Let me just review just for the body in 4 more minutes eight rather recent votes on this issue. I can only find eight in the last 30 minutes, since I knew that this would come up on the floor. The amendments are not always offered up by the same Senator. They are offered by different people each time. It is kind of like we do with a ''rolling hold.'' You kind of fire the one barrel and then you fire another barrel. So here it all is, of recent vintage.

On January 26, 1995, Senator HARKIN offered an amendment. Senator KEMPTHORNE made a second-degree amendment on it. The Kempthorne amendment said that implementing legislation should not cut Social Security. We all agree with that. You cannot miss on that one. If you simply, each time, want to talk about the balanced budget and add to it that we will never ''cut'' Social Security, that is a snapper in here—except for a few of us who will cast that opposite vote and know very well that it just does not fit.

Then Senator REID tried to table that. That failed. Senator KEMPTHORNE's amendment then passed. Then Senator HARKIN tried a perfecting amendment to add his language back, saying that the balanced budget itself should exempt Social Security. That was tabled.

On February 10, 1995, Senator DOLE offered the amendment to ask the Budget Committee to report instructions not affecting Social Security. That passed 87 to 10, like we all knew it would. Then it was done.

Then Senator REID presented an amendment, February 14 of 1995, saying Social Security is now counted in the balanced budget amendment. And Senator DOLE tabled that, 57 to 41.

On February 28, 1995 Senator FEINSTEIN offered a substitute for the balanced budget amendment with the exclusion of Social Security. That was tabled 56 to 39.

On February 28, 1995, Senator GRAHAM put forward an amendment to eliminate ''held by the public'' from the debt limit, so as to get the balanced budget to exclude Social Security. That was tabled 59 to 40.

Another Graham amendment was tabled 57 to 43.

This issue has been voted on time and time and time again. I think it is time that it not be voted on again, especially for this issue, on either illegal immigration or health care. Find a new line of work.

Several Senators addressed the chair.

Mr. DORGAN. Will the Senator yield for one brief question? I wonder if the Senator will yield for a brief question?

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

Mr. SIMPSON. I yield for a question.

Mr. DORGAN. I appreciate that. I guess it is the Senator's contention that there is no Social Security trust fund. I just ask this question.

We were told early on that the Social Security trust fund was not being used for any other purpose. Then we were told by those who wanted an affirmative vote on the constitutional amendment to balance the budget that the Senator supported that, even though they had argued that it was not being used to balance the budget, they would stop using it to balance the budget by the year 2008.

How does one reconcile that if there is not a trust fund? If there is not a trust fund, how can you stop using it in the year 2008?

Mr. SIMPSON. Mr. President, I say to my friend from North Dakota that the travesty is that it is not being used. It is a series of IOU's. There is no Social Security trust fund. And the money is being invested.

You can say we will cut it back. You cannot. It is in T-bills. Some people here own T-bills. Banks own T-bills. There is no Social Security trust fund. I have never gone to my people and said we are stealing from the Social Security trust fund because I just stepped up to the plate and said there is none. So, when you bring that up, you are bringing up a fiction.

Mr. HOLLINGS. Mr. President, how would it be if we had IOU's for the same time, I ask the Senator?

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

Mr. HOLLINGS. How can it be invested and become an IOU? If it is invested, it is presumably going to be paid back? That is our problem, it is being spent on the deficit. That is my point.

Mr. SIMPSON. Mr. President, not only the fiction of it, but since 1938, by law, the trust fund buys T bills which are IOU's that the Government must pay back. FDR did that, and that is what it is. There is no mystery to it. It is a series of IOU's, and when those are outstanding and then the revenue from Social Security will not cover—it is a pay-as-you-go, do not forget, Social Security is pay-as-you-go, and if it does not cover, you have to cash in the IOU's and you have to get more money through the payroll tax, or reducing benefits or issuing some new kinds of securities.

Mr. HATCH. Will the Senator yield for a unanimous consent request?

Mr. SIMPSON. Yes.

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, I understand the pending business is the BROWN amendment. It is my understanding that he will make his arguments and then withdraw the amendment; am I incorrect on that?

Mr. BROWN. Mr. President, the Senator is correct.

Mr. HATCH. I am correct.

Mr. SIMPSON. I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, prior to returning to Senator BROWN's amendment, if I may propose a unanimous consent request on behalf of Senator DOLE.

Let me yield and say, evidently, this has not been cleared fully on both sides, so we will return to Senator BROWN's amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we want to try and accommodate the greatest number of Members. We have several Senators who are here with their amendments ready to address them and ready to act on them. We believe that if we are able to do that, we can afford, whoever wants to speak, as much time as they want to speak on other kind of matters. But we are here to deal with this legislation.

We have been urging Senators to come over here and offer their amendments. They are here now, and we can either do this later—I plan to stay here until it is done, but the greater numbers of Members would like to have at least some finality to the legislation. I believe we can do it. It is 6 o'clock now and we had the chance for general discussion during the course of the day. Many of our colleagues have come over here to address these issues and to vote on them, and they have been waiting as well.

I hope we will urge our colleagues who are not going to talk on these matter—we know they can; people can get up and address any other matters—but out of consideration of other Members, please try and see if we cannot focus on the matter that is at hand, and that is the Kassebaum-Kennedy bill, which is of enormous importance to many American families.

I see other Members here, and I am sure they will do what they have to do, but we are trying to conclude this and then to let others speak so that at least others will not be here tomorrow. We are going to end up being here tomorrow as sure as I am standing here unless we are able to make progress. That is fine with me, if that is what it is. But with some cooperation of the Members, we have a very good chance of finishing this. Otherwise, Members ought to understand we are going to be here late tonight voting and end up starting the votes later this evening and tomorrow.

We are just about to ask for the final list so that we can agree with that. But in the meantime, we have the Senators who are here who are prepared to move ahead. Senator BROWN is here, and Senator JEFFORDS was here just a few moments ago to deal with an extremely important measure and has been here now for an hour and a half trying to gain the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 3678

Mr. CHAFEE. Mr. President, I am going to address the amendment that is before us, the Brown amendment,

but I say to the managers of the bill, I join with them in their enthusiasm to finish it up. I do not see why we do not seek time agreements, in case we get off on another Social Security argument, whatever it might be. But that is up to the managers.

Mr. President, I have a statement that I wish to make that deals with the subject Senator BROWN has been addressing, and Senator PRYOR, likewise, and which I joined in the past.

All I can say, Mr. President, is I just wish we would address this matter, both in the committee, and I understand Senator BROWN has been trying to achieve that, but also on the floor of the Senate. We have had one vote. It was a one-vote margin difference. Perhaps people's minds have been changed since then. Nonetheless, I support the efforts of Senators BROWN and PRYOR.

Congress and the administration made a simple—but costly—error in drafting the Uruguay Round Agreements Act of 1994. That inadvertent error is costing consumers, State governments, and the Federal Government millions of dollars, while providing an unintended windfall to a handful of drug companies. I don't believe we should let that error stand.

What happened? The facts of the case are straightforward. Back in 1994, Congress was drafting omnibus trade legislation designed to bring the United States into conformity with the important new global trade agreement known as the GATT. As part of our commitment to fulfill our new GATT obligations, the United States pledged to increase patent protection for future patents. In addition, the United States also pledged to boot protection for patents already in existence—a key point that goes to the heart of the issue before us today.

Accordingly, the trade bill that Congress wrote, boosted existing patent terms by up to 3 years, giving current patentholders a valuable extension on their patents. To be fair to generic manufacturers who had been preparing to go to market on the old patent expiration date, Congress fashioned a compromise: generic companies who had made a substantial investment in preparing for market would be allowed to proceed as planned, but would have to pay equitable remuneration—that is, a royalty—during the extended term. This carefully balanced compromise became law as part of the 1994 Uruguay Round Agreements Act.

However, in drafting this 653-page bill, Congress and the administration made a small—but very costly—mistake. A simple conforming amendment to an FDA statute was omitted. Yet the impact was enormous: the omission singlehandedly prevented the generic drug industry from going to market during the extended term. The result is that a handful of brand-name drug companies have received a staggering $4.3 billion windfall, at the expense of consumers, that Congress, United States trade officials, and even the brand-name companies themselves, neither intended nor expected.

The cost to consumers is enormous. The drugs that are covered by the windfall are widely prescribed, and are used for everyday ailments that affect millions of Americans. Keeping the generic version off the shelf for up to 3 years means that Americans—including and especially older Americans—are paying far more than was ever intended for their medications.

Not only are consumers paying for this error, but so are State governments and the Federal Government—in the form of higher reimbursements for prescription drugs for the elderly, veterans, and low-income Americans.

This is not right. We made a mistake. We should fix it. In this case, the solution is obvious and easy: simply enact the missing conforming amendment. That is exactly what Senator PRYOR, Senator BROWN, and I—and many others—have been working to do.

Let me take a moment to put to rest a few red herrings. Our amendment would not affect our GATT commitments or our efforts to promote patent protection worldwide. Our amendment would not upset the balance in U.S. drug patent laws, nor impede research and development of new drugs. If any of these misrepresentations were true, we simply would not be sponsoring this amendment. It is that simple.

It is time to correct this injustice—an injustice to consumers in our Nation, an injustice to the Federal and State governemnts that are paying extra and needless sums into Medicaid and Medicare and an injustice to the generic manfuactures who made the investment in reliance on the law as it was supposed to be.

It is time we fixed this unfairness.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, it is my intention to try and expedite the deliberations here tonight. In that regard, my thought would be to make a statement, hopefully, shedding some light on this amendment. I know Senator PRYOR has worked so hard in this area. He wants to make a statement, and then it will be my intention to withdraw the amendment. I withdraw it reluctantly, because I think it needs to be considered and dealt with as soon as possible. But I am persuaded that we will not have some votes that we need to adopt it if we insist on attaching it to this measure.

Having said that, let me simply outline the issue that is before us. It is well described in a New York Times editorial of February 28. I will quote a portion of that, because I think it is quite succinct and to the point:

> Congress finds it hard to remedy the simplest mistakes when powerful corporate interests are at stake. In 1974, when Congress approved a new trade pact with more than 100 other countries, it unintentionally handed pharmaceutical drug companies windfall profits. More than a year later, Congress has yet to correct the error. The trade pact obliged the United States to change its patent laws to conform with those of the rest of the world. They had the effect of extending some American patents for up to 20 months.

Mr. President, those are the opening lines of the editorial.

The simple fact is this. We had people research drugs and put the investment into it and receive the full length of their exclusivity that this Congress has supported and put into statute. The GATT agreement gave a serendipitous extension to that. In other words, under the GATT agreement and the conforming changes of law that this Congress adopted, people who had invested in and relied on our laws got a longer period of patent protection than they have ever planned for. But the GATT agreement also had a provision, an exception for that extended protection when someone had made a substantial investment in reliance on our laws in providing competitive products.

In other words, what we propose in this amendment is nothing more than absolutely the process that was contemplated and planned for under GATT. And, I might mention, Mr. President, many countries have done exactly the same thing. As a matter of fact, this country has done a similar kind of thing with other products.

What this amendment simply suggests is that where we have given someone an unexpected, unplanned extension in their patent protection, that we make an exception for that extension where someone else has made a substantial investment in producing and providing a competitive product—in this case, a generic drug.

If we do not adopt this, we will have said to people who produce products in reliance to our laws, ''After you have made the investment, after you have put the money into it, after you have made under the terms of what will be the statute a substantial investment on reliance of our laws, we are going to pull the rug out from under you and change the rules retroactively.''

Mr. President, that is not right. That is not honest. That is not fair. That is not a good way to do business. We have talked about the horrible damage—and it is enormous damage—done to consumers by this unjustified quirk of the ratification document.

But I want to focus the Members' attention on what is unfair to business. I believe it is unfair to business to say, ''Look, here are the laws. Here is how long you have for patent protection. And by the way, we're going to change the law retroactively, and even though you made substantial investment in producing a competing product, we're not going to let you compete.'' Now, that is what has happened.

If we do not pass this bill as it is in committee or the amendment as we offer it on the floor, what you are going to do is not only impact consumers to the tune of billions of dollars, but you are going to say to businesses that have relied on the law, that it is tough luck, you should not have believed us. You should not have relied on what we did.

Why is it important to pass it on this bill or pass it quickly? I think that is a fair question. I must tell the Members, I am disappointed I have not been able to persuade all the other people who support the concept that it is important to pass it on this measure.

It is important because the impact of this, if it goes uncorrected, could be over $2 billion, according to the Washington Post. It is important because this costs consumers up to $5 million a day while we delay. Mr. President, let me repeat that because I am not sure people have focused on the impact of delay. It costs up to $5 million a day to consumers in this country if we do not act. Some estimates indicated it may have cost consumers already $700 million.

Mr. President, this is not anything other than fairness. This is not anything other than saying the patent protection that was planned in the law ought to be delivered as it was planned in the law.

Mr. President, I will not prolong the argument. I know the distinguished Senator from Arkansas has worked on this and has some remarks, but I ask unanimous consent to have printed in the RECORD the editorial from the Washington Post, a letter from The Seniors Coalition, a letter from the National Committee to Preserve Social Security and Medicare, a letter from the National Women's Health Network, a letter from the Citizen Action, a letter from the Gray Panthers, a letter from the Generic Drug Equity Coalition, a letter from the Consumer Federation of America, and a letter from the Citizen Advocacy Center, all pertaining to this subject and advocating the position of this amendment. I ask unanimous consent that all of these letters be printed in the RECORD.

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

[From the Washington Post, Dec. 4, 1995]

THE ZANTAC WINDFALL

All for lack of a technical conforming clause in a trade bill, full patent protection for a drug called Zantac will run 19 months beyond its original expiration date. Zantac, used to treat ulcers, is the world's most widely prescribed drug, and its sales in this country run to more than $2 billion a year. The patent extension postpones the date at which generic products can begin to compete with it and pull the price down. That provides a great windfall to Zantac's maker, Glaxo Wellcome Inc.

It's a case study in legislation and high-powered lobbying. When Congress enacted the big Uruguay Round trade bill a year ago, it changes the terms of American patents to a new worldwide standard. The effect was to lengthen existing patents, usually by a year or two. But Congress had heard from companies that were counting on the expiration of competitors' patents. It responded by writing into the trade bill a transitional provision. Any company that had already invested in facilities to manufacture a knock-off, it said, could pay a royalty to the patent-holder and go into production on the patent's original expiration date.

But Congress neglected to add a clause amending a crucial paragraph in the drug laws. The result is that the transitional clause now applies to every industry but drugs. That set off a huge lobbying and public relations war with the generic manufacturers enlisting the support of consumers' organizations and Glaxo Wellcome invoking the sacred inviolability of an American patent.

Mickey Kantor, the president's trade representative, who managed the trade bill for the administration, says that the omission was an error, pure and simple. But it has created a rich benefit for one company in particular. A small band of senators led by David Pryor (D-Ark.) has been trying to right this by enacting the missing clause, but so far it hasn't got far. Glaxo Wellcome and the other defenders of drug patents are winning. Other drugs are also involved, incidentally, although Zantac is by far the most important in financial terms.

Drug prices are a particularly sensitive area of health economics because Medicare does not, in most cases, cover drugs. The money spent on Zantac is only a small fraction of the $80 billion a year that Americans spend on all prescription drugs. Especially for the elderly, the cost of drugs can be a terrifying burden. That makes it doubly difficult to understand why the Senate refuses to do anything about a windfall that, as far as the administration is concerned, is based on nothing more than an error of omission.

THE SENIORS COALITION, PROTECTING THE FUTURE YOU HAVE EARNED,
Washington, DC, April 17, 1996.

Hon. HANK BROWN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BROWN: The Seniors Coalition urges you to support legislation offered by Senator Brown in the Judiciary Committee to correct an egregious mistake made in the implementation of the GATT treaty. This mistake has cost the consumers, and primarily the elderly, of this nation millions of dollars. This loophole has allowed a few drug companies to take advantage of a situation that was unintended and to line their pockets with unearned money from American citizens.

I ask you to read the article ''What you don't know about brand name drugs is costing you millions'' (pp. 4–5) in our latest edition of The Senior Class which outlines the problem and then to vote to support the correction. Your support for this effort is critical to the financial well being of thousands of senior citizens.

I submitted testimony to the Senate Judiciary Committee on this issue when the committee held hearings on this issue in February. At that time I called for the Congress to correct the mistake and reject the efforts of brand name companies to thwart the correction. The so-called ''compromise'' that has been drafted by Glaxo and may be offered by a member of the Judiciary Committee is nothing more than a thinly veiled effort to codify the mistake that was made. A careful reading of the language will find that it does even more damage to the ability of consumers, especially seniors, to find safe and affordable pharmaceutical products in the marketplace.

Again, please support Senator Brown and his effort to correct this mistake. Now is the time for the Congress to do something for the American public.

Sincerely,

THAIR PHILLIPS,
CEO.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, March 27, 1996.

Honorable HANK BROWN,
Senate Judiciary Committee, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BROWN: We understand the Senate Judiciary Committee plans to mark-up legislation addressing and General Agreement of Tariff and Trade (GATT) patent pharmaceutical issue tomorrow. We urge you to support legislation (S. 1277) sponsored by Senators Chafee, Pryor, and Brown to correct an oversight in the GATT implementing legislation that will save consumers and taxpayers billions of dollars in prescription drug costs. We urge you to oppose any alternative measures that would maintain this costly and unintended loophole under GATT.

As you know, because of an oversight in patent changes approved under the GATT treaty implementing legislation, the availability of lower-priced generic versions of more than 25 widely-prescribed drugs must be delayed for up to an additional three years. As a result, seniors and other consumers will wait longer for access to less-costly generic drugs.

Every day Congress delays in correcting this oversight costs consumers $5 million dollars in additional prescription drug costs. In fact, the delay has already cost consumers an additional $500 million dollars. The biggest losers among U.S. consumers are senior citizens, as older Americans consume about one-third of the prescription drugs sold in the United States. On fixed incomes and with no pharmaceutical coverage under Medicare, three out of four seniors cite prescription drugs as their largest out-of-pocket expense.

On behalf of our millions of members and supporters, the National Committee to Preserve Social Security and Medicare urges you to support and report out of Committee the Chafee/Pryor/Brown generic drug legislation.

Sincerely,

MARTHA A. MCSTEEN,
President.

NATIONAL WOMEN'S HEALTH NETWORK,
Washington, DC, March 21, 1996.

DEAR JUDICIARY COMMITTEE MEMBER: In this time of federal, state and local budget-cutting, threats to Medicare and Medicaid, and continually rising medical costs, health care savings are more important than ever to the American public. Given the seriousness of skyrocketing health care costs, it is unconscionable that Congress has so far failed to address an error that needlessly increases the cost of health care for millions of Americans, and unnecessarily boosts costs to the federal government, as well.

More than a year ago, Congress discovered that the legislation implementing the GATT Treaty contained an unintended loophole for some pharmaceutical drug companies. An error of omission granted the manufacturers of brand-name drugs treatment unique in all of American industry.

By failing to include generic drugs in its rules concerning transition to new patent terms under the GATT Treaty, Congress has done a disservice to women's health, specifically, and to consumers and taxpayers, generally. While the mistake was unintentional, the consequences are grave. Each day that passes without Congressional action to correct this error costs millions of dollars; the total cost is expected to exceed $2 billion.

