers think that is just fine, because they seem to love low farm prices.

The problem is family farmers can't survive. They are the seed bed of American enterprise and the home of family values that have always nurtured and flowed from family farms to small towns and into big cities. It is these family farmers, who are the ones that we lose.

This is not just about dollars and cents. It is about something much more important to this country's future than just dollars and cents. And that is why during this week, next week and beyond, we feel the need and the urgency to propose some changes here on the floor of the Senate. We must deal with farm policy in a way that addresses the issue of trade, in a way that addresses the issue of the misplaced priorities within a system that worries about Beanie Babies on the same day that nobody seems to care much about family farmers.

We think there are some things that can be done to extend a helping hand to family farmers, and to say, that they matter in this country's future. When we offer legislation on the floor of the Senate, I expect there will be those who say, as they did 2 weeks ago, that the current farm bill is working just fine. I dearly wish we could give them a deed this afternoon and say, ''Here. You think it's working fine? Here is your farm. We'll give you 1,000 acres. Buy some fuel and fertilizers and seed, and farm until you go broke. When you go broke—and you will—you come back and tell us how well your farm policy works.'' I just wish we could do that. But, of course, there is not time because this crisis requires action on a much more immediate basis.

Mr. President, we expect to have a substantial debate about that in the coming days. I hope that Republicans

and Democrats will understand the merit, the value, and the worth of family farming in this country's future. I hope that we will decide to embark upon a farm policy that says to family farmers that when prices collapse and when you are ravaged by the worst crop disease of the century, we want to help you over those price valleys. We want you to be a part of this country's future.

We need a farm policy that tells family farmers that they matter from the standpoint of social and economic policy. Here we are in a country that produces the most wholesome quality food at the lowest percent of disposable income of anywhere in the world. Family farmers do matter in this country's future. I hope that will be the result of the debate we have here in the next month or two in the U.S. Senate.

Mr. President, I yield the floor.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed for not to exceed 12 minutes.

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

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2292 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PROPERTY RIGHTS IMPLEMENTATION ACT OF 1998—MOTION TO PROCEED

Mr. HATCH. Mr. President, I move to proceed to the consideration of S. 2271, the Property Rights Implementation Act.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to debate the motion to proceed to S. 2271, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of the bill (S. 2271) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes.

The Senate proceeded to consider the motion.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that Brian Day, one of my law clerks, have floor privileges during the pendency of the property rights debate.

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

Mr. HATCH. Mr. President, the people of Utah, and indeed, of all of our States, have felt the heavy hand of the government erode their right to hold and enjoy private property. I have authored and cosponsored many bills in the past that would protect private property from the jaws of the regulatory state.

Our opponents on the left and the radical, so-called environmental groups, however, have been successful so-far in derailing the consideration of more needed reform measures. But I believe we have the opportunity to pass a narrower yet meaningful piece of legislation. The substitute we are considering today, S. 2271, the ''Property Rights Implementation Act,'' narrows H.R. 1534, which passed the House of Representatives on October 23, 1997, by a 248 to 178 vote. After the House passed bill was referred to the Judiciary Committee, we met with local, environmental, and governmental groups in an effort to meet their concerns. The product of those meetings is the S. 2271 substitute.

Mr. President, I hope the Senate will allow us to proceed to consideration of this bill. How can we work to further improve this bill if your colleagues will not let us proceed to vote. This is a worthwhile bill that resolves many problems. I call on my colleagues to vote for cloture so that we may address those problems on the merits.

The purpose of S. 2271, is, at its root, primarily one of fostering fundamental fairness and simple justice for the many millions of Americans who possess or own property. Many citizens who attempt to protect their property rights guaranteed by the Fifth Amendment of the Constitution are barred from the doors of the federal courthouse.

In situations where other than Fifth Amendment property rights are sought to be enforced—such as First Amendment rights, for example—aggrieved parties generally file in a single federal forum without having to exhaust state and local procedures. This is not the case for property owners.

Often they must exhaust all state remedies with the result that they may have to wait for over a decade before their rights are allowed to be vindicated in federal court—if they get there at all. Moreover, the federal jurisdiction over property rights claims against federal agencies and Executive Branch Departments is in a muddle. In these types of cases, property owners face onerous procedural hurdles unique in federal litigation.

The Property Rights Implementation Act, if we are allowed to even consider it, primarily addresses the problem of providing property owners fair access to federal courts to vindicate their federal constitutional rights. The bill is thus merely procedural and does not create new substantive rights.

Consequently, the bill has two purposes. The first is to provide private property owners claiming a violation of the Fifth Amendment's taking clause some certainty as to when they may file the claim in federal court. This is accomplished by addressing the procedural hurdles of the ripeness and abstention doctrines which currently prevent them from having fair and equal access to federal court. S. 2271 defines when a final agency decision has occurred for purposes of meeting the ripeness requirement and prohibits a federal judge from abstaining from or relinquishing jurisdiction when the case does not allege any violation of a state law, right, or privilege. Thus, S. 2271 serves as a vehicle for overcoming federal judicial reluctance to review takings claims based on the ripeness and abstention doctrines.

The second purpose of the bill is to clarify the jurisdiction between the Court of Federal Claims in Washington, D.C., and the regional federal district courts over federal Fifth Amendment takings claims. The Tucker Act grants the Court of Federal Claims exclusive jurisdiction over takings claims seeking compensation. Thus, property owners seeking equitable relief must file in the appropriate federal district court.

This division between law and equity is archaic and results in burdensome delays as property owners who seek both types of relief are ''shuffled'' from one court to the other to determine which court is the proper forum for review. S. 2271 resolves this matter by simply giving both courts concurrent jurisdiction over takings claims, thus allowing both legal and equitable relief to be granted in a single forum. I will address this conundrum of the ''Tucker Act shuffle'' in more detail in a later speech.

I. HOW THE BILL WORKS

Let me briefly explain how the procedural aspects of the bill, designed to assure fairness, work. One of the hurdles property owners face when trying to have their Federal claim heard on the merits is the doctrine of abstention. Federal courts routinely abstain their jurisdiction and refer the case to state court, even if there is no State or local claim alleged. This is true only for property rights cases.

The bill would clarify that a Federal court shall not abstain its jurisdiction if only Federal claims are alleged. To protect State's rights, the bill allows an unsettled question of State law that arises in the course of the Federal claim to be certified in the highest appellate court of that State, under whatever certification procedures exist in that State. Federal courts would retain their jurisdiction, but the unsettled State law question would be answered in State, not Federal court. In