The beneficiaries of the current situation are the handful of giant pharmaceutical corporations that will enjoy windfall profits for three additional years. Their glee at this unanticipated windfall is evidenced by the fierceness with which the lobbyists for these companies are fighting to preserve their protected status.

The exemption of drug companies from the GATT transition rules was a mistake. It

would be intolerable to compound this mistake by failing to correct it. Please support the solution proposed by Senators BROWN, CHAFEE and PRYOR.

Sincerely,

CYNTHIA PEARSON,
Program Director.

CITIZEN ACTION,
Washington, DC, March 26, 1996.

DEAR JUDICIARY COMMITTEE MEMBER: On behalf of Citizen Action and our three million members, I would like to ask your support for a proposal which will shortly be offered by Senators Brown, Chafee and Pryor. This proposal would undo a legislative error which, if not corrected, will cost U.S. consumers hundreds of millions of dollars in unnecessary prescription drug costs.

When Congress passed new patent terms under the GATT Treaty, it failed to include prescription drugs under its transition rules. GATT extends patent terms of U.S. products from 17 to 20 years. Because many manufacturers had already invested millions of dollars in competing products in expectation of the 17-year limit, Congress adopted transition rules to allow those companies to introduce generic alternatives on the date that the 17-year patent would have expired.

The omission of prescription drugs in the transition rule means that makers of lower-cost generic drugs will be unable to bring their products to market until the full 20-year term of patent protection has expired. This loophole will allow a few large pharmaceutical companies to reap more than $2 billion in windfall profits. Because lower-cost generics will be kept off the market, consumers will be forced to pay higher prices for more than a dozen drugs, including big-sellers Zantac and Capoten.

Without a correction, taxpayer-funded federal and state health programs, as well as individual purchasers of prescription drugs, will be forced to pay higher than necessary costs. The Department of Veterans Affairs estimates that it alone will spend $211 million in additional costs over the next three years.

The Judiciary Committee has an opportunity to correct a provision that will have grave consequences for consumers. Again, Citizen Action urges that you act now to remove this unique loophole which rewards certain large pharmaceutical companies at the expense of taxpayers and consumers.

Sincerely,

CATHY L. HURWIT,
Legislative Director.

GRAY PANTHERS PROJECT FUND,
AGE AND YOUTH IN ACTION,
Washington, DC, February 29, 1996.

Hon. HANK BROWN,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR BROWN: Attached please find copies of Tuesday's ABC World News Tonight news story focusing on the negative impact that the GATT loophole will have on American consumers like Eleanor Black and her mother Sally. In addition, attached are copies of the testimony submitted to the Judiciary Committee from Ms. Black and myself, as well as Wednesday's New York Times editorial on the issue.

With the Senate Judiciary Committee hearings on GATT now behind us, Senators Chafee, Brown, and Pryor have vowed to introduce legislation within the next few weeks that will correct this loophole and bring relief to millions of consumers like the Blacks who rely on the savings that generic pharmaceuticals offer.

In December, an effort to bring the Chafee-Brown-Pryor amendment to the Senate floor was narrowly defeated by one vote. When the Chafee-Brown-Pryor amendment is introduced in the near future, I urge you and your colleagues to do the right thing and correct this Congressional oversight and save American taxpayers from a costly mistake.

Please support the Chafee-Brown-Pryor amendment and close the GATT loophole.

Sincerely,

DIXIE D. HORNING,
Executive Director.

GENERIC DRUG EQUITY COALITION,
Washington, DC, March 29, 1996.

To: Members, United States Senate
FR: Generic Drug Equity Coalition
RE: No More Delays, Pass Chafee/Pryor/Brown

When the Senate adjourns today for the Spring recess, consumers and taxpayers will have paid $580 million more for prescription drugs than they should have because of a mistake Congress and the administration made in December 1994, $580 million. Everyday that passes costs consumers and taxpayers $5 million more.

By the time you return in two weeks, the cost to consumers and taxpayers will have reached $650 million.

Yet, despite written commitments to markup a bill to close the GATT loophole in the Senate Judiciary Committee in March, nothing has happened.

A few companies continue to reap unintended windfall profits at the expense of American consumers, taxpayers and generic drug manufacturers.

While you are away observing the Easter and Passover Holidays be sure to think about Americans like 69-year old Eleanor Black and her 89-year old mother Sally who spend $339 a month, one quarter of their monthly income, for Zantac because of the GATT loophole.

The Generic Drug Equity Coalition urges you to support the Chafee/Pryor/Brown proposal and close the GATT loophole.

The Judiciary Committee leadership has missed its own, self-imposed deadline. It is time for a vote on the Senate floor.

CONSUMER FEDERATION OF AMERICA,
Washington, DC, March 27, 1996.

DEAR SENATE JUDICIARY COMMITTEE MEMBER: The Senate Judiciary Committee plans this week to examine the loophole in the General Agreement on Tariffs and Trade (GATT) which exempts the pharmaceutical industry from patent transition terms. We urge you at this time to support the efforts of Senators BROWN, CHAFEE, and PRYOR to redress this unintended and potentially costly, effect of the GATT Treaty.

As you know, an error of omission in the legislative language implementing the GATT Treaty has exempted the pharmaceutical industry from the patent transition terms. As a result, the pharmaceutical drug industry—alone among all industries—enjoys a 20-year patent term, and generic manufacturers are unable to market long-planned products.

The unintended effects of the patent extension include diminished market competition, an undeserved windfall to pre-GATT patent holders, and further inflated costs to millions of Americans. The Congressional Budget Office (CBO) has estimated that this simple mistake will cost consumers and taxpayers as much as $2 billion as drug companies reap windfall profits in the absence of competition. This windfall was not intended by Congress, nor envisioned in the GATT treaty itself.

Senators, BROWN, CHAFEE, and PRYOR have proposed closing the loophole, thereby protecting consumers' health and taxpayers' wallets. This solution would not convey special status on the generic drug industry; instead, this amendment provides for equal treatment, and would compel brand-name drug manufacturers to live under the same rules as every other American industry.

In the interest of consumers, taxpayers and fairness, we urge you to support the efforts Senators, BROWN, CHAFEE, and PRYOR have made to redress this costly error.

Sincerely,

MERN HORAN,
Legislative Representative, Consumer Federation of America.

CITIZEN ADVOCACY CENTER,
Elmhurst, IL, March 25, 1996.

DEAR JUDICIARY COMMITTEE MEMBER: An oversight in the legislation implementing the GATT Treaty has granted the pharmaceutical industry a privileged status at the expense of consumers and taxpayers. More than a year after the implementing legislation was adopted, Congress has yet to correct this windfall benefit. Now, Senators Brown, Chafee, and Pryor have developed a solution that is fair and reasonable and deserving of your support.

GATT is premised on opening world markets to competition. Under our implementing legislation, however, manufacturers of generic drugs, alone among all industries in the United States, are prohibited from bringing products to market until the full twenty-year patent term has expired for brand-name drugs. This anticompetitive windfall is estimated to be worth two billion dollars in profits. Health care consumers are thus forced to pay higher costs, as will taxpayers, who fund drug purchases through a number of government programs. The City of Elmhurst has a high percentage of Senior Citizens, a group that is disproportionately harmed by high health care costs, and the adverse effects of the as yet uncorrected legislation.

Congress did not intend to bestow this windfall on drug companies when it adopted the transitional rules for GATT. We urge you, in the interest of consumers, seniors, and taxpayers, to correct this oversight and to not be lulled into inaction by the multi-million dollar lobbying blitz of the companies enjoying this windfall daily.

Senators Brown, Chafee and Pryor have proposed a simple solution that would protect the balance of interest between generic and brand-name manufacturers envisioned in the Hatch-Waxman Act of 1984. It's time to support their proposal.

Very truly yours,

THERESA AMATO,
Executive Director, Citizen Advocacy Center.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, my apologies to the Senator from Colorado. Has the Senator from Colorado finished his statement?

Mr. BROWN. Yes.

Mr. PRYOR. Mr. President, I will take but a few moments of the Senate's time this evening. We need to move on. The distinguished managers have requested that we move to final resolution of this very important measure. But I would like to take, Mr. President, in opening, a few moments to discuss our particular concerns over this uncorrected error in our laws which has led to unnecessarily high drug prices.

I would like to quote from my good colleague who is departing the Senate and is a great friend, Senator PAUL SIMON of Illinois. Senator SIMON recently spoke on the issue of correcting

this problem in the GATT treaty. I quote from Senator SIMON when he said, ''This is a classic example of special interests versus the public interest.''

Mr. President, that is what this debate, I am afraid, has boiled down to. I know my friend from Colorado, Senator BROWN, in his eloquent statement has placed into the RECORD a recent editorial of December 4, 1995 from the Washington Post. I will read a paragraph from that editorial:

All for lack of a technical conforming clause in a trade bill, full patent protection for a drug called Zantac will run 19 months beyond its original expiration date. Zantac, used to treat ulcers, is the world's most widely prescribed drug, and its sales in this country run to more than $2 billion a year.

I continue quoting from the Washington Post editorial:

The patent extension postpones the date at which generic products can begin to compete with it and pull the price down. That provides a great windfall to Zantac's maker, Glaxo Wellcome, Inc.

That is the beginning paragraph, Mr. President, of the Washington Post editorial. To conclude from that editorial, let me read:

That makes it doubly difficult to understand why the Senate refuses to do anything about a windfall that, as far as the administration is concerned, is based on nothing more than an error of omission.

Well, once again, this issue is with us. We failed by one vote back on December 7 to rectify this mistake. Since that time, a few companies like Glaxo Wellcome have earned more than $600 million in extra revenues because of a congressional error. It also means that the Veterans Administration, the Medicaid programs, the consumers of America, and especially the elderly of America are having to pay double for Zantac than what they would be paying had we allowed a generic to come into the marketplace and compete.

This is not fair, Mr. President. We know that this is not fair. The Judiciary Committee this morning had scheduled a markup, one which has already been delayed from last month. They continue to promise that they are going to mark up S. 1277, the measure offered by Senator BROWN and Senator CHAFEE and myself to correct this mistake in the GATT treaty.

But, once again, this morning an unnamed Senator objected to the Senate Judiciary Committee marking up this measure, and, once again, it means more and more windfall profits for undeserving companies at the expense of consumers. These delays are completely unacceptable and unwarranted. The American public simply cannot abide further delays on behalf of special interests.

What is at stake? Back on November 27, 1995, an editorial in the Des Moines Register stated that:

A month's supply of Zantac ordinarily sells for around $115; the generic price—meaning the same drug without the Zantac label—would be around $35, the generic makers contend.

Mr. President, I ask unanimous consent that a copy of that Des Moines Register editorial be printed in the RECORD.

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

[From the Des Moines Register, Nov. 27, 1995]

A COSTLY OVERSIGHT

FINE PRINT IN GATT LAW COULD COST ZANTAC USERS MILLIONS

The nation's prescription drug makers are at war again, with a $1 billion-plus purse going to the winner. If the brand-name drug manufacturers win, the losers will include the millions of Americans who suffer from ulcers or heartburn, and take the drug Zantac regularly to combat the problem. It's going to cost each of them about $1,600.

Zantac is made by GlaxoWellcome, the biggest in the business.

Here's what started the current war:

When a new prescription drug hits the market, generic drug manufacturers await the patent expiration so they can enter the market with the same drug. They offer it for sale without the brand name, usually at a fraction of the brand-name price.

The new international GATT treaty signed by the United States and 122 other countries sets the life of a patent at 20 years from the date of application. Former U.S. law provided patent protection for pharmaceuticals for 17 years from the date of approval. Because the difference could have a significant impact on the number of years a firm could market its patented drug without competition. Congress made special provisions for drugs under patent at the time GATT was approved last summer.

But when the legal beagles got done reading all the fine print, it turned out that Zantac was granted a 19-month extension of its patent life—and it is such a hugely popular drug that that translates into a multimillion-dollar windfall.

Generic drug makers call the windfall a congressional oversight, and estimate the difference is worth $2.2 billion to Glaxo, because the generics can't enter the market for 19 more months. Glaxo counters that Congress made no mistake, that the extension was part of the compromise with generics. It won't wash. Nothing in the GATT treaty was intended to further enrich the happy handful of brand-name drug makers who hold lucrative patents—or to personalize the users of the drugs.

A month's supply of Zantac ordinarily sells for around $115; the generic price—meaning the same drug without the Zantac label—would be around $35, the generic makers contend. Unless Congress changes the wording of the law regarding transition to GATT provisions, Zantac users will pay the difference for 19 months longer.

Some generic drug manufacturers had already spent a bundle preparing to enter the market before the GATT treaty took effect. They lose. So do taxpayers, who pay for Medicaid prescriptions. The Generic Drug Equity Coalition estimates that the higher costs of Zantac and some other drugs affected by the mistake (such as Capoten, for high blood pressure) will cost Iowa Medicaid $3.5 million. Further, say the generic drug makers, it will tack another $1.2 million onto the cost of health-insurance premiums for Iowa state employees.

Glaxo's political action committee has doubled its contributions to Congress in recent months. Glaxo wants the mistake to stay in the law. Generic drug manufacturers want it out.

So should ulcer sufferers. So should taxpayers. So should Congress.

Mr. PRYOR. Mr. President, finally, let me say we all know what this issue is about. We have debated this issue to some extent on the floor of the Senate and to a great extent in the Judiciary Committee. We heard our U.S. Trade Representative, Ambassador Kantor conclusively explain the situation, and I quote:

The provision was written neutrally because it was intended to apply to all types of patentable subject matter, including pharmaceutical products. Conforming amendments should have been made to the Federal Food, Drug and Cosmetic Act and section 271 of the U.S. Patent Act, but were inadvertently overlooked.

One other quote from Ambassador Kantor:

We intended to apply this grandfather provision to the pharmaceutical area. S. 1277 would result in a level of protection that is consistent with our original intent.

Mr. President, let me say, Senator BROWN, Senator CHAFEE and myself have tried to proceed in good faith. There are Members on each side of the aisle that have stated their concern about, and in some cases their objection to, certain language that we had in this legislation. We have attempted to meet with them. We have attempted to compromise. We have certainly gone to the negotiating table and attempted to bargain in good faith and see what their concerns are.

Truly, Mr. President, I believe that we now have come together and crafted an amendment that is acceptable to all those concerned with doing what is right for consumers, businesses which have relied upon the law in good faith and for our compliance with a very important treaty. The amendment represents the simplest and best means for us to correct the egregious flaw that persists today because of unconscionable delays and the efforts of special interests.

Mr. President, I want to say in conclusion that I have thoroughly enjoyed working with Senator BROWN of Colorado and Senator CHAFEE of Rhode Island, my colleagues on the other side of the aisle. I hope we can bring this matter to a resolution in the very near future.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Colorado.

Mr. BROWN. Mr. President, the vote on this measure was close, as has been noted. Since that time, I believe we have persuaded others to join us in advocating this amendment. The amendment has been compromised to the point that specifically we have spelled out in the compromise version that is before the Senate right now a very clear, bright-line test of what substantial investment is. It is easy and clear to work with. I think we have addressed the problems. I am confident we have the votes.

However, because of the urgency of the particular underlying measure that is here, some Members whose votes we need and count on are unable to support this amendment because they fear

it would bring controversy to the bill. It is, therefore, necessary for me to reluctantly withdraw this measure.

I must mention, Mr. President, it does seem to me this is the appropriate kind of thing that ought to be considered on a prompt basis. Literally, to fail to act costs consumers $5 million or more a day, and literally if we fail to act very promptly, the issue becomes moot because the time simply runs out. I believe in fairness to companies that have reinvested, and, in fairness to consumers, we should and must act quickly.

I simply want to serve notice that we will be looking for other vehicles to offer on this floor in a rather prompt fashion.

With that, I reluctantly withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

So the amendment (No. 3678) is withdrawn.

Mrs. KASSEBAUM. Mr. President, I very much appreciate the sponsors of the amendment withdrawing it. Senator BROWN and Senator PRYOR are very persuasive in their arguments, as Senator CHAFEE was as well. I am sympathetic to the purpose of the amendment.

As was noted by the sponsors, it is controversial. For that reason, we would have to oppose it on the health insurance reform bill. I appreciate the thoughtfulness in their withdrawal.

UNANIMOUS-CONSENT AGREEMENT

Mrs. KASSEBAUM. Mr. President, I put forward on behalf of the majority leader a unanimous-consent agreement.

I ask unanimous consent during the remainder of the Senate's consideration of S. 1028, the following amendments be the only first-degree amendments in order, that they may be subject to relevant second-degree amendments, and following the disposition of the listed amendments and the committee substitute, the bill be advanced to third reading, and the Senate then proceed to the House companion bill, that all after the enacting bill be stricken, the text of the Senate bill be inserted, the bill be advanced to third reading and the Senate proceed to vote on passage of H.R. 3103, as amended, without any intervening action or debate.

The list that I have of the amendments would be: Nickles, relevant; Jeffords, lifetime caps; Thomas, rural health; McCain, biological medical devices; Gramm, relevant; Coats, medical volunteer liability coverage; Domenici, mental health; Specter, public health; pecter, public health; Specter, public health; Gregg, choice care; Helms, study of access by HHS; Senator BROWN has withdrawn his amendment; McConnell, medical malpractice; Bond, administration simplification; Pressler, CRNAS; D'Amato, fair tax treatment; Kassebaum, relevant; Dole, relevant; Roth, relevant; Simpson, commission; Bennett relevant; Burns, telemedicine; Boxer, ban HMO gag rules; Conrad, nurse practitioner, nurse anesthetists, advance nurse practitioner; Feinstein, nonprofit insurance; Graham-Baucus, Medicare fraud; Harkin, fraud and abuse; Harkin, fraud and abuse; Kennedy, relevant; Pryor relevant; Wellstone, two domestic violence; Simon is a sense-of-the-Senate resolution; Dorgan, organ donations; Lieberman, MM data banks; Kennedy, nursing care; Daschle, relevant; Boxer, biomed devices.

Mr. KENNEDY. Would the Senator add Wellstone, relevant, sense of the Senate.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I believe Senator JEFFORDS has been waiting, and I believe he is next to be recognized.

Mr. JEFFORDS. Mr. President, I yield to the Senator from Arkansas.

Mr. PRYOR. Mr. President, if we could ask a question, Mr. President, while the two distinguished managers are on the floor. It is 6:15; I did not realize there were quite as many amendments.

Mrs. KASSEBAUM. Neither did we.

Mr. PRYOR. Are we planning to go on into the evening?

Mrs. KASSEBAUM. Yes, Mr. President, I say to the Senator from Arkansas, I think it is the hope not only of the managers but also of the minority leader and the majority leader that we finish tonight.

Mr. PRYOR. Good night, Mr. President, thank you.

AMENDMENT NO. 3679

(Purpose: To establish a minimum amount that may be applied as an aggregate lifetime limit with respect to coverage under an employee health benefit plan or a group health plan)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] PROPOSES AN AMENDMENT NUMBERED 3679.

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

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

At the end of section 103, add the following new subsection:

(g) LIMITATION ON LIFETIME AGGREGATE LIMITS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an employee health benefit plan or a health plan issuer offering a group health plan may not impose an aggregate dollar lifetime limit of less than $10,000,000 (such amount to be adjusted for inflation in fiscal years subsequent to the fiscal year in which this subsection becomes effective) with respect to coverage under the plan.

(2) SMALL EMPLOYERS.—Paragraph (1) shall not apply to a group health plan offered to or maintained for employees of a single employer that employs 25 or fewer employees.

(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting the application by an employee health benefit plan or a health plan issuer offering a group health plan of any limits, exclusions, or other forms of cost containment mechanisms with respect to coverage under the plan other than the aggregate limit permitted under paragraph (1).

(4) DISCLOSURE.—Any limits, exclusions, or other cost containment mechanisms permitted under paragraph (3) shall be disclosed as provided for in section 105(c).

(5) APPLICATION OF SUBSECTION.—This subsection shall not apply to a health maintenance organization that meets the requirements of title XIV of the Public Health Service Act.

(6) EFFECTIVE DATE.—This paragraph shall become effective with respect to health plans on the date that is 2 years after the date of enactment of this Act.

At the end of section 105, add the following new subsection:

(c) DISCLOSURE OF LIMITS AND EXCLUSIONS.—An employee health benefit plan or a health plan issuer offering a group health plan shall disclose, as part of its solicitation and sales materials and in a form and manner that is conspicuous and understandable to a reasonable individual, any limits, exclusions, or cost containment mechanisms with respect to coverage provided under the plan.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

''(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

''(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

''(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

''(2) Paragraph (1) shall not apply—

''(A) to any debt or claim that—

''(i) is in litigation or forelosure;

''(ii) will be disposed of under an asset sales program within 1 year after the date the debt or claim is first delinquent, or a greater period of time if a delay would be in the best interests of the United States, as determined by the Secretary of the Treasury;

''(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

''(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

''(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

''(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

''(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

''(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

''(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

''(B) a contractor operating under a contract for servicing or collection action; or

''(C) the Department of Justice for litigation.

''(5) nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

''(A) maintain competition in carrying out this subsection;

''(B) maximize collections of delinquent debts by placing delinquent debts quickly;

''(C) maintain a schedule of contractors and debt collection centers eligible for referral or claims; and

''(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

''(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

''(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

''(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

''(B) personnel training and travel costs;

''(C) other personnel and administrative costs;

''(D) the costs of any contract for identification, billing, or collection services; and

''(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

''(8) Not later than January 1, of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

''(9) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary.

''(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

''(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).''.

Mr. JEFFORDS. Mr. President, I know that we have had a difficult day today. We are having a difficult time trying to face the facts of life that the bill we are amending is a very important one, one which I have been an original cosponsor and one which part of the bill is mine. It is something that I worked very hard on. I believe it is an excellent job.

However, I also believe that it has a very serious flaw in it. Thus, at the time the committee was meeting—and I want to point out that we have already made an exception today—the Finance Committee came and said, ''Hey, we have a bunch of amendments.'' Most of them have been accepted. So we have already made several exceptions to the nonamendment rule. I want to remind people of that.

Now, I submitted this amendment, which I have before this body, at the committee. I am a member of the committee, ranking Republican on the committee. At that time it was said, ''Hey, we want to get out of here a unanimous bill. We may have problems.'' So I said, ''OK, I will wait until the floor.'' So I come to the floor to offer an amendment, which I think about everybody agrees ought to be on it, and they said, ''No. No amendments—except for the Finance Committee amendments.''

I understand that the ranking Republican and the chairman of the committee are bound by their commitment to no amendments, but nobody else is. Nobody else is in this body. So I hope Members would say he deserves to be heard. He has told me I could raise this amendment on the floor, and here it is.

Now we will talk about what the amendment is and why we are here. The bill is one which provides, if a person is working for a business and changing jobs, or whatever else, has a health problem, that they are guaranteed an issuance of a policy or a continuance of a policy, notwithstanding the fact that they are sick. That is very important. This is an important breakthrough. That is why I supported the bill.

However, what we were not aware of at the time and I brought to the committee's attention, but perhaps there was too little time to consider it, is the fact that there is no requirement now under the Federal law for any kind of a certain level of cap.

Now, what could happen to us is, OK, we require the insurance company to take a sick person, but then the insurance company has the right to change its benefits, or it can say, ''OK, we will lower the lifetime cap. So when we take you on, as soon as we pay whatever level of funds we reduce the limit to, you are gone, finished, you have no more coverage.''

Well, this amendment would rectify that and say we have to put—as a nationwide standard, with the exception, we admit it could cause some problems with small businesses, so we exempt 25 and under. We say you have to have $10 million of coverage. Why the $10 million? The $10 million lifetime cap is because the standard for the industry for many years was a million dollars. But that was 20 years ago. That million dollars is worth about $100,000 now. So we say, let us go back to the standard of 20 years ago and put on that cap.

I want to point out that when we do this, we are obviously going to cause some costs. I will explain that later. But let us take a look at who we are talking about when we are talking about those covered under this provision. We are talking about those that are working for businesses, as I say, that get sick. All of a sudden they have some pretty big bills. Remember, some of the lifetime caps out there on these insurance plans are $50,000. That is one day in a hospital sometimes. So you go in there sick, and all of a sudden you have no coverage. We are trying to correct that.

Now, let me point out to you, again, what we are talking about from a national policy perspective. What happens now to that sick person? That person is sick. They have been allowed to be covered and then chopped off because they have reached the lifetime limit of, say, $50,000. What happens? Under the law right now, in order for them to qualify for Medicaid, they cannot have resources beyond a certain level. So what we are talking about—and I will give some examples in a minute—is middle income people, or even higher income people, who suddenly are placed in a position where the only way they can get care for their loved one is to get rid of all of their assets and then they will qualify for Medicaid. So the household has to go through that—getting rid of its assets—and then they qualify for Medicaid. Should our policy in this Nation do that? I say no, and I am sure you will, too. This is not good policy.

Let me talk a little about some of the people involved. I think all of you have probably heard the ads of Christopher Reeve, or watched them on television, or read the editorials in the newspapers and the stories that have covered this. If you want an example as to whether or not it could happen to you, here is ''Superman,'' who was involved in a very serious accident. He was thrown off his horse and he becomes a C–2, which is a broken neck. He has lost the functions below the neck level, without some assistance. He has a cap of $1.2 million, and it is costing him $400,000 a year. In 3 years, he will be past that cap.

Let us take Jim Brady, who is another one—not an example of the lifetime cap, because he is on worker's compensation, but he had a head injury caused by a bullet when he was with President Reagan. He would be far beyond a million-dollar cap, to say nothing of a $50,000 cap at this time.

Let me talk about some of the people that do not have the resources of a Christopher Reeve, or the protection of the law with respect to worker's comp, like Jim Brady. Let me go through some of these so that you understand better what kind of people we are talking about.

This story is about Donelle and Kyle Meniketti, from the Washington Post. For 4 years, Donelle Meniketti waged a tremendous fight to save her son Kyle from suffering death or severe brain damage as a result of a rare breathing disorder that struck when he was 18 days old. It says:

When he sleeps, said the Livermore, CA, woman, his airway collapses and his brain does not tell him to breathe. He needs a breathing machine at night and an oxygen monitor. When he sleeps, he must have someone there all the time to make sure he is breathing.

Home nursing care costs alone can be $10,000 a month, and even though Mrs. Meniketti has spent sleepless nights watching over her son rather than pay for a nurse, his medical care is making constant claims on the health insurance plan of her husband Keith. As these claims mounted, they face the terrible prospect of the child's expenses soon reaching the million-dollar cap.

He is 4 years old. So far he has escaped it. But they will be forced into Medicaid if this amendment does not succeed.

Then there is Heather Fraser. I wish you would have seen her. She appeared at our press conference the other day. She is 23 years old and suffers from cystic fibrosis. She has suffered already many times. She does not know from one day to the next whether she is going to have one of these respiratory infections. She has had chronic problems of all different kinds and will continue to do so. She graduated from college, is 23, and is looking forward to the future. What is going to happen? The average cost per year to treat a moderate case of cystic fibrosis is $46,000. More severe cases cost roughly $79,000. To date, Heather's medical expenses have exceeded $800,000. Research is going on, but right now she will be beyond the cap and on Medicaid.

Another one is Lauren Yandell of Williston, VT. Her policy has a cap of $1 million. Lauren has a son who has suffered from a chronic and very rare neurological disease since birth. Because of medications and frequent surgery and personal care, his medical expenses are extremely high—last year alone, over $70,000. He is only 5 years old. At this rate, Lauren believes her son will exhaust the limit within 10 years.

Barbara Church, in Shelburne, VT—these are Vermonters, but there are people like this all over the Nation. Barbara has a 12-year-old son who was in a car accident 3 years ago. He has a very similar condition to Christopher Reeve. Since the accident, medical expenses have ranged from $20,000 to $50,000 annually. Her policy through her employer does not have a cap, and she is wary because if she loses her job, as it is under this law now, and she tries to go somewhere, she will not have the cap, or it may be only $50,000. There is no protection for her.

These are the kinds of real-life situations. Is it appropriate for us to say that the way these people should get their continuous care is to get rid of all their assets and live in poverty for the rest of their lives, as long as their child survives? No, that is not what the policy of this Nation ought to be. This amendment would make sure that those occurrences do not occur.

I hope that people will take into consideration that this is an amendment which will correct the deficiencies in the bill before us by saying that there will be a cap out there, which will be sufficient to take care of the expenses of these people to whom we are saying, ''You have a good deal because you can continue your coverage.'' Right now, the expectations are not there, and they can be changed at any moment.

So I want to urge you to consider that this is something that is important to the bill before us. It is an amendment to the bill before us. It is to correct the serious problem in the bill before us. What we are talking about here, as far as the impact, is, obviously, if somebody is paying some money, somebody is going to have to shell out some money somewhere else. If they are being paid to have their health taken care of—first of all, let me review for a moment the kinds of costs involved with these actions.

Look at this chart. It will show you about children with hemophilia. There are about 7,000 children with hemophilia, not many in terms of 250 million. The average cost per year per person is $100,000. Life expectancy is 40 years. Lifetime cost per person for hemophilia is $4 million. Do you want to put them all under Medicaid?

Cystic fibrosis, the case I talked about earlier; the prevalence is about 4,000 in this country. That is not many relative to the huge population. It is easy to spread around the cost. The average cost per person per year is $18,000, and the average life expectancy is 30 years; $2.5 million.

This is the kind of situation which we are talking about.

Let us take a look. There are other examples. Spinal injury and head trauma, you can also see where the costs are—around $5 million for a lifetime situation.

Now let us review the question of why this is going to be a reasonable cost with respect to the existing situation. Again, insurance—the main purpose of insurance is to spread costs over a larger population so that the cost is small to the employer and to the employee with the insurance policy. But because of the huge number for which we spread it, it makes it reasonable for a family to afford.

Let me remind all of my colleagues that we all have no lifetime cap. None of the Federal employees have anything to worry about. We are all covered, whatever the costs are. In addition to that, as this chart shows, we are one of the 20 percent in this country that have no limits whatsoever. There are those that have more than $1 million, about 6 percent. The biggest group is that one that has been carrying the $1 million forward for the last 20 years as long they have been in business. That is 46 percent. So already we are at over 70 percent. Then we go on down.

I will be candid with you. The lower, of course, your lifetime caps, especially when you get to the really low levels, you obviously start covering more things than normally, and you end up with more cost. But the thing I am trying to make sure you understand is the cost that is spread around is not that high.

Let us take a look at what some of the people say about what those costs would be. First of all, let me run through some of these that have given us some costs.

The American Academy of Actuaries, for instance, has given us a cost analysis which demonstrates what we are talking about. Let me go to Price Waterhouse first. Price Waterhouse is a noted accounting firm, which we often look to give us accurate information, estimates that the Jeffords amendment would save $7 billion in Medicaid costs—$7 billion—over 7 years. And more importantly, the cost to businesses would be somewhere in the area of—especially those in the larger areas—would be somewhere around 1 percent of their premiums.

Let us go to another one. We have several on this.

Also the National Taxpayers Union; let me tell the people on my side of the aisle what the National Taxpayers Union says. They are supporting it. They say it will be scored as a direct spending reduction in the Medicaid Program by approximately $2.8 billion over a 5-year period. In addition, $2.1 billion may be saved through State and local Medicaid Programs.

How can you say that this is not something that should be done when we know what it is going to do to help us address the budget problems which we have? Do you know what that amount of money means? That is going to be replaced by the insurance premiums? But it does not even cover the money that is drained out of all those families that went out for expenditures on health care.

The Consumers Union, the other side of the aisle usually looks forward to the lifetime cap amendment which would significantly benefit consumers. The Consumers Union agrees that, if

health insurance policies have lifetime caps, it would be no lower than $10 million to the people exposed. They say it is important and essential.

Then, of course, we have to look to the Congressional Budget Office and we have CBO's estimates. This came to us today. The Congressional Budget Office says the amendment would increase the Federal deficit. They are the only ones who say it is a cost after you balance out the deductions for taxes—$120 million. So by the worst-case scenario we have an offset for this. You could have a tiny, itty-bitty negative impact of $120 million over 5 years.

So it is almost a no-brainer. It is hard to find out why anybody is against it.

This is the Congressional Budget Office again. The proposal would initially raise private insurance premiums by 0.4 percent. You want to keep in mind that, if you are an employer, you have options. You can increase your premiums, or you can increase your deductibles.

So it may not even cost the businessman anything. So again, the Congressional Budget Office says that we have something here which either costs nothing or something which is going to save the Treasury billions of dollars over 7 years.

So it is just hard for me to figure out why there can be any opposition to do this. Not only that. But Senator KENNEDY, and I think Senator KASSEBAUM, have suggested that this is a great amendment and that it ought to be on some other bill. What other bill? Why not the one it is most relevant to? Why not on the one with which we are trying to make sure is helping people with their transfer from job to job?

I understand the complexity of trying to get a bill through without any amendments on it. But I remind everyone that we have already granted exceptions to the Finance Committee, and I asked the committee that be one of those exemptions because I offered it at the committee level, and they said, ''No way. Take it to the floor.'' I come to the floor. They say, ''Sorry. No amendments even though it is relevant to the bill.'' It will save the middle-income people billions of dollars. It will not cost employers hardly anything, and it will establish for the first time a good policy in this situation so that we do not drive people through poverty to qualify for Medicaid.

Mr. President, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

PRIVILEGE OF THE FLOOR

Mr. SIMON. Mr. President, I ask unanimous consent that Jayson Slotnik, a fellow on my staff, be permitted to be on the floor during the action on S. 1028.

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

Mr. SIMON. Mr. President, I rise in support of Senator JEFFORDS' amendment. I am blessed to be a cosponsor of that. He mentioned the case of Christopher Reeves. Christopher Reeves and an actor named Robin Williams, when they were students, made a pact that they would support one another if they ever faced this kind of an emergency. Robin Williams, as an actor who makes a great deal of money, is able to help Christopher Reeves. But what about the thousands of Americans who do not have a Robin Williams?

It is very interesting. Senator JEFFORDS talked about the cost. We changed the Federal insurance. In other words, all Federal employees, including everyone here in the Senate right now—all of us—had some changes. We had two major changes. The most costly was adding mental health coverage for all Members—not only Members but all Federal employees. Do you know what that cost? It costs 27 cents each pay period. That is the additional mental health coverage cost. Twice a month we pay 27 cents. I tried to find out what taking the $1 million cap off cost us, and nobody knows what it cost. It is such a small amount.

My guess is, if you took that chart that Senator JEFFORDS has there of companies that have a $1 million limit and the 22 percent that do not have any limit, that you would find really no difference in the rates charged; no pattern of difference. You are talking about something that does not affect very many Americans. So the total cost is very limited.

I talked earlier today—four reporters stopped me out here, as they stop all of us. I said to the reporters, when they were asking me about this, ''Do you know what kind of limits you have on your insurance?'' Well, Adam Clymer of the New York Times knew, but the other three reporters did not know. I think very few Americans have any idea what kind of limit they have. They just know they are covered by insurance or they are not.

We should not impoverish people before we protect them. That is what we do with Medicaid. I think the Jeffords amendment makes a great deal of sense, and I am proud to support it and proud to be a cosponsor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it grieves me greatly to rise to indicate my reservation about this amendment on this particular bill. I know how hard the Senator has worked on this project, and in any other forum I would be a strong supporter. I am very familiar with Chris Reeves. He is a resident of my State out in the Berkshires. He was a strong supporter of mine in the last campaign, a personal friend as well. I am very familiar with the real challenges—first of all, the extraordinary courage of this absolutely incredible human being. It is what I think of first when I think of Christopher Reeves. As he has pointed out so well, the human tragedy of others who are facing these kinds of situations is incredible and incredibly difficult, and all of us are familiar with stories of families being bankrupt because of these ceilings which are out there. Most of them were about $1 million just until very recently, some of them as high as $2 million.

I agree with the Senator, and it pains me to oppose him on this particular measure. I was mindful of that during his presentation.

I ask the Senator what his disposition is, whether he might take a voice vote here. Does he prefer that we make a tabling motion, or is he willing to take——

Mr. JEFFORDS. That, of course, is the Senator's option. I cannot stand here representing 100 groups who support this amendment and taking into consideration the tremendous effort that Christopher Reeves has put into this personally to try and convince this body to do this reasonable thing, and not, unfortunately, from the Senator's perspective, ask for a recorded vote. I do not mean to embarrass the Members on this, but I just remind them that I was told I could come to the floor and offer it, and I am being precluded. But I understand that all got changed as we went along the way, and I do not hold any grudges against anybody. I understand you have to stand by that no amendment outside of the Finance Committee. I just would suggest to my colleagues that they are not bound by any such thing and would urge them to vote in favor of the amendment.

Incidentally, I have now heard something which occurs when you get people nervous here, that there has been a rush to find a new cost from CBO, and apparently they are ready to rush over and claim I do not have enough money.

Well, I am always ready for those circumstances, and we are rushing over with an amendment which will put a sufficient amount of money in it so I do not get into a budget problem. If they are not around, if we can just get the yeas and nays without going through the necessity of me amending the amendment, that is fine, too.

Mr. SIMON. Will my colleague yield?

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

Mr. KENNEDY. I want to be very clear. I had joined with the chairman of the committee in indicating I would oppose amendments on this that virtually were not unanimously accepted. I should like very much to accept it.

As I mentioned earlier in the day, there are many different features which I should like to add.

I can remember very well I had a son who was in an NIH program, and they terminated the NIH support. It was $3,200 for the treatment they had to give those children every 3 weeks for 3 days for 2 years, and I was able to afford it. Mothers and families were out there saying, well, my child only gets 5 months, 6 months. What chance does that child have to live?

I am very mindful of these situations. I feel very strongly about them,

and I feel very sympathetic, too. But I am also mindful that we need this legislation, and we have made a commitment at the time which I hope the Senator from Vermont will understand. I joined with the chairman of the committee to that effect. But I will be glad to join with him at another time. But we are going to abide at least by the assurances we gave to the other members of the committee. At the appropriate time I will, or the chairman of the committee can, make a motion to table.

Mr. SIMON. Will the Senator from Massachusetts yield?

Mr. KENNEDY. I will be glad to yield.

Mr. SIMON. I cannot speak for the chief sponsor, but when you ask for a voice vote, the Senator from Massachusetts has a strong voice. If he will be fairly silent in that voice vote, I would be willing to take a voice vote, but I cannot speak for the Senator from Vermont.

Mrs. KASSEBAUM. Mr. President, if I may, I, too, am very sympathetic to the issue that Senator JEFFORDS is addressing. I think we all recognize—I believe the figures are almost 1,500 Americans at least that would benefit from this legislation. It is more than just the enormous financial cost. It is an emotional and difficult issue.

However, our agreement was not just with the Finance Committee. Unless there is a consensus of support on both sides of the aisle, then we have to oppose the amendments. I think the Senator from Vermont knows there are many in the business community, particularly the small business community, that have been opposed to this, who worry a great deal about the implications of it and have said they would oppose the whole bill if amendments like this one would be added. We felt that the underlying amendment offered so much that we then had to also oppose those other amendments which I think have much merit, and it is with regret that I would, too, have to oppose it. I certainly am willing to have a rollcall vote. I think it will be up to the sponsor of the legislation to determine that.

Mr. KENNEDY. I make a motion to table the Jeffords amendment.

Mr. JEFFORDS. I would like to amend my amendment first to have plenty of money in there so nobody can——

Mr. KENNEDY. I am not going to make that argument. That is fine.

Mr. JEFFORDS. All right.

Mr. KENNEDY. If it is all right with Senator KASSEBAUM. I have no objection to either doing it—we are not making a point of order on the money or questioning it at this time.

AMENDMENT NO. 3680 TO AMENDMENT NO. 3679

(Purpose: To reduce delinquencies and to improve debt-collection activities government-wide, and for other purposes)

Mr. JEFFORDS. I want to preclude that objection from being registered, so, Mr. President, I have an amendment to my amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Is this an amendment to the amendment?

Mr. JEFFORDS. Mr. President, it is an amendment to the amendment. I will ask to have it reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 3680 to amendment No. 3679.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with or we will be here the rest of the evening.

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

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

Mr. JEFFORDS. What this does, Mr. President, is take an amount of money which has been verified by CBO, which has yet to be utilized and also verified by OMB, that will cover any conceivable cost of this bill, to make sure someone does not come back and say I failed to cover any cost of that.

I understand there will be maybe a motion to table. Let me just urge my colleagues to please remember what we are trying to do here. You have 100 disability groups of people who are in favor of this amendment. You have estimates which indicate that we have eliminated all the small businesses 25 or under. We have not pulled lifetime caps. We have gone to $10 million, which is exactly the value of what they were many years ago when the million dollar cap was in fashion.

What we are trying to do is prevent people going into bankruptcy in order to qualify for Medicaid in order to take care of their sick ones. It also improves this bill because this bill would allow an insurance company—although they are forced to take somebody on the policy, they can lower the lifetime caps and chop them off after a year again, and then they are back out on the street looking for care and back onto Medicaid.

With that, I would suffer the indulgence of a tabling motion at this time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3680) was agreed to.

Mrs. KASSEBAUM. Does any Senator wish further debate on the amendment, as amended?

If not, I move to table the amendment of the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Kansas has moved to table the amendment of the Senator from Vermont, as amended.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM. Mr. President, I ask if there could be about a 5-minute delay to notify everybody to come.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. KASSEBAUM. Mr. President, I ask that we now proceed to vote on the motion to table the amendment of the Senator from Vermont. The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Vermont, No. 3679.

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

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—56

Abraham	Ford	Kyl
Akaka	Frist	Lieberman
Ashcroft	Gorton	McCain
Bennett	Gramm	Mikulski
Bond	Grassley	Moseley-Braun
Bradley	Gregg	Moynihan
Breaux	Hatch	Murkowski
Brown	Hatfield	Murray
Bryan	Heflin	Nickles
Chafee	Hollings	Nunn
Coats	Hutchison	Pressler
Cochran	Inhofe	Reid
Cohen	Inouye	Rockefeller
Coverdell	Johnston	Sarbanes
Craig	Kassebaum	Simpson
Daschle	Kempthorne	Thomas
Dodd	Kennedy	Thompson
Exon	Kerrey	Thurmond
Faircloth	Kohl	

NAYS—42

Baucus	Feinstein	Pell
Biden	Glenn	Pryor
Bingaman	Graham	Robb
Boxer	Grams	Roth
Bumpers	Harkin	Santorum
Burns	Helms	Shelby
Byrd	Jeffords	Simon
Conrad	Kerry	Smith
D'Amato	Lautenberg	Snowe
DeWine	Leahy	Specter
Dole	Levin	Stevens
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Feingold	McConnell	Wyden

NOT VOTING—2

Campbell	Mack

So the motion to lay on the table the amendment (No. 3679) was agreed to.

Mr. KENNEDY. Mr. President, Senator DOMENICI has been seeking recognition, and I believe he is willing to enter into a time agreement.

Mr. DOMENICI. Senator WELLSTONE, how much time?

Mr. WELLSTONE. I think I need about 15 minutes.

Mr. DOMENICI. From the standpoint of proponents, we will settle on 35 minutes. You all can take whatever you would like.

Mr. KENNEDY. Mr. President, I ask that we have 40 minutes on the Domenici-Wellstone amendment, 35 minutes to be under the control of Senators DOMENICI and WELLSTONE, and 5 minutes under the control of Senator KASSEBAUM.

Mr. JOHNSTON. Does the Senator from Massachusetts know how many amendments and when we might expect to finish tonight?

Mr. KENNEDY. On our side there would probably be—we have Senator BOXER's amendment, which I think will take a very short period of time. We have Senator CONRAD on visa, which I think we can work out. We are waiting for the report of the chairman on the immigration control. Senator SIMON, a sense-of-the-Senate which I think will be very short. We are on the Domenici-Wellstone now. There is one by Senator DORGAN on the organ cards, which hopefully we can accept.

I do not think we have any amendments here that would require very much time to deal with.

Mrs. KASSEBAUM. Mr. President, if the Senator from Massachusetts would yield, there may be some amendments offered that will be withdrawn—not all have been agreed to or cleared. I think we are moving forward. We wish to complete this by 9:30 or 10 o'clock tonight at the latest. We need to know exactly who will be wanting a rollcall vote on their amendments. I think that is what everyone would like to know.

Senator DOMENICI's amendment will be next. There will be a rollcall vote I believe. At that point, we should know how many more votes would actually be ahead of us.

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

Mrs. KASSEBAUM. I am happy to.

Mr. JOHNSTON. Would it be out of the question to stack some votes tonight?

Mrs. KASSEBAUM. We thought not. We thought it best to move forward. After the next vote, we will be able to tell you exactly how many more rollcall votes there will be.

Mr. DOMENICI. When you ask the Senator from Kansas a direct question, she gives you a direct answer, right?

The PRESIDING OFFICER. There is no unanimous-consent agreement before the Senate. The Senator from Massachusetts was propounding one, but it was not formally propounded.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that on the Domenici amendment that there be 40 minutes, with 35 minutes under the control of Senators DOMENICI and WELLSTONE, 5 minutes under the control of Senator KASSEBAUM and the Senator from Massachusetts, and that there be no second-degree amendments in order to the Domenici amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3681

(Purpose: To ensure that parity is provided under health plans for severe mental illness services)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. WELLSTONE, proposes an amendment numbered 3681.

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

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

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

Mr. DOMENICI. Mr. President, I yield myself 10 minutes and ask that I be advised when I have used 9 minutes of that time.

Mr. President, it is with a degree of regret that I have to bring this amendment to the floor on this bill because I understand that Senators KASSEBAUM, KENNEDY, and the committee of jurisdiction have worked very hard on the basic bill that is before us. They have made some commitments, which I gather, based on the last vote, that they take very seriously. They are going to try to keep this bill clean.

I have to say to my fellow Senators that when you are involved and understand what is going on out there in America with reference to the mentally ill people and their inability to get adequate insurance coverage, which I will explain in a little more detail to the Senate, you have to take every opportunity you can to try to effect some major change.

The country, in terms of insuring people for various physical disabilities has come a long way. But this country, in terms of insuring mentally ill people, is going backward instead of forward, because as insurance costs go up, insurance company after insurance company is finding a way to try to write cheaper and cheaper insurance, and they look for ways to drop groups of people from coverage by saying they are not covering them, or are covering them so inadequately that they are left back in the arms of their parents or relatives. So this is happening dramatically across America. When it comes to mental illnesses, I submit that I know a little bit more about severe mental illnesses because I have worked actively in committees on that issue for a long time.

But if you happen to be a parent of somebody who has schizophrenia, a very serious mental disease, and not some figment—it did not come because somebody's mother did not take care of them properly; it is a severe disease of the brain. If you happen to have one of those kinds of persons in your family and you have an insurance policy that is typical in America, it will, for the most part, not cover very much, it will have a cap that is very insignificant, and it will be very distinct from the rest of the policy coverage. In other words, they will go out of their way to cover mental illness differently and with less coverage than the basic coverage they are giving to physical ailments, diseases that we all understand.

The time has come—and we can wait once again, but I believe it is tonight—to send a signal that while we have a bill before us that is going to alter some serious shortcomings in insurance coverage in America—and we understand what they are and we compliment the committee for taking one good bite at this problem—but those of us who are worried about the problem of mental health and mental illness, including severe mental illnesses, like manic depression, severe depression, bipolar or serious depression, we understand that there is medication available, there is treatment available. But, occasionally, they have to be treated in an atmosphere that costs a lot of money, in an environment that costs a lot of money.

This amendment is very simple. I am offering it with my friend, Senator WELLSTONE. Essentially, Mr. President, it prohibits insurers and health plans from imposing treatment restrictions or financial requirements on services for the mentally ill that it does not impose on services for the physically ill.

We offer this today, although this country has come a long way in understanding and recognizing the special problems of people suffering from mental illness. We understand that structural and institutional discrimination continues and persists in our society. Stigmas are rampant in this area, and I am referring to another kind of discrimination—that is, the way health insurers and health plans treat these individuals, and I believe this situation represents one of the real continuing injustices in America today.

Although we now understand that mental illnesses are, in fact, for the most part, physical illnesses, they are still treated differently than other physical conditions. The only difference between the other physical ailments and mental illness is that mental illness is a disease of the brain, and it may be more complicated, but we are making excellent strides at understanding it. Because this disease manifests itself in our centers of thought, reason, and emotion, many find it easy to deride those problems and to deride those who are afflicted, or turn their back on the problem, or act as if the problem does not exist. Mental illness is not due to sinful behavior. It is not due to a weakness, or frail character. These illnesses are real, and they are

debilitating, and there are many who suffer from them. Nearly 5 million Americans suffer from severe forms of mental illness. I will repeat just a few of them.

Schizophrenia affects about 2 million adults a year. And I repeat, nobody is at fault because somebody has schizophrenia and acts differently and reasons differently. They are just as sick as your neighbor who has cancer.

Yet only 2 percent of all individuals with mental illnesses are covered by insurance which provides benefits equal to the coverage for physical illnesses. I stated that in generalities a while ago. Now, here is the objective number. Through narrowing down the definitions through caps that are irresponsible but save money so insurance companies do it in their own self-interest, only 2 percent of Americans with mental illness are covered with the same degree of coverage as if they got tuberculosis or cancer instead of manic-depression or schizophrenia.

You can walk down any street in urban America and you will find them. It is time to give these people access to care they need, and as you see them in urban America sleeping on grates and other things, you should realize that they probably started out as wonderful teenage children in some beautiful family. And when the costs got prohibitive and the behavior uncontrollable, they are abandoned. In fact, you find more of them in jails than in the institutions which we ought to have to help them. Most studies reveal that most of the severely mentally ill are in prisons or county or city jails because of misbehavior than in places we put together to treat them. Part of that is because resources are not applied, and part of the reason resources are not applied is because the insurance companies—I am not here angry at them, I am not here fighting with insurance companies. Because what they say is, ''How do we make money? So if we lessen the coverage for mental health, we get a better bargain for people who want coverage for the other things.'' But I am submitting that sooner or later we have to say to them that you all have to cover them. If you are covering physical illness and they get 6 months of hospitalization, you have to do the same for mentally ill people. If not, nobody is going to care for them.

Let me tell you, I have seen purposely and intentionally how this destroys families. I have been to the National Alliance for the Mentally Ill meetings with 1,000 of the finest people in America who are there talking about their children, and in many cases they are lost because they could not afford to pay for them when they were 19 and 20, and they do not even know where they are. Somebody in this society is paying for that. For the most part, the ill are paying for it, for they are not getting taken care of right.

I thought a bill that was aimed at correcting the lack of coverage in the private insurance industry of America—because you choose and pick insurance companies to cover what you want and what you do not want you do not cover—we came today to the Senate and in 1 day or 2 are going to pass a marvelous bill that says, in two areas, you are all going to cover something. I am just asking tonight that, in three areas, you say you are going to cover something.

I know the motion to table will be made, and the argument will be made that this is not the right time. And, of course, I am taking a gamble, because with that kind of power, I might lose this amendment. But let me suggest, if we do—and I hope we do not—you can count on it, we are going to be back here, and we are going to find and look until we find a vehicle that sets this thing straight.

Mr. President, when that bill was sent to the desk, I saw some Senators watch it go up there and they saw this very thick bill. I do not want you to think there is all kinds of language in there about mental illness. What we have to do is pay for this.

So much of that bill is to defer the cost in the first 5 years of this bill, and we have used offsets that are acceptable, which Senator WELLSTONE and I have used at other times here but have not become law. So we have offset it as best we could. That is what most of that is.

It is a rather simple bill. We could narrow it down. We chose not to. We talk about mental illness. That includes all of the severe ones, but it includes more, and it says as part of treatment, no more discrimination, no more treating them differently.

We have cost estimates. If it was done across the board in all policies, it would add about 1.6 percent net to the insurance coverage across the land. It obviously would not happen overnight. It would take some time. But, essentially, we want to give the Senate an opportunity to vote on this tonight.

That is my explanation for now. I want to say thanks to Senator WELLSTONE. He has been kind of my friend working on this for a long time. There are some other Senators on board.

I want to yield to him now 7 minutes of my time for him to tell us his version of why we ought to do that.

Thank you very much.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I am very pleased to be here with my colleague, Senator PETE DOMENICI, to introduce an amendment on an issue that I feel very strongly about. Our amendment deals with one issue, and we hope that we have our colleagues' vote tonight: equitable health care coverage for mental illness services.

Mr. President, let me say it has been a real honor to work with Senator DOMENICI on this issue. He has been a real leader, as has his wife, Nancy, and I personally appreciate all of their efforts.

I am proud to cosponsor this amendment, which would require that health plans to provide coverage for mental health services commensurate with what is provided for other physical illnesses.

For too long, mental health has been put in parenthesis; we did not want to talk about it, and we did not take it seriously as a country. The stigma of mental illness has kept many in need from seeking help, and it has prevented policymakers from providing it. And for too long, persons in need of mental health services who reach private coverage discriminatory limits have been dumped onto Government-funded programs.

Mr. President, I support a universal health coverage plan, and comprehensive benefits for mental health services. While we failed to enact legislation to achieve this during the 103d Congress, we did increase awareness. But now we are talking about parity, and awareness is not enough.

Our amendment would require health plans to provide parity in their coverage of physical and mental health. Plans would be prohibited from requiring copays, or deductibles, for mental health benefits, or establishing lifetime limits for mental health benefits, or establishing visit limitations for mental health services unless the same restrictions apply to other health services.

All we ask for is equitable treatment. That is all this amendment does. All this amendment does is say, please let us stop this discrimination.

Mr. President, many people, or most people's instinctive reaction is to assume that this amendment would be expensive. This is not the case. As a matter of fact, in my State of Minnesota, where we have already passed legislation requiring full parity for mental health and substance abuse services, this was implemented August 1, 1995, and the cost of the parity mandate was estimated to be 26 cents per member provided. Minnesotans who were unable to work full time either because they were too sick or they were forced to impoverish themselves in order to qualify for Medicaid benefits, are now able to work and pay taxes and be productive. Because of this discrimination, all too often people cannot work so that they can receive medical assistance. People are forced to impoverish themselves in order to qualify for the medical assistance they need.

Now, in Minnesota—this is what we propose to do for our Nation, because we have parity and we have ended this discrimination—these same Minnesotans are now able to work, to live a life with dignity, and to pay their taxes.

Mr. President, we have a tremendous body of evidence, new evidence, proving that, without a doubt, mental health disorders can be diagnosed and treated in a cost-effective manner.

In fact, we can show that within a very short period of time it costs less

to treat those disorders directly and appropriately than not treat them at all. We can say that this is true based upon studies of every sector of our population—insured and employed, uninsured and unemployed, people who now use the private system and those who now use the public system.

Mr. President and colleagues, there are several arguments for requiring parity for mental health services. First, we now have cost-effective treatments for mental illnesses and high rates of success are being achieved across the spectrum of diagnosis. For example, 80 percent of individuals with depression respond to treatment. Second of all, mental illness results in physical illness, inability to work, impaired relationships, and sometimes crime and homelessness.

Would it not be better to end the discrimination and have less of the homelessness? Would it not be better to end the discrimination and enable people to work and be productive citizens? And finally, Mr. President, mental health services are already part of health delivery in the United States.

Let us have no doubt about it, this amendment leaves all decisions about the delivery of services to the private marketplace. The amendment does not require the provision of mental health services to employees, specify what care should be provided, interfere with the discretion of employers and health plans to negotiate reimbursement rates as they see fit, or mandate the use of any particular kind of delivery of needed care.

What this amendment calls for is just parity. Mental illness has touched many of our families and many of our friends. It is for this reason and many others that it is not a partisan issue. Mental illness is a problem affecting all sectors of American society. It shows up in both the rural and urban areas. It affects men and women, teenagers and the elderly, every ethnic group and people in every tax bracket. It can be effectively treated just like heart disease or diabetes. Treatment not only saves lives but it also saves dollars. That is why this amendment is so important.

I look forward to the adoption of this amendment and to continuing to work with Senator DOMENICI to end discrimination against this very vulnerable population and their families. It is only old data and old ideas that keep us from covering mental health, the same way we cover any other real illness, whether it is acute or chronic.

I know there has been some agreement on amendments, but I plead and implore my colleagues to please vote for this amendment. Senator DOMENICI is right. Tonight is just the beginning. If we do not win tonight—and I hope we get a very significant vote, and I hope we do win—then, of course, we will come back.

Colleagues, please support us. Please end the discrimination. That is what this amendment is all about.

I do not usually do this on the floor of the Senate, but I would like to dedicate my remarks to my brother who has struggled with mental illness almost his whole life. He is doing great now.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. The Senator has 13 minutes and 5 seconds.

Mr. DOMENICI. My good friend, Senator SIMPSON, desires to speak, and I yield him 5 minutes. And then, I say to the Senator from North Dakota, I will yield him some time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I hope that all Members will read the amendment. I know sometimes we forget to do that from time to time, it is perhaps one of our failings. It is a very simple amendment. It is described as ''parity.'' I think the Senator from New Mexico and the Senator from Minnesota have covered it very well.

The important thing that you want to hear regarding it is about the rule of its construction. It is just one construction because people say that it is going to be tremendously costly; or that this is going to ''open the doors'' or that this is the first step toward incurring tremendous cost. But what the amendment says is this:

> Nothing in [the subsection previous] shall be construed as prohibiting an employee health benefit plan, or a health plan issuer offering a group plan, or an individual health plan from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary.

I think that is a very important thing. That is a very critical part of this.

Let me just tell you that about 4 years ago a most beautiful girl in our family, the niece of my wife—my wife's twin sister's daughter, whom we had watched grow and mature from her birth—left our midst. She was a dancer; she was an artist; she was a poet; she was a guitarist; she was a singer; she was the rainbow of life.

We did not get or understand the signals in time, and the signals were very clear as we all look back now out of sheer guilt and anguish. She was tough minded, independent, loving, strong, and forceful. She would come into your kitchen and just cook up a batch and leave the stuff in the sink, and family would say, ''Why doesn't Susan clean up afterwards?'' And then, ''Why doesn't Susan work? How old will she be before she ever works?''

She began to withdraw, and then she went into some religious and almost cultish activities, and she had a child. And that is a beautiful child. I know that child. That is the wonderful part of it now—because Susan is gone. And after years of reaching out to us in her way and us not hearing and us not knowing, she one day decisively purchased a pistol and a few hours later purchased the ammunition and went to an isolated field, removed her shoes, sat in a the crouched position in Bowling Green, KY, and blew her chest away.

That is what sometimes happens to these people, and we think, ''well, but they should have tried to do something for themselves.

We thought we were doing something for her. We thought she was finally doing it for herself. She was taking medication, and it was working. But then something, something unknown, entered her mind and her life and she decided not to take the medication—knowing what would happen if she did not—and then her tragic plan of ultimate rejection came to pass.

There is a group of humans—a particular vulnerable group in society that the mental health workers and professionals tell us about who now are in their 37th to their 45th year, who somewhere along the line were perhaps those involved in the early experimentation with drugs, yes. Yes, of course, but that penalty should not be something visited upon them forever. So I say there is not a soul in this Chamber that has not been grievously affected in some way by these things. It is time for healing. It is time for understanding more than anything. It is time to minister. It is time to love and to be compassionate and time to learn so much more about these tragic things. For these are the people who you know and see every day, and they are making it, and they never did before, but they are now. If we can put this in this bill in this way with this language, I think it would be a tremendous benefit to them—and they are our first charge—and to the rest of us in society.

I thank the Chair.

Mr. DOMENICI. How much time do we have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 8 minutes and 50 seconds.

Mr. DOMENICI. Mr. President, I yield 5 minutes to Senator CONRAD.

Mr. CONRAD. Mr. President, I personally thank Senators DOMENICI and WELLSTONE for bringing this amendment to the Chamber tonight.

I rarely take the time of my colleagues, in the evening hours, to speak, because I often feel that it is an imposition on their time. Tonight, I think this amendment is so important that it requires all of us to speak. This amendment simply asks that mental illnesses be treated on a parity basis with other illnesses. It is inescapable: An illness is an illness. There should be no differentiation between how we treat those who have a mental illness and a physical illness.

When I was the assistant tax commissioner in North Dakota, Senator DORGAN was the tax commissioner. We had a young woman who was our receptionist. She was a beautiful and vibrant young woman. She was somebody

who absolutely lit up an office. One day, she just went off the deep end with a mental illness that none of us knew that she had. Pictures were speaking to her. She had all kinds of aberrant thoughts. It led to her institutionalization. It led to her attempting to take her own life. That was a young woman, because of a suicide attempt, who did enormous damage to herself from which she will never fully recover.

That young woman had a mental illness, and that illness deserved to be treated like any other illness. She is not alone. There are millions like her all across America. As we sought to reach out and help this young woman, I became somewhat educated about what was happening in our communities. One thing I learned is that we actually treat differently those with a physical illness and those with a mental illness, and it is a tragedy.

In our State, we have taken the step to recognize that there should not be discrimination between illnesses. What we have found is it does not cost more money. Oh, it does as you begin, but as you go forward, it does not cost more money, and it does not cost more money because, if you fail to treat, the physical ailments mount and become much more expensive.

I would say to my colleagues, we passed this amendment. We passed this in the Finance Committee on Medicaid, during reconciliation. I offered the amendment. It was adopted. It passed here on the floor of the U.S. Senate. It was only taken out in conference.

We passed it in the Finance Committee based on the best evidence that shows over time this will not cost money. I submitted detailed studies from North Dakota that demonstrate that.

I hope my colleagues will vote for this amendment tonight. It is the right thing to do. I hope my colleagues will agree to the Domenici-Wellstone amendment. They will be proud the rest of their lives that they did.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes.

I have difficulty in not commending, which I do, my good friends and colleagues with whom I have worked over a very considerable time on the issues of mental health. This is obviously an awkward position for me to have these amendments come up and to be fighting these issues. One of the first pieces of legislation passed during President Kennedy's administration was the community health programs which got people out of institutions, and into the community. I worked with Senator DOMENICI and Senator WELLSTONE in 1990 to move the whole mental health research out to NIH, against strong opposition at that time. In the health insurance bill that we passed last year, we had effective equivalence between mental health and physical health, though there were some aspects of hospitalization that were phased in over a period of time.

So I am strongly sympathetic. I just regret this. Hopefully, it will be defeated. Maybe we are going to continue to have these votes so people are able to speak to them. Once again, I can understand the frustration because we have not gone ahead on it.

It is painful for many of us who are strongly committed to the whole issue of eliminating preexisting condition and our strong commitment to that, to have to go on record in opposition to these amendments. But if that is the cost, and Members of the Senate feel that is what they want to do to many of us who have been out there working on precondition year in and year out, we are prepared to do it.

I will join in urging that the Senate table this at the first opportunity.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from New Mexico has 4 minutes 26 seconds.

Mr. DOMENICI. Mr. President, I certainly do not intend by my action tonight to make it painful for Senator KENNEDY, who has been a staunch advocate. I hope that is not what he said tonight. I just believe very, very sincerely that the time is now to get something done.

I want to explain one more time in just a brief, few words what this amendment does not do, because I think there could be some confusion. Let me clear up what it does not do. It does not provide an open-ended entitlement to whatever mental health services an individual wants. It does not limit the ability of an insurer or health plan to limit services to only those who are medically necessary. It does not institute a service-by-service equivalency between physical and mental illness. It does not mandate a benefit package.

It simply makes the following common situations illegal. Let me cite a few:

Policies that allow 365 days in-patient care for physical illness allow only 45 days for in-patient psychiatric care.

Policies that provide a lifetime cap of $1 million for physical care have a $50,000 cap for mental illness.

Policies providing unlimited outpatient visits for physical care allow only 20 outpatient visits for mental illnesses.

Mr. President, 90 percent of employer-sponsored plans impose such limits, despite the proven efficacy of treatments for mental illness. Treatment for schizophrenia has a 60 percent success rate; manic depression, 80 percent; major depression, 65 percent. Yet commonly reimbursed procedures such as angioplasty and arthrectomy have only a 41-percent and a 52-percent ratio, and nobody seeks to treat them with limitations that are imposed on mental illnesses.

The era of managed care is upon us, making tight management of patient care the norm, and artificial cost measures to reduce utilization are a thing of the past.

I have a number of examples of companies that have covered with parity of treatment and, believe it or not, they have saved money and added to their work force in ways that are measurable and objectively beneficial to the companies that have so seen fit.

So, from my standpoint, from the standpoint of the Senator from New Mexico, I do not seek to kill this bill. I think it is a marvelous step in the right direction. But I ask my fellow Senators when, if not tonight, will we ever get around to this issue? If I thought there was another bill coming down this year, I would probably have made an agreement so that I could have the full support of my friend from Massachusetts and my colleague and friend from Kansas, Senator KASSEBAUM. But I do not see that coming.

I believe there is plenty of evidence that the discrimination continues. It grows more rampant. The stigma, since that discrimination is rampant, is growing instead of diminishing, in an era when knowledge is beginning to grow almost exponentially.

So, now is the time. Tonight is the time to send this to conference. Deny the motion to table. Let our Senate colleagues take this to conference. Let us work on the various interests that will be part of that conference and see if we cannot make this a better bill because it would have this amendment attached than it would if it fails tonight.

I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I know that many here would like to vote in favor of this amendment offered by Senator DOMENICI, and Senator WELLSTONE is one. It has been carefully crafted.

There is no greater dedication to this legislation than from those who have spoken to us, as well as Senator KENNEDY who, for a long time, has been a great supporter.

So it is with real disappointment, if all debate is over, that I will have to move to table, as it is not an amendment that has consensus of support. And so for that reason, I only hope we can find some other avenue later through which we can address this.

I move to table the Domenici-Wellstone amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Has all time expired?

The PRESIDING OFFICER. The Senator from New Mexico has 14 seconds remaining. The Senator from Kansas has 2 minutes.

Mr. DOMENICI. I yield back my time.

Mrs. KASSEBAUM. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3681.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado, [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

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

The result was announced—yeas 33, nays 65, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—33

Ashcroft	Faircloth	Kempthorne
Bond	Ford	Kennedy
Breaux	Frist	Kohl
Brown	Gorton	Kyl
Bryan	Gramm	McCain
Chafee	Grams	Nickles
Coats	Gregg	Reid
Cohen	Hollings	Rockefeller
Craig	Inhofe	Roth
Daschle	Johnston	Smith
Dodd	Kassebaum	Thompson

NAYS—65

Abraham	Glenn	Moynihan
Akaka	Graham	Murkowski
Baucus	Grassley	Murray
Bennett	Harkin	Nunn
Biden	Hatch	Pell
Bingaman	Hatfield	Pressler
Boxer	Heflin	Pryor
Bradley	Helms	Robb
Bumpers	Hutchison	Santorum
Burns	Inouye	Sarbanes
Byrd	Jeffords	Shelby
Cochran	Kerrey	Simon
Conrad	Kerry	Simpson
Coverdell	Lautenberg	Snowe
D'Amato	Leahy	Specter
DeWine	Levin	Stevens
Dole	Lieberman	Thomas
Domenici	Lott	Thurmond
Dorgan	Lugar	Warner
Exon	McConnell	Wellstone
Feingold	Mikulski	Wyden
Feinstein	Moseley-Braun	

NOT VOTING—2

Campbell	Mack

So the motion to lay on the table the amendment (No. 3681) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I think we are making progress. I wonder if the managers might be able to identify those amendments that would require rollcall votes and have the debate on those amendments, and then we can advise our other colleagues that did not have amendments that we would probably be voting, say, at 10 o'clock or 9:30, or whatever it might be. That would save everybody from having to stay on the floor. When you stay on the floor, sometimes you get excited and talk.

Mrs. KASSEBAUM. Mr. President, I say to the majority leader, on our side, I understand that Senator SPECTER would like to have a vote. He has two amendments.

Mr. DOLE. En bloc?

Mrs. KASSEBAUM. I would assume we could vote en bloc.

Mr. SPECTER. I am right here and ready to go, madam manager.

Mrs. KASSEBAUM. All right. I am not sure about Senator THOMAS, whether he will want a vote on his, and Senator GRAMM. I believe those are the only amendments that I have listed that would require—Senator BURNS, I believe, has one on telemedicine.

Mr. COATS. I have one, also.

Mrs. KASSEBAUM. I thought we were going to try to work that out.

Mr. COATS. We are not able to work that out, so we are going to have to have a vote on it.

Mr. DOLE. How many from the Senator from Massachusetts?

Mr. KENNEDY. We have the Conrad amendment on J–1 visas, which is acceptable. We have one other amendment where somebody wants to introduce it, speak, and withdraw it. Senator DORGAN's amendment on organ donor, which, I believe, has been accepted, with Senator FRIST. We have Senator HARKIN's, and we are waiting to see whether Senator WELLSTONE wants to work out an exchange of language or a vote. And there is a Senator Boxer sense of the Senate.

Some of those, as I mentioned—the Conrad visa amendment, and the organ donor amendment—have been worked out. I think they will just take very brief comments.

Mr. DOLE. So that will be two votes?

Mr. KENNEDY. Potentially, four. I hope we get it down to three.

Mr. DOLE. Let me encourage my colleagues, if there is an opportunity to work these out on either side, we hope we can do that and not require a rollcall vote. If you are going to work out your amendment and it is accepted without rollcall votes, I will look very kindly on those amendments. I will be a conferee.

Mr. DOMENICI. Mr. President, I ask that the yeas and nays be vitiated on the Domenici amendment.

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

The amendment is agreed to.

So the amendment (No. 3681) was agreed to

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I think the distinguished Democratic leader wanted to add a word.

Mr. DASCHLE. Mr. President, I ask the majority leader whether or not, to accommodate a couple of our colleagues, who, I think, were working under the understanding that we might be able to stack votes, whether or not it may be possible to stack the next two or three votes so as to accommodate some of those who may have left with that understanding. Would that be possible?

Mr. DOLE. I am satisfied with that. I think it is a good idea.

Mrs. KASSEBAUM. As long as there are so few left.

Mr. DOLE. We can stack three or four votes back to back, accept the rest of them, and have final passage.

Mr. LEAHY. Will the majority leader yield for a question?

Mr. DOLE. Yes.

Mr. LEAHY. If we are going to stack them, do we know approximately when the votes will start?

Mr. DOLE. How much time will the Senator from Pennsylvania take?

Mr. SPECTER. Mr. President, responding to the majority leader's question, I think it can be disposed of in 20 minutes, 10 minutes a side.

Mr. DOLE. Each amendment, or both?

Mr. SPECTER. I am going to start with the first amendment.

Mr. KENNEDY. We would take 5 minutes.

Mr. DOLE. Let us say an hour from now.

Mr. LEAHY. Votes will start then, an hour from now?

Mr. DOLE. Yes.

AMENDMENT NO. 3682

(Purpose: To reauthorize and expand the healthy start program to target areas in need and to implement community driven strategies to reduce infant mortality)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 3682.

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

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

The amendment is as follows:

At the appropriate place in title III, insert the following new section:

SEC. . REAUTHORIZATION OF HEALTHY START PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—To enable the Secretary of Health and Human Services to carry out the healthy start program established under the authority of section 301 of the Public Health Service Act (42 U.S.C. 241), there are authorized to be appropriated $100,000,000 for each of the fiscal years 1997 through 2001.

(b) EXISTING PROJECTS.—

(1) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall reserve $30,000,000 for such fiscal year among demonstration projects that received funding under the healthy start program for fiscal year 1996.

(2) ELIGIBILITY.—To be eligible to receive funds under paragraph (1), an existing demonstration projects shall demonstrate to the satisfaction of Secretary of Health and Human Services that such project has been successful in serving needy areas and reducing infant mortality.

(3) USE OF PROJECTS.—A demonstration project that receives funding under paragraph (1) shall be utilized as a resource center to assist in the training of those individuals to be involved in projects established

under subsection (c). It shall be the goal of such projects to become self-sustaining within the project area.

(c) NEW PROJECTS.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall allocate the remaining amounts for such fiscal year among up to 35 new demonstration projects. Such projects shall be community-based and shall attempt to replicate healthy start model projects that have been determined by the Secretary of Health and Human Services to be successful.

Mr. SPECTER. Mr. President, this is an amendment which provides for reauthorization of Healthy Start. This amendment would reauthorize the Healthy Start program for an additional 5 years at $100 million a year. It is important that the reauthorization occur on this bill because, given the Senate calendar, it is highly doubtful that this issue will be raised on any other bill.

In my capacity as Chairman of the Appropriations Subcommittee for Health and Human Services, I can say with some authority that we need the authorization so that we are prepared to make the appropriate appropriations.

Healthy Start is a program which is designed to provide prenatal care to infants. I saw my first 1-pound baby more than a decade ago at the Alma Ellery Clinic in Pittsburgh and, at that time, I saw a baby about as big as my hand, weighing a pound. Some babies weigh as little as 12 ounces, and they are human tragedies, carrying scars for a lifetime, and they are very expensive for our society, costing as much as $250,000 each.

In my position on the Appropriations Committee, I worked to start this program of Healthy Start, and it has had a really remarkable success. It has been in existence for 5 years, which is a relatively short period of time. But we already have statistics available that show the success of the program.

The 1994 statistics received from the projects demonstrated that from 1984 to 1988, baseline statistics in Philadelphia show that infant mortality had decreased some 28 percent. In Pittsburgh, the infant mortality rate decreased 20 percent since the start of the Healthy Start Program in 1993.

The Maternal and Child Health Bureau reports that for the State of New York, between 1990 and 1994, infant mortality rates decreased by 38 percent in the Healthy Start project area, compared to a 22 percent decline citywide.

Without going into any greater demonstration of statistics, Mr. President, I think it is apparent that Healthy Start is an important program. Dr. Koop commented that with these minimal four prenatal visits, women carrying children would not give birth to low-birthweight babies. It, obviously, has been a very important program. It exists in some 22 cities at the present time: Boston; New York; Philadelphia; Pittsburgh; Baltimore; Washington, the DCPD region; South Carolina; Birmingham, AL; Cleveland, OH. I read these listings so that my colleagues will know how many of these units are in existence in their locales. Troy, IN; Chicago, IL; New Orleans; the Northern Plains Indian Reservations; communities in South Dakota, North Dakota, Iowa; Oakland, CA; and special projects in Dallas, TX; Essex County, NJ; the Florida Panhandle; Milwaukee, WI; the Mississippi Delta; Richmond, VA; and Savannah, GA.

The plan is to expand these projects from the 17 projects which are now—from the 22 projects which are now in existence, to an additional 35 projects.

Mr. President, I think the value of this program is apparent on its face. It has been in existence for 5 years. It has been very successful and does not encumber or impede this bill in any way.

It is a little hard to understand why it is not accepted, but I think it ought to command the attention of this House and the House of Representatives. And I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM. Mr. President, is the Senator from Pennsylvania going to offer a second-degree amendment at this time?

Mr. SPECTER. I am not.

Mrs. KASSEBAUM. Is the Senator going to wait until quarter of 10 to speak on that? We are stacking the votes.

Mr. SPECTER. I understand we are stacking the votes. At this time I am offering this amendment and speaking about this amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I understand the floor is open for amendments.

The PRESIDING OFFICER. There is a pending amendment which needs to be set aside by unanimous consent.

Mr. HARKIN. I understand, if I am not mistaken, that we are going to stack these votes. Is the Senator getting a vote right now under the regular order? The yeas and nays were ordered.

Mr. SPECTER. As I understand it, we are stacking the amendments. But I am not prepared to set the amendment aside at this point. I would like to see if the managers have contrary argument.

Mrs. KASSEBAUM. Mr. President, yes. This is not acceptable. The reason is that it is authorizing legislation which I believe needs to come through committee and the committee procedure before we would authorize this on this bill regarding health insurance reform.

That would be the objection of the managers of the bill.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, in response to the comments of the Senator from Kansas, it is my strong view that a healthy start program is directly germane and directly relevant to the pending legislation on health care and that it is a jurisdictional question. I do not quite understand the argument. This program has been in existence, has been a success, and there has been no denial by the managers that it is in existence and has been a success. It is hardly the kind of program which is going to require additional hearings. It seems to me that it is right for disposition. That is why I am offering the amendment.

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

Mrs. KASSEBAUM. Mr. President, I stated the reasons why we have an objection. It is a program that has had some success. That is very true. And healthy start is very important. It is part of other programs in the public health sector to which that is directed. As I say, I think it should be really reviewed in oversight so we can analyze what is being done and what should be done. I just feel strongly that in this instance it needs to be handled through the authorizing process rather than an amendment.

The PRESIDING OFFICER. For clarification, there is no unanimous consent to stack the votes at this time. So the pending business is the amendment of the Senator from Pennsylvania.

Mrs. KASSEBAUM. Mr. President, just so I understand, I thought the majority leader asked that votes would be stacked until 9:45. Did I misunderstand?

The PRESIDING OFFICER. My understanding is that it was not posed as a unanimous consent request.

Mr. DOLE. I now make that request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 3683 TO THE COMMITTEE SUBSTITUTE, AS AMENDED BY NO. 3675

(Purpose: To reduce health care fraud, waste, and abuse)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. BAUCUS, proposes an amendment numbered 3683.

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

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

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

Mr. HARKIN. Mr. President, this is offered on behalf of myself and Senator BAUCUS.

Mr. President, this amendment deals with the continuing problem of waste,

fraud, and abuse in the Medicare system. Over the last several years we have had numerous IG investigations, reports, GAO investigations, and GAO reports. The data is overwhelming. No one can dispute the findings. The Director of HCFA himself has testified before the Labor, Health and Human Services Appropriations Subcommittee as to the validity of these findings. No one disputes that there is tremendous waste, fraud, and abuse in Medicare. The GAO has estimated that up to 10 percent of Medicare funds are lost to waste, fraud, and abuse every year.

Out of a $180 billion program, 10 percent, that is up to $18 billion lost to waste, fraud, and abuse. That is $500 per beneficiary per year.

I know that we are not going to be able to get all of it out. I understand that. But at least we can make some important strides in saving a lot of this money. The amendment that was adopted earlier—the Dole-Roth amendment—had some provisions in it to combat fraud and abuse that I have pushed and supported for a long time, including increased resources for the HHS Inspector General and increased resources for Medicare contractors to fight fraud and abuse, and tougher penalties for fraudulent activities. These were in the amendment adopted.

I say that these are positive and long overdue steps. As I said, they are steps that I have pushed and promoted for years. However, they are inadequate. There is much, much more that needs to be done and can be done right now to really make a dent in the massive amounts of waste and abuse in the system.

Mr. President, every time I go to town meetings in Iowa and I meet with the elderly—or just basically anyone that has been involved in the Medicare system, like people who have had parents or grandparents who have received Medicare help and assistance—whenever you talk about waste and abuse you get an immediate response. They know it exists all too well. When you talk about looking at their bills and ask if they ever look at a bill and see an item on there that they did not really think they received, or maybe paid too much for—you watch the heads nod—they all have, and they are outraged about it. But what they will show you is they will hold up the form that they got from Medicare, and it will have stamped on the front of it, ''This is not a bill.''

A couple of years ago a woman by the name of Shirley Pollock from Atlantic, IA, got hold of me. She had received one of these for her mother-in-law who had been in a nursing home.

For something short of 5 weeks' time, she was billed over $5,000 for bandages. She was outraged, because she knew there was no way her mother-in-law had used that many bandages. But on the front it said, ''This is not a bill.'' So Shirley Pollock complained to the Medicare payor about this and was told: Do not worry about it. You do not have to pay it anyway.

Well, as Shirley later told me, ''I got so mad because I knew somebody's got to pay it. Obviously taxpayers or people paying into Medicare are paying for it. Someone is paying for it. I know we didn't receive $5,000 in bandages, and I want to do something about it.''

So she contacted my office, and we worked it through and found out, indeed, that she was absolutely right. Her mother-in-law had never received $5,000 in bandages—maybe $500 worth but not $5,000, and yet the bill was paid. The bill was just paid as if nothing had happened.

So we know this is going on. And like I said, you can ask any person in a town meeting about this, especially those who have been in Medicare, and they will tell you that they know what we are talking about, too.

So I am offering this amendment to add what I believe are a few more important commonsense weapons in this fight against waste and abuse.

Now, I will for the benefit of my colleagues state at the outset that there is one provision I have been pushing for for some time that I do not have in this amendment because I know there is opposition to it on the floor. I have offered it before. And that is the idea of competitive bidding. I am not offering that as part of this package because I know they want to get the bill through, and I am for this bill; I am a cosponsor of it. I wish to get it through. But, obviously, unbelievable as it may seem to me and to others, there are some who do not believe that Medicare should adopt competitive bidding when it comes to medical supplies so that seniors and the taxpayers get the best price possible.

So I did not include it. I took it out because I know that that some have said it's too controversial. But I am going to be offering that again to get us to competitive bidding, just like the Veterans Administration has been doing for years. It's an outrage Medicare is losing millions because its payment system is prone to abuse and waste. Over a period of years I've compared like bills, like items between Medicare and the Veterans Administration, same city, same supplier. Medicare is often paying 30 to 50 percent more than what the Veterans Administration is. Why is that? Because the Veterans Administration engages in competitive bidding and Medicare does not. But as I said, I have not included that in this amendment. I wanted to make that clear.

All of the provisions in this amendment that I have offered are the result of extensive hearings held by the Labor, Health and Human Services Appropriations Subcommittee over the past several years. They are all recommendations of the General Accounting Office, the inspector general of the Department of Health and Human Services or other private sector medical experts. All of them are commonsense steps, and I just want to review very briefly what they are.

First, this would provide for improved information to seniors to allow them to better help in the fight against Medicare fraud, waste, and abuse. Seniors would be guaranteed the right to receive itemized bills instead of a summarized report from which it may be difficult to detect billing errors or abuses. Every Medicare payment statement would also have to include a toll-free hotline number to report suspected cases of fraud, waste, or abuse.

Now, to those who may say this is a burden, let me just point out that those who are sending in the bills have to keep an itemized record. But when they send it to the beneficiary, they can just summarize it. So the beneficiary can look at it, and a lot of times not even know what they are paying for and a lot of times Medicare does not know what it is paying for. They just pay it, but they really do not know what the itemized bill is.

The reason I know that you can go back and find the itemized bills is that the investigations we have done by the General Accounting Office have gone after some of these summarized bills, gone back to the claimant, back to the hospital or the nursing home or the doctor or whoever it might be and said, OK, what made up this summarized statement? Well, they had to produce the itemized bill so that the General Accounting Office could look at it. So they do have that itemized bill. I am saying it is no more of a problem for them just to print that out on the bill they send to Medicare. This amendment would guarantee seniors that they could get an itemized bill so that they know exactly what they were being charged for and how much they were being charged for it. And, as I said, it would also require Medicare to put on each explanation of Medicare benefits a toll-free hotline number so that a person could report any suspected case of fraud or abuse.

That is the first part of my amendment. The second part of my amendment establishes rewards of up to $10,000 for those providing information that leads to a health care fraud conviction. Again, it is to get people to step forward, to provide the information that we need, and if it leads to a health care fraud conviction they would be entitled to a reward up to $10,000.

The third part of my amendment prohibits Medicare payments for wasteful and unnecessary items such as sports cars for corporate executives, lucrative gifts to executive families and friends, tickets to sporting and other entertainment events, and other items not related to medical care.

In one of the most infuriating cases of abuse we found that health care executives were padding Medicare bills with all sorts of outrageous items identified as indirect costs. For example, we found the following items charged to Medicare: $2,433 for a trip to Italy to inspect a piece of sculpture; $10,215 billed to Medicare for clocks, watches,

and bowls for employees and friends; thousands of dollars for a golf tournament that was only held for executives; a $4,200 bill for a sporting event, all billed to Medicare as indirect costs. That is outrageous.

Now, Medicare did take one step after I prodded them at hearings. No longer will they pay for alcohol or for lobbying expenses as indirect costs. Well, that was a good first step, but they still have not specifically excluded these other items. My amendment would change that.

Next, my amendment says that we would reduce Medicare waste by giving the private companies that administer Medicare the authority to reduce payments for items they identify as grossly overpriced. Currently this can only be done on a national basis by HCFA and has only been done once, a process that took HCFA 3 years.

I am familiar with that because I initiated it several years ago. We found a blood glucose monitor, a little device that you can buy at Kmart or any discount store; it is for people who have diabetes. They can get an accurate check on what their blood glucose level is. It is a little pocket device with a battery in it. We found that Medicare was reimbursing up to $200 for each one of those. I sent my staff down to the local Kmart. They bought one for $49.99—50 bucks. Medicare was reimbursing up to $200 for it.

So I went to Medicare, to HCFA. I said, ''Okay, we have to stop it. You can go down and buy it for 50 bucks. Why are you paying $200?''

Believe it or not, from that moment to the day that they actually reduced the price to $50 took 3 years—3 years for them to do that. Well, this amendment would give a private company that administers Medicare the authority to reduce payments on items that they identify as grossly overpriced. So if they found something like a blood glucose monitor that they were reimbursing $200 for and they could buy it for 50 bucks, they could reduce the price down themselves. Again, right now, it takes HCFA over 3 years just to do one simple thing like that. This is a change that has been praised both by Medicare and the HHS Inspector General.

Next, my amendment would better assure that rapidly growing home health services are not subject to abuse by requiring that Medicare payments are not inflated by bills being filed in a higher payment area outside of where the service was provided, by establishing a fine for knowingly providing a false certification that a patient meets Medicare home health coverage criteria and by requiring that bills submitted for surgical dressings are itemized.

I will just read a little bit from this GAO report that covered excessive payments for medical supplies. Here is what happens. It says:

Fiscal intermediaries pay medical supply claims without knowing specifically what they are being asked to pay for on behalf of beneficiaries. The claims submitted by providers have no detailed information that would allow fiscal intermediaries to assess the claims' reasonableness. This lack of detail exists because HCFA guidance allows providers to bill all medical supplies under 10 broad codes. Billed items are not listed by type or amount. A code frequently used to record medical supplies is code 270, that is medical/surgical supplies, which we found included many different items such as a $21,437 pacemaker, a 75 cent sterile sponge, and even daily rental charges of $59 for an aqua pad. Consequently, unless fiscal intermediaries identify these claims for review and request additional documentation before payment, they will pay for the claims without knowing what the specific purchase was or whether it was covered or medically necessary.

Again, my amendment would address that and allow them to get that necessary information so that they would know exactly what they were paying for. That change was recommended and drafted by the General Accounting Office.

Next, my amendment would require Medicare to replace its outdated computer systems with state-of-the-art private sector computer software to detect and stop billing abuse. The General Accounting Office found that this simple change would save about $600 million a year. Again, this provision carries out their recommended changes to save seniors and taxpayers money.

GAO found, in fact, that a number of the private companies that process Medicare claims use the more sophisticated computer software on their private sector business but are not allowed to use it on their Medicare claims. They actually have to have two computer systems. They have their own that they submit claims to. Then they have another set that they have to have and another set of software just for Medicare.

As I said, the General Accounting Office said that just by making this one change, this one change would save $600 million a year, and the cost for doing that was about $20 million. So, again, it would require Medicare to replace its computer systems with state-of-the-art private sector computer technology, just what most private companies are using today to detect and stop billing abuse. As the GAO said, the private sector ones were so much better at detecting fraud and abuse than the Medicare ones were. We have been after Medicare. They say they are going to do this; maybe by the end of 1999 they might have it changed. We could change it right now and, as GAO said, save up to $600 million a year.

Last, my amendment saves money and reduces hassle by cutting excessive Medicare and Medicaid paperwork. There would be a uniform application and benefit claims form that would be established and would eliminate duplicative forms.

Mr. President, these are really modest steps. Again, these are all steps that the GAO, the inspector general's office, and other private sector health care experts have said are necessary to at least stem this tremendous hemorrhaging of waste and abuse that we have in Medicare. When you are talking about up to $18 billion a year, even if we cannot get all of it, if we could just get half of it, that is $9 billion a year. That is a lot of money. I see no reason why we could not get at least half of it with these modest steps that I am proposing here.

As I said, I did not include the one on competitive bidding. We will revisit that at another time. But I thought in the spirit of moving this legislation along and offering something that I thought was modest, that would move us in the right direction, that is why I took out competitive bidding.

I offer this amendment to enhance this bill and hopefully make it a better bill for health care in America. That is what this bill is about, is to help us in health care reform. You cannot have real health care reform until you stop the waste, fraud and abuse in Medicare. It is in that spirit I offer this amendment.

I thank the Senator from Montana for his strong support over the years, trying to weed out this waste, fraud and abuse in Medicare. He has been a leader on this subject. I am happy to have him as a cosponsor on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I hope my colleagues listened very closely to the Senator from Iowa. The big debate here is how to save Medicare. Senators on one side of the aisle say we have to cut Medicare to save it. We had this big debate over whether we should cut $270 billion out of Medicare in the next 7 years. We spent a lot of time debating this issue. Unfortunately, the majority Members in this body ended up deciding that, yes, we should cut that much money out of Medicare over 7 years. I think every Member on this side of the aisle voted against that.

Obviously, if we are going to save Medicare, we ought to first look at waste. It is clear there is waste in Medicare. We all know there is waste in Medicare. The General Accounting Office has documented the waste. The Senator from Iowa has listed all the Federal agencies that documented the millions of dollars lost to waste. Each of us, at home, talks to senior citizens, to providers and others who, on an anecdotal basis, tell us about waste in Medicare. We all know there is waste in Medicare.

We also know it takes a long time to get something done around here, way too long. Too many times we debate issues, not months but years. It takes way too long to get something meaningful accomplished around here. I think tonight we are debating a very important bill. We are going to pass this bill, hopefully tonight, that will take solid steps to provide better insurance coverage for millions of Americans and thousands of Montanans. This

is important and I strongly support this bill. At the same time, we have the chance to take the steps necessary to cut some of the waste in Medicare.

Tonight, let us pass this amendment. It is not perfect. There will be a lot of opportunities to work with it, during the conference committee, but let us get started. Let us pass this. We all know we should. Let us just do it. It might not be perfect, but we should not let perfection be the enemy of the good. Every Senator here tonight knows that this is a good amendment. We all know it is on the right track. I, for the life of me, do not understand why we just do not accept it tonight, work on it in the conference committee, maybe fix it up a little bit, get it enacted into law, and begin to attack a lot of the waste that exists in Medicare.

I hope Senators listened to the examples the Senator gave tonight. There are many more. They are outrageous—trips to Italy, sports cars. You would be amazed what waste, fraud, and abuse occurs in our Medicare program. It is outrageous. So, let us begin to do something about it; just begin. We heard the figures. GAO says up to 10 percent. That is $18 billion.

Let us be honest, we are not going to get a full $18 billion recovered. We know that. But, as the Senator from Iowa says, let us at least make a start. Let us not say we are not going to do it tonight because we have a no-amendments policy. We have already adopted one amendment, and another one, already tonight. Certainly this is in the category of amendments that we know should be passed. Otherwise, we run the risk that nothing will happen to fight fraud and abuse in the Medicare program this year.

What is going to happen next year? We do not know, as we attempt to address the waste that exists in Medicare.

I am not going to belabor the issue. It is getting late tonight. The Senator from Iowa has listed all the various provisions of his amendment. I just hope we can leave the partisan fighting and political rhetoric behind and do something which we know the people at home whom we represent want. Let us begin to take some very critical and concrete steps to address the waste and fraud that does exist in Medicare. That is where we should begin, rather than just cutting Medicare. First, let us cut the waste out of Medicare and the fraud out of Medicare before we cut Medicare services and programs that help millions of seniors nationwide.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas, the majority manager, is recognized.

Mrs. KASSEBAUM. Mr. President, I am speaking somewhat on behalf of Senator COHEN from Maine. He has worked many years on this issue, and has worked with Senator HARKIN as well, trying to address the issues of fraud and abuse.

The language that Senator COHEN had worked on is now part of the bill. It is an important issue, and the very things that Senator HARKIN raised are issues Senator COHEN raised. But there have also been some concerns, and we have to be careful, if there are some problems, to see if we cannot get them worked out or else it poses a problem for the underlying bill.

I yield time to the Senator from Maine.

Mr. KENNEDY. Mr. President, I wonder if we can possibly get a time understanding. We have several Members here. I know people want to address this, and Senator COHEN wants to speak on it. I am wondering if the proponents of the amendment are willing to agree to a time limit.

Mrs. KASSEBAUM. There is very little time we need, Mr. President. My guess is, if Senator COHEN says 5 minutes, that is fine.

Mrs. BOXER. I am sorry, this is a time agreement?

Mr. KENNEDY. Just with regard to the Harkin amendment, can we agree that there be 10 minutes evenly divided? I ask unanimous consent that there be 10 minutes equally divided.

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

The Senator from Maine.

Mr. COHEN. Mr. President, if I can be as brief as I can within the 5-minute limitation, the fraud and abuse provisions that we adopted in the leadership amendment is something that I have worked on now for over 3 years. It passed both the House and the Senate last year as part of the budget reconciliation act. It was included in the administration's budget reconciliation proposal.

So the legislation we have passed and adopted is something that has been completely vetted; it has been negotiated through a lengthy process; it has been through the hearing process; it has been on the floor on several occasions—in fact, numerous times.

Additionally, it has received the endorsement of the administration, the Attorney General, Secretary of Health and Human Services, the Finance Committee of the House and Senate, as well as many private groups. The Harkin legislation has not gone through any such review or scrubbing; it has not received these endorsements, to my knowledge. In fact, I am sure we do not know of all the objections to his provisions. I do believe that there are several that are the subject of controversy.

I am not here to argue the merits of each of the items I am about to raise, but I know that both Health and Human Services and HCFA, the Health Care Financing Administration, object to the section that requires HCFA to acquire commercial software technology for Medicare claims processing. I know HCFA has concerns with the Harkin section that requires Medicare payments for certain items.

Again, I am not here to argue the merits of these particular items tonight. I merely say to my colleagues, they are not without controversy. If our objective is to pass the Kassebaum-Kennedy bill because we want to see legislation that guarantees access, affordability and portability, it seems to me the best thing we can do is stay with the legislation we adopted. That is why it was included in the leadership amendment.

So we have adopted it on several occasions. There may be some merit to Senator Harkin's proposal, but I think because of the items that are in controversy, it is only going to jeopardize the legislation. I believe the fraud and abuse provisions we have adopted are an enormous step forward. CBO has scored the amendment we adopted as saving some $3 billion, and that is going to pay for a number of items in the bill itself.

So, Mr. President, I hope that my colleagues, when the appropriate time comes, will move to table the Harkin amendment, that we will enjoy the support of our colleagues, because I believe the Harkin amendment does raise controversial issues, and the last thing we need at this time is more controversy on this bill.

Mr. KENNEDY. I yield myself 2 minutes.

Mr. President, I have worked very closely with the Senator from Iowa, and I admire all of his extraordinary work in all of this area. I think it is very commendable, and I do not think we have really ensured that a number of the recommendations have been enacted. So I am, again, very sympathetic and supportive of the concept.

This is a matter really for the Finance Committee, and there has been an objection raised on that vote in support of tabling the amendment. But I give assurances to the Senator, as a member of the conference and given the fact the whole issue of fraud will be a matter of conference, I will do the best I can to see that we are able to include some of those measures in the conference. That is the best at least I can do, but I admire his work and look forward to joining with him on another occasion.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I appreciate Senator KENNEDY's comments, and I hope we can get some of these adopted in conference. I say, again, I appreciate what the Senator from Maine has done over the last few years. He has done a great job of going after these issues of waste and abuse. I have no major objections to what was adopted earlier. Overall, I think it is a great step in the right direction.

We probably have been working along parallel paths. I am on the Appropriations Committee and the Senator is on another committee, but I first started having hearings on this 6 years ago, so we have been working on parallel tracks. I do not think there is any need to debate that.

I was just saying I do not know that it is necessary before we pass anything

around here that we have to have the approval of the administration. I find that kind of an odd concept at this time in the Senate that we have to have that kind of approval. We are the legislative branch.

I point out that every single item I just mentioned has gone through a process of hearings. We have had numerous hearings on this. We have had the approval of the inspector general's office and the GAO.

The Senator from Maine did mention one item. Out of all of these, there is only one item that HCFA opposes, and that is the provision in there that mandates they use state-of-the-art computer technology. That is because HCFA has been trying to develop its own. I have had some pretty fair battles with HCFA on this. I guarantee the Senator from Maine is right that they do not want that provision.

I am going to tell you they are wrong. There is high quality computer software out in the private sector that Medicare can adopt right now. They are wasting money developing their own. And I'm afraid by the time that the system they are developing won't solve the problem. The GAO study and investigation showed that. I have had Medicare intermediaries say that they have the software that Medicare could adopt, and, in fact, I say to the Senator from Maine that Medicare did adopt some changes of the type I've advocated in January of this year. They adopted a little bit of it. It will save some money, but much more could be saved.

Lastly, let me just say the amendment of the Senator from Maine does save $3 billion over 7 years. We do not have an estimate on how much this would save. All I know is, just on the computer software alone, that was $600 million in savings. I believe this amendment would save much, much more.

Again, I do not see anything here that is controversial but for that one item where HCFA says they are opposed to adopting private sector computer technology. As I said every single item in this amendment is a direct recommendation from the Inspector General, the General Accounting Office or other experts as effective methods to stop waste, fraud and abuse in Medicare.

This should be a completely noncontroversial amendment. I hope, again, as the Senator from Montana said, that we will not get caught up in jurisdictions.

Let us do what is right. What is right is to adopt this and start saving some money in the Medicare system. The amendment of the Senator from Maine is going to save some money. Darn right it is going to save some money. But we can save much more by adopting these other provisions.

The PRESIDING OFFICER. The Senator's time has expired. The minority manager is recognized

Mr. KENNEDY. I was going to make the tabling motion and then set that aside. What we had tried to do before is have the few amendments that we have here incorporated.

But I am reminded by my chairman that we had one over here and that it would be reasonable and fair to do one over there, and then we would come back to try and do all three of these here.

Mr. CONRAD. I wonder if we can get at least an order that would be acceptable so that those of us who have been waiting for an extended period might get a timeframe so that we will not just be waiting around and then find the list somehow gets altered and we wait some more.

Mr. KENNEDY. I was prepared to accept Senator CONRAD's amendment. It is going to take a minute.

Mr. KASSEBAUM. We are accepting it. So if the Senator wants to proceed—Senator COATS has been waiting too, but that is fine. It is acceptable.

Mr. KENNEDY. Mr. President, I make a motion to table the Harkin amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask that the Harkin amendment be temporarily set aside.

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

AMENDMENT NO. 3684

(Purpose: To extend State requested waivers of the foreign country residence requirement with respect to international medical graduates, and for other purposes)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes amendment numbered 3684.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''June 1, 1996'' and inserting ''June 1, 2002''.

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by inserting after ''except that in the case of a waiver requested by a State Department of Public Health or its equivalent'' the following: ''or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii)''.

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) is amended to read as follows:

''(k)(1) In the case of a request by an interested State agency or by an interested United States Government agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

''(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver; and

''(B)(i) in the case of a request by an interested State agency—

''(I) the alien demonstrates a bona fide offer of full-time employment, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

''(II) the alien's employment continues to benefit the public interest; or

''(ii) in the case of a request by an interested United States Government agency—

''(I) the alien demonstrates a bona fide offer of full-time employment that has been found to be in the public interest, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

''(II) the alien's employment continues to benefit the public interest;

''(C) in the case of a request by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than three years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

''(D) in the case of a request by an interested State agency, the grant of such a waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20.

''(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

''(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

''(3) Notwithstanding any other provisions of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien in clause (iii) of that section who has not otherwise been accorded status under section 101(a)(27)(H)—

''(A) in the case of a request by an interested State agency, if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C); and

''(B) in the case of a request by an interested United States Government agency, if at any time the alien engages in employment for a health facility or organization not named in the waiver application.''.

Mr. CONARD. Mr. President, this is very simple. It is an extension of the popular J–1 visa program for 6 years. If we fail to do this, the authority runs out June 1. Mr. President, the J–1 visa waiver permits each of our States to extend 20 waivers a year. And 21 of our States have already done it. More are interested in doing it. They will not have a chance if the authority runs out June 1.

Mr. President, the amendment I am sponsoring would extend what has become known by some as the ''Conrad State 20 Program.'' In 1994, I added a provision to the visa extension bill that allows state health departments or their equivalents to participate in the process of obtaining J–1 visa waivers. This process allows a foreign medical graduate (FMG) who has secured employment in the United States to waive the J–1 visa program's 2 year residency requirement.

As a condition of the J–1 visa, FMGs must return to their home countries for at least 2 years after their visas expire before being eligible to return. However, if the home countries do not object, FMGs can follow a waiver process that allows them to remain and work here in a designated health professional shortage area or medically underserved area. Before my legislation became law, that process exclusively involved finding an ''interested federal agency'' to recommend to the United States Information Agency (USIA) that waiving the 2 year requirement was in the public interest. The law now allows each State health department or its equivalent to make this recommendation to the USIA for up to 20 waivers per year.

This law as necessary for several reasons. Despite an abundance of physicians in some areas of the country, other areas, especially rural and inner city areas, have had an exceedingly hard time recruiting Americans doctors. Many health facilities have had no other choice but turn to FMGs to fill their primary care needs. Unfortunately, obtaining J–1 visa waivers for qualified FMGs through the federal program is a long and bureaucratic process that not only requires the participation of the ''interested federal agency'' but also requires approval from both the USIA and the Immigration and Naturalization Service.

Finding a federal agency to cooperate is difficult enough, considering that the Department of Health and Human Services does not participate. States who are not members of the Appalachian Regional Commission, which is eligible to approve its own waivers, have had to enlist any agency that is willing to take on these additional duties. These agencies, such as the Department of Agriculture or the Department of Housing and Urban Development, often have little or no expertise in health care issues. Once an agency does agree to participate, the word spreads quickly and soon that agency can be flooded with thousands of waiver applications from across the country.

Because states can clearly determine their own health needs far better than an agency in Washington, DC, my legislation now allows states to go directly to the USIA to request a waiver. It also is relieving some of the burden that participating federal agencies have incurred in processing waiver applications.

The Conrad State 20 Program is still very new, and not every state has yet elected to use it. But the program is beginning to work exactly as I had hoped. At least 21 States have reported using it to obtain waivers. More states are expected to participate in the coming months. Unfortunately, the Conrad State 20 program is scheduled to sunset on June 1, 1996, unless Congress approves an extension. The amendment I am offering would extend the program for 6 more years. This is not a permanent extension. The amendment would sunset the program on June 1, 2002.

My amendment also puts new restrictions and conditions on FMGs who use the federal program. As a condition of using the Conrad State 20 program to acquire a waiver, FMGs must contract to work for their original employer for at least 3 years. Otherwise, their waiver will be revoked and they will be subject to deportation. My amendment would apply the same 3-year contractual obligation for those who obtain a waiver through the Federal program.

We all know that State empowerment has been a major issue of the 104th Congress. The Conrad State 20 Program is one way of giving States more control over their health care needs. States that are using the program want to keep it operating for a few more years. They understand that this program does not take away jobs from American doctors, but instead is one more valuable tool to help serve the health care needs of rural and inner city citizens. The Senate passed my original legislation with strong bipartisan support. I am hopeful the Senate will agree that creating the Conrad State 20 program was very worthwhile, and will agree to accept this modest, 6-year extension.

I hope we can accept this amendment.

Mr. KENNEDY. Mr. President, we have talked to the chairman of the Immigration Committee, Senator SIMPSON. And I, as the ranking minority member on that committee, say this makes sense. It is targeting doctors in underserved areas. We welcome this. This is effective. It is time sensitive in terms of the reauthorization. We urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question occurs on agreeing to the amendment.

The amendment (No. 3684) was agreed to.

Mr. SIMON. Mr. President, I recognize Senator COATS is going to have his amendment next. But Senator CONRAD's point that we would like some kind of knowledge as to what order we are going to come in here—some of us have been waiting a long time. And it will take a few minutes. I wonder if there can be some agreement following the Coats amendment as to who is going to be up here with their amendments.

Mrs. KASSEBAUM. After the Coats amendment there are only two amendments I know of at this point that will require votes on this side, one is a Gramm amendment and, I believe, perhaps a Burns amendment.

Mr. KENNEDY. Mr. President, I ask Senator COATS, how long does he expect to take?

Mr. COATS. There are one or two people that may want to speak on it. They are not on the floor. I do not intend to take all that long, 15 minutes or so, 10, 15 minutes.

Mr. KENNEDY. All right. The Senator from Illinois was just trying to get through this. He has been here and has been prepared, and Senator BOXER. I ask unanimous consent that at the conclusion of the consideration of Senator COATS' amendment, Senator BOXER be recognized, and at the conclusion of Senator BOXER, Senator SIMON be recognized.

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

Mr. KENNEDY. Could we get a time, for the benefit of our colleagues here? Could we set a time for the Senator's amendment?

Mr. COATS. Well, it is difficult for me to determine how much opposition there will be to this amendment.

Mr. KENNEDY. I think the opposition will not take very much time. We would request maybe 4 minutes for the opposition.

Mr. COATS. I think we can do this then in a total of 15 minutes equally divided.

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be an allocation of 20 minutes, 15 minutes for the Senator from Indiana, and 5 minutes for this Senator.

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

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. I thank the Chair.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we vitiate that unanimous consent request until I get agreement on our side.

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

AMENDMENT NO. 3685

(Purpose: To encourage the provision of medical services in medically underserved communities by extending Federal liability coverage to medical volunteers)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes amendment numbered 3685.

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

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

The amendment is as follows:

At the appropriate place in title III, insert the following new section:

SEC. . MEDICAL VOLUNTEERS.

(a) SHORT TITLE.—This title may be cited as the ''Medical Volunteer Act''.

(b) TORT CLAIM IMMUNITY.—

(1) GENERAL RULE.—A health care professional who provides a health care service to a medically underserved person without receiving compensation for such health care service, shall be regarded, for purposes of any medical malpractice claim that may arise in connection with the provision of such service, as an employee of the Federal Government for purposes of the Federal tort claims provisions in title 28, United States Code.

(2) COMPENSATION.—For purposes of paragraph (1), a health care professional shall be deemed to have provided a health care service without compensation only if, prior to furnishing a health care service, the health care professional—

(A) agrees to furnish the health care service without charge to any person, including any health insurance plan or program under which the recipient is covered; and

(B) provides the recipient of the health care service with adequate notice (as determined by the Secretary) of the limited liability of the health care professional with respect to the service.

(c) PREEMPTION.—The provisions of this section shall preempt any State law to the extent that such law is inconsistent with such provisions. The provisions of this section shall not preempt any State law that provides greater incentives or protections to a health care professional rendering a health care service.

(d) DEFINITIONS.—For purposes of this section:

(1) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means a person who, at the time the person provides a health care service, is licensed or certified by the appropriate authorities for practice in a State to furnish health care services.

(2) HEALTH CARE SERVICE.—The term ''health care service'' means any medical assistance to the extent it is included in the plan submitted under title XIX of the Social Security Act for the State in which the service was provided.

(3) MEDICALLY UNDERSERVED PERSON.—The term ''medically underserved person'' means a person who resides in—

(A) a medically underserved area as defined for purposes of determining a medically underserved population under section 330 of the Public Health Service Act (42 U.S.C. 254c); or

(B) a health professional shortage area as defined in section 332 of such Act (42 U.S.C. 254e);

and who receives care in a health care facility substantially comparable to any of those designated in the Federally Supported Health Centers Assistance Act (42 U.S.C. 233 et seq.), as shall be determined in regulations promulgated by the Secretary.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Department of Health and Human Services.

Mr. COATS. Mr. President, the amendment I offer extends the Federal tort claim coverage to a health care professional if that health care professional volunteers his or her medical services to a medically underserved person. This is the same type of coverage—this is not new. We are not breaking new ground here. We extend that same type of Federal tort coverage for medical services provided in Indian health care facilities, in Federal community, migrant, homeless, and public housing health centers.

What I am attempting to do here is extend it to those volunteer efforts—not paid—but volunteer efforts on the part of health care professionals if those medical services are provided to people from underserved areas that are deemed by the Secretary of Health and Human Services as medically underserved or medically needy.

We have built into this significant patient protection, indicating that the patient must receive notice before providing the care, and that the provider has agreed not to charge the party for any health care that is provided, and that the medical malpractice liability is shifted to the Federal Tort Claims Act.

We are not in any way limiting the plaintiff's right to receive compensation for negligence or for a successful award in a suit. We are just simply shifting it from the provider's insurance coverage to the Federal Tort Claims Act. The provider is deemed, for the purposes of providing that voluntary service, an employee of the Federal Government and therefore covered under the act.

The providers have to be licensed in the State in which the care is provided. The care must be covered under Medicaid in that State. In addition, the patient must receive the care in a health care facility that is substantially comparable in nature to the Federal migrant and community health centers that provide care to underserved populations. This is the protection that is needed in order to ensure that the care is provided in adequate facilities. So those facilities that are deemed by the Secretary of Health and Human Services as federally certified—if they are provided in substantially comparable facilities—the coverage will qualify.

What we are attempting to do here is to provide a way that medical personnel can provide medical services to people who otherwise cannot afford them, people who are uninsured but where doctors and professionals and providers in the community come together and volunteer their time.

We all know the horrendous cost of medical liability insurance. In many instances these medical providers cannot pay or do not choose to pay the additional liability cost. One of the primary reasons for this is that many of these individuals are retired. They are retired doctors or dentists or health care providers. So they do not have umbrella liability policies because they are not necessarily practicing on a full-time basis. But we want to encourage these individuals—as many of them already do—to engage in providing medical services.

I think the amendment is pretty straightforward. There has been a question about the cost. It is interesting to note that when we provided this liability coverage for community health centers, the Congress set aside $10 million a year to cover potential liability costs. It is important to note that none of this money has been used in the 2 years that this has been in operation.

People receiving free health care from professional providers generally are very grateful for the care and obviously are not looking to sue, yet we have protected their rights to do so if negligence occurs or if any liability occurs under the services. That is provided. It just simply is that the coverage comes under the Federal tort claims procedure rather than under the private insurance liability coverage of the medical provider.

Again, the purpose here is to encourage the provision of free medical services to people who either live in underserved areas—and who of us do not represent a State that has underserved areas—or to those people of such income level that do not have insurance or do not have the personal wherewithal to purchase the medical service that is needed.

This is widely supported. The American Medical Association supports this, the Catholic Health Association, the Christian Medical and Dental Society. Senators FRIST and KASSEBAUM have been cosponsors of this bill. And it is supported by professionals throughout our States and throughout our communities.

I have seen some marvelous examples of efforts where community medical professionals gather together, provide an acceptable clinic, volunteer their time and provide very needed services to people that need these free services in order to receive medical care.

I hope that our colleagues could support this amendment. I thought this was something that we might be able to work out. We were not able to do that. I will address any questions that might be raised in opposition to this. I reserve the balance of my time.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

This idea is a good idea. As the author of the community health centers, we had the Tort Claim Act covering all the medical personnel in there. Then there was a downsizing of service corps, we had other doctors that came in there, and we had an increase in the insurance costs for the neighborhood health centers as a result of that.

About 4 years ago, again, we worked out with the Treasury and the administration an indemnification program for those doctors in the neighborhood health centers. It has worked very well. The reason that has worked well

is because there is supervision and accountability at the neighborhood health centers.

That aspect is missing in this program. That is why I will vote to table this measure. Then we will come back, one, on the issue of what the funding level would be in terms of it; and second, whether an overall program can be worked in terms of the accountability. Without an accountability, without some ideas of funding, this is not the place, the time. It is a good idea.

I commit to working with my friend from Indiana to try and see if we cannot make it a reality in the very near future.

Mr. COATS. Mr. President, I appreciate the offer of the Senator from Massachusetts to work with us on this. I hardly think this needs additional work.

First of all, it is important to understand that the bill itself addresses the issue that the Senator raised. In the definition of ''medically underserved person'' it says the term ''medically underserved person'' means a person who receives care in a health care facility substantially comparable to any of those designated in the federally-supported Health Centers Assistance Act as shall be determined in regulations promulgated by the Secretary. The Secretary of Health and Human Services has a sufficient amount of control by the promulgation of regulations to certify the types of facilities, and there is accountability.

If you feel that you need to have a Federal agency or a Federal supervisor standing over the shoulder of a health care professional, a doctor who might be earning $200 or $300 an hour performing services but who volunteers his time for free, if you say we cannot trust this person to provide adequate medical care, I think we are selling the medical profession very, very short and we are crediting the Government with an ability to supervise that it does not have.

We do not need a Government agency to oversee the efforts of nurses and doctors who volunteer their time—volunteer their time—to provide needed free medical services to underserved and low-income individuals. Again, we are not limiting the liability of anybody that is served here. We are not saying they cannot bring a claim. We are simply saying that claim, if brought and if successfully brought, will be paid for under the Federal Tort Claims Act and not paid for under the liability insurance of the professional.

Why do we need to do that? We need to do that so we can encourage these people to provide the care. Why is it necessary for most? Because many of these people are retired and they are not able or in a position to continue to pay the exorbitant medical liability insurance, sometimes running $50,000, $60,000, or $80,000, depending on the specialty, in order to cover themselves for the volunteer service they get. The last thing we need is more Federal oversight in a program that does not need oversight.

The PRESIDING OFFICER. Under the previous order the hour of 9:45 having arrived the question is on agreeing to the Specter amendment No. 3682.

Mrs. KASSEBAUM. Mr. President, I ask if we could delay this for 15 minutes. There are a couple more amendments that need to be offered.

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

Mrs. BOXER. Reserving the right to object, Mr. President, I do not wish to object, but I would like to know how much time is left and what the order will be. As I understand it, Senator KENNEDY mentioned I would go next, but if you are just going to finish everything up in 15 minutes, that would leave virtually no time for Senator SIMON and virtually no time for me.

I am confused about whether we will continue after the vote, I guess is the point. I only wish to take 5 minutes on my amendment.

Mr. SPECTER. Mr. President, while we are doing the order here, I think it might be appropriate to spend just a minute on a discussion which I had with the distinguished manager, the Senator from Kansas, talking about hearings before the Labor Committee, hopefully, by the end of May, looking for reauthorization or authorization of the healthy start program.

Mrs. KASSEBAUM. Mr. President, I wish the Senator from Pennsylvania might wait until we worked out the order here.

Mr. SPECTER. I am glad to do that.

Mrs. KASSEBAUM. I suggest at this point perhaps we could go an extra half hour, which I think will then take care of every amendment that is there to everyone's satisfaction.

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

Mrs. KASSEBAUM. I respond, if I may, Mr. President, to the Senator from Indiana. I am a cosponsor, as a matter of fact, of the Senator's Medical Volunteer Act. I think it is a very positive step forward. It encourages medical voluntarism and brings some small measure of relief to the current liability system. There are objections that have been raised to this on the Democratic side, principally, and because of our need to try and get as strong a consensus as possible for the underlying measure I have to object.

At the appropriate time, after all debate is concluded, I would move to table the amendment of the Senator from Indiana.

Mr. KENNEDY. As a matter of order, I think we request to conclude with Senator BOXER and Senator SIMON and then come back to the other side. I think that is what is the order.

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

Mrs. KASSEBAUM. If not, I ask for the yeas and nays and ask that the amendment be set aside.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered on the motion to table the Coats amendment.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

AMENDMENT NO. 3686

Mrs. BOXER. Thank you very much, Mr. President. I would like to be advised when I have utilized 4 minutes and then I will wrap up my side of the argument.

I send an amendment to the desk and ask for its immediate consideration as a sense of the Senate.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], proposes an amendment numbered 3686.

The Senate finds that:

Patients deserve to know the full range of treatments available to them and,

Patients should know if doctors receive bonuses for withholding treatment from them.

It is the sense of the Senate that Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

Mrs. BOXER. Mr. President, this is such a straightforward and simple sense-of-the-Senate. It is rather shocking to me that Members on the other side of the aisle have objected to it. I have to thank the chairwoman of the committee and Senator KENNEDY, who were quite willing to accept such a sense-of-the-Senate resolution. I do not know what Members oppose this. I cannot imagine why they have not identified themselves to me, Mr. President. I just hope that Members will read the sense-of-the-Senate.

Let me tell you a little story about why it is so important.

This is an L.A. Times story, entitled ''HMO 'Gag Clauses' on Doctors Spur Protests.'' I will read just a few paragraphs:

The Santa Monica oncologist thought she was being a strong advocate for her patient.

In May, she referred the patient—a Los Angeles woman in her forties, who was rapidly losing her battle with metastatic colon cancer—to a Johns Hopkins University specialist using an experimental drug that had proven effective with similar cancers. It was, in the doctor's view, perhaps the best chance of extending the woman's life.

But the patient's managed care group had a different view of the oncologist. It saw a doctor who said too much and broke the rules. She received a reproachful letter from the managed care group, stating that the Johns Hopkins specialist was not ''in network'' and that the patient should not have been referred there.

''This occurrence,'' the letter warned, ''had been noted in the computer, and a future occurrence may result in suspension of referral privilege or, in an extreme case, a recommendation for termination.''

Mr. President, this is what is happening across the country in HMO's. Doctors, who refer patients to specialists are being warned that they may be fired. Doctors are receiving bonus payments from the HMO's for not giving care to patients.

Now, all I am asking in this sense-of-the-Senate is that we look into this. Already, we have looked into this in Medicare and, thank goodness, something is being done. Last month, the Department of HHS announced a regulation mandating that managed care plans serving Medicare and Medicaid patients reveal any arrangements in which doctors may face financial pressures to limit services or referrals to specialists.

What about those who are not on Medicare, who are not on Medicaid? Do they not deserve the same protections, at a minimum? Doctors across the country are protesting managed care companies' practices that they contend impede their ability to have candid discussions with patients about treatment options.

In this time of shifting health care needs and our attempt to restructure the health care delivery system, we must not lose sight of the valuable doctor-patient relationship. We should revere it, we should honor it. We should not allow the HMO's, because of the almighty bottom line, to interfere in this relationship and gag our physicians from telling their patients that there are other treatments for cancer, or whatever other condition it might be.

I really do not understand why we cannot get a simple sense of the Senate through this body.

In closing, I am going to read it to you one more time:

The Senate finds that patients deserve to know the full range of treatments available to them, and patients should know if doctors receive bonuses for withholding treatment from them. It is the sense-of-the-Senate that Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

Mr. President, we have a very good bill here. We can make it better, I believe, by just pledging to look into this situation and making sure that all of our people throughout this Nation are told all of the options, because if they are not told, they may lose their lives. I do not think we ought to have that on our hands.

Thank you, Mr. President. I reserve whatever time I have remaining.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Boxer amendment be temporarily set aside.

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

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 3687

(Purpose: To express the sense of the Senate regarding the need to ensure adequate health care coverage for all children and pregnant women)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 3687.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation in the 105th Congress that will ensure health care coverage for all of the United States's pregnant women and children.

Mr. SIMON. Mr. President, all this does, very simply, is say it is the sense of the Senate that in the next congressional session, starting in 1997, the 105th Congress pass health care legislation that protects pregnant women and children. That is all it does.

It is very interesting. Two years ago, we were discussing health care legislation, and virtually everyone in this body, including the majority leader, said, ''We are going to work out some kind of health care for all Americans.'' I have to say, in fairness to Senator PHIL GRAMM, he said right from the start, ''Over my dead body. We are not going to have any national health care program.''

We are the only western industrialized nation that does not protect all of our citizens. Listen to this, Mr. President. I ask my colleagues on the other side to listen to this.

In accepting the Republican nomination for President in 1928, Herbert Hoover said, ''The greatness of any nation, its freedom from poverty and crime, its aspirations and ideals are the direct quotient of the care of its children. . .There should be no child in America that is not born and does not live under sound conditions of health.''

That was in 1928, and we have not achieved Herbert Hoover's dream yet in 1996.

Let me add, providing coverage for children is the least expensive part of health insurance. As we get older, it is more demanding in terms of expense. But still we do not provide it for all children.

All women and children in Italy have health care coverage, but not in the wealthy United States of America.

All women and children in France have health care coverage, but not in the wealthy United States of America.

All women and children have health care coverage in Canada, but not in the wealthy United States of America.

All women and children have health care coverage in Great Britain, but not in the wealthy United States of America.

All women and children have health care coverage in Germany, but not in the wealthy United States of America.

All women and children have health care coverage in Luxembourg, but not in the wealthy United States of America.

All women and children have health care coverage in Belgium, but not in the wealthy United States of America.

All women and children have health care coverage in The Netherlands, but not in the wealthy United States of America.

All women and children have health care coverage in Portugal, but not in the wealthy United States of America.

All women and children have health care coverage in Spain, but not in the wealthy United States of America.

All women and children have health care coverage in Finland, but not in the wealthy United States of America.

All women and children have health care coverage in Austria, but not in the wealthy United States of America.

All women and children have health care coverage in Denmark, but not in the wealthy United States of America.

All women and children have health care coverage in Norway, but not in the wealthy United States of America.

All women and children have health care coverage in Sweden, but not in the wealthy United States of America.

All women and children have health care coverage in Japan, but not in the wealthy United States of America.

Mr. President, what we are just saying here is, let us in the next session of Congress—and I am not going to be here—at least protect pregnant women and children. That is all we ask. It is a sense of the Senate resolution.

I regret that 2 years ago—and I blame myself as much as anyone—that we did not even get a vote on the floor of the U.S. Senate on the fundamental issue of health care. Today, my friends, we are going to get a vote. We do not say how it should be done; we just say it is the sense of the Senate that in the next session of Congress, we are going to at least protect pregnant women and children.

I do not know how we can do anything less than that. That is what my amendment asks for.

Mrs. KASSEBAUM. Mr. President, I recognize it is just a sense-of-the-Senate resolution. But it is about 6 pages, and it is a fairly extensive direction for the next Congress. While there would be certainly a great deal of support for health care coverage for pregnant women and children, we are having a hard enough time in this Congress figuring out what we want to do, let alone applying some issues and directions to the next Congress.

For that reason, Mr. President, I would have to oppose.

Mr. KENNEDY. Mr. President, could we ask for the yeas and nays?

Mr. SIMON. I ask for the yeas and nays.

Mr. KENNEDY. That it would be in order to ask for the yeas and nays on the Boxer amendment.

Mrs. KASSEBAUM. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SIMON. If the Senator from Kansas will withhold for 30 seconds for me to respond, she mentions a 5-page amendment. These are all whereases. The conclusion is that it is a sense of the Senate. If she wants to agree to this, I will knock out all of the whereases and we will just take the sense of the Senate that we ought to, next session of the Congress, pass health care legislation for pregnant women and children.

Mrs. KASSEBAUM. Mr. President, I very much appreciate that Senator SIMON is always very accommodating. The Senator from Illinois is a superb debater. I would still have to object. If there is no further debate, I will move to table the Simon amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are there further amendments?

Mr. KENNEDY. Mr. President, as I understand, the Senator is also asking for the yeas and nays on the tabling motion of the Boxer amendment.

Mrs. KASSEBAUM. Yes. Mr. President, if I may just speak for a moment, this is objected to by the Finance Committee because it deals with Medicare. They would like to debate that at another time, even though it is just a sense-of-the-Senate resolution.

Mrs. BOXER. Mr. President, if my friend will yield for a minute, we took out any reference to Medicare and Medicaid at the Senator's suggestion. It has nothing to do with Medicare and Medicaid. The way it reads now is simply that we should look to see whether patients are being denied the information they need. We deleted all reference to Medicaid and Medicare and asked just for the Congress to look at this matter.

So I tried to be very accommodating, if my friend would try to help me. As I say, we do not have any reference in here at all. We simply ask that the Congress should thoughtfully examine the issue of patients, finding out the full range of their treatment, and patients should know if doctors are receiving bonuses from the treatment. It does not mention Medicare and Medicaid.

Mr. BYRD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. BYRD. Is not a motion to table now pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. There is no debate on a motion to table.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Shall we vote?

The PRESIDING OFFICER. We have a previous order to table the votes in sequential order and vote at 10:15.

Mr. BYRD. Very well. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority manager is recognized.

AMENDMENT NO. 3688

(Purpose: To encourage organ and tissue (including eye) donation through the inclusion of an organ and tissue donation card with individual income refund payments, and for other purposes)

Mr. KENNEDY. Mr. President, there are two amendments which have been agreed to dealing with the organ transplants and information on organ transplants, the Dorgan–Frist amendment, in terms of information on the organ transplants. I would like to send it to the table and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. DORGAN, for himself and Mr. FRIST, proposes an amendment numbered 3688.

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

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

The amendment is as follows:

At the end of title III, add the following:

SEC. 3 . ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ and tissue donation;

(2) includes a detachable organ and tissue donor card; and

(3) urges recipients to—

(A) sign the organ and tissue donor card;

(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.

Mr. KENNEDY. Mr. President, I have described what it is. It is information on organ transplant in behalf of Senator DORGAN and Senator FRIST.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Dakota.

The amendment (No. 3688) was agreed to.

AMENDMENT NO. 3689

(Purpose: To prohibit the establishment of certain health plan requirements based on information relating to domestic violence)

Mr. KENNEDY. Mr. President, this amendment is in behalf of Senator WELLSTONE, and it is in regards to information relating to domestic violence. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. WELLSTONE, proposes an amendment numbered 3689.

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

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

The amendment is as follows:

On page 9, line 13 insert after evidence of insurability ''(including conditions arising out of act of domestic violence);''.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 3689) was agreed to.

Mr. WELLSTONE. Is it the Senators' understanding that this language that we have accepted from the House bill ensures that women covered in an employment-based health plan, will not be discriminated against because of a medical condition caused by domestic violence, because of a history of domestic violence, or because of their status as a victim of domestic violence?

Mr. KENNEDY. Yes; that is my understanding.

Ms. KASSEBAUM. Yes; that is my understanding.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank my friend from Kansas. We are redrafting different language where one committee says the first shall be the last and the last shall be first.

I would like to yield the floor to my friend from West Virginia who has, I believe, an amendment to offer.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the Senator from West Virginia would ask simply for 1 minute to make the following observation.

Earlier this evening there was substantial nonpublic discussion as to nondiscrimination and long-term care. There was then a very helpful, constructive, and useful colloquy on the floor which agreed that in the tax preferential treatment of long-term care, that nondiscrimination would be completely treated. There was some disagreement as to what Treasury was saying constituted nondiscrimination and what the Finance Committee staff said constituted nondiscrimination. There seemed to be a difference.

I simply, as a member of the Finance Committee, wanted to go on record as saying that the nondiscrimination aspect—this is not just racial, but we are talking just about the higher employer as opposed to the lowest employer—that nondiscrimination be done in the usual, customary, and effective manner for the tax preferential long-term care matters that we are now discussing.

AMENDMENT NO. 3690

Mrs. KASSEBAUM. Mr. President, I have here a study request that I cosponsored with Senator HELMS which would ask HHS to study options on point of service. It has been agreed to on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mrs. KASSEBAUM), for Mr. HELMS, for himself and Mrs. KASSEBAUM, proposes an amendment numbered 3690.

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

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

The amendment is as follows:

Amend Title III—Miscellaneous Provisions, Section 302 (a) by striking ''two part study'' on line 19, and inserting ''three-part study'' and adding Section 302 (d):

''(d) EVALUATION OF ACCESS AND CHOICE.—Not later than June 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate Committees of Congress a report concerning—

(1) an evaluation of the extent to which patients have direct access to, and choice of, health care provider, including specialty providers, within a network of providers, as well as the opportunity to utilize providers outside of the network, under the various types of coverage offered under the provisions of this Act;

(2) an evaluation of the cost to the insurer of providing out-of-network access to providers, and the feasibility of providing out-of-network access in all health plans offered under provisions of this Act.

(3) an evaluation of the percent of premium dollar utilized for medical care and administration of the various types of coverage offered, including coverage which permits out-of-network access and choice of provider, under provisions of this Act.

Mr. HELMS. Mr. President, one of the many reasons for my having opposed the Clinton health plan was the well founded fear that the American people would have been denied their right to choose their medical care. The enormous bureaucracy of the Clinton plan made that apprehension a certainty—which is why the American people rejected it.

In the interest of time, I will not offer my amendment to guarantee patients the freedom to choose their health care provider.—This amendment was originally approved by the Senate last October by a vote of 79 to 20 when we considered Medicare reform.—I have no doubt that this provision continues to have strong bipartisan support in the Senate.

However, instead of offering the original amendment I submit this amendment to require the Department of Health and Human Services to conduct a study to make certain that any changes in the health insurance market will not result in the loss of the American people's freedom to choose their health care provider.

Whether Congress considers Medicare reform or health insurance reform, patients must not be deprived of the right to choose their own doctors. Even when Congress attempts to provide access to health insurance, that is only half of the equation. Equally important is that patients must not find themselves unknowingly thrown into health care coverage that limits their freedom to choose their own health care providers.

The purpose of my provisions is to provide to Congress the information Congress may need to evaluate whether patients continue to have direct access to specialist and choice of health care provider, both in-network and out-of-network, as we make changes to the health insurance market place. It will also determine the cost to the insurer of providing this freedom to choose, and if the premium dollar collected is effectively going toward patient care.

This study will not only go a long way to provide our Nation with useful information about health care delivery, but it will also emphasize the importance of preserving the patient's freedom of choice when it comes to their own doctor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the amendment is agreed to.

The amendment (No. 3690) was agreed to.

AMENDMENT NO. 3691

(Purpose: To direct the Health Care Financing Administration to determine reimbursement rates for telemedicine services)

Mr. BURNS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Mr. BURNS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for himself and Mr. HARKIN, proposes an amendment numbered 3691.

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

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

The amendment is as follows:

On Page 71, line 19, add the following:

"SEC. 302.5. REIMBURSEMENT OF TELEMEDICINE.

The Health Care Financing Administration is directed to complete their ongoing study of reimbursement of all telemedicine services and submit a report to Congress with a proposal for reimbursement of fee-for-service medicine by March 1, 1997. The report shall utilize data compiled from the current demonstration projects already under review and gather data from other ongoing telemedicine networks. This report shall include an analysis of the cost of services provided via telemedicine.

Mr. BURNS. Mr. President, this amendment is sponsored also by my friend from Iowa Mr. HARKIN.

The Health Care Financing Administration has been reviewing telemedicine demonstration projects across the country. They have been studying them about 2 years now. They are analyzing the cost effectiveness of providing health services via telecommunications and how to reimburse health care providers.

Telemedicine is a technology that is spreading—thankfully—because rural

areas and inner-city areas are in desperate need of health care. Getting health care services can be a challenge, especially if you are 180 miles away from a specialist. But even if that specialist is willing and able to visit his patients via telemedicine, HCFA will not reimburse him for those services. And as you can imagine, many health care providers aren't too willing to give their time without being compensated.

The study is already underway. But there is no anticipated deadline to finish the study and put the issue of reimbursement behind us. In fact, at a recent telemedicine conference, a HCFA representative stated that there would be no decision until Congress mandated one.

My amendment basically instructs HCFA to decide on reimbursement of telemedicine services by March 1, 1997. That gives them almost an entire year—in addition to the time they have already spent studying the issue—to compile their data, gather data from other ongoing demonstrations, if they choose, and determine the fee-for-service reimbursement for services provided via telemedicine.

There is no cost associated with this, since the study is already ongoing. I am simply asking that they finish the study and let rural areas and urban residents access the health care services that are currently out of their reach.

The Health Care Financing Administration has been in this process now for a couple of years and we think it is about time that they bring this to a close and recommend to the Congress how they are going to deal with it. We have this new technology. We passed a telecom bill that allows a lot of things to happen in distance learning, telemedicine, and these kinds of things, and we think it is now time that we move into the next generation of providing health care to our rural areas via telecommunications.

I appreciate my good friend from Iowa being a part of this.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I wish to congratulate the Senator from Montana for offering this amendment. I am proud to join with him in this.

When I was chair of the Labor, Health and Human Services Appropriations Subcommittee, Senator SPECTER and I initiated the funding 3 years ago for the demonstration projects for telemedicine. I know Montana was one State, Iowa was another, and there were several other States, I think Georgia, West Virginia, others that were involved in the demonstration projects in telemedicine.

One of the reasons that we had the demonstration projects was so that HCFA could develop a reimbursement means and determine how to reimburse.

We have enough data. They know. We have had 3 years of these projects. The date the Senator has there, they can do that easily. They can actually do that a lot sooner than that. I think the Senator is generous in giving them that much time.

Nonetheless, there is no doubt they have enough data—they have it now—that they can do this.

To echo what the Senator from Montana said, telemedicine will improve access to care in rural areas. It will attract more doctors to rural areas because then they will have the necessary backup they need for correct diagnosis and treatment. It will lower costs in rural areas by cutting down on travel, and it will allow more services to be done like at our rural health clinics where they can reach out over a broader area.

So this is a very good amendment and one that is going to help a lot in a lot of rural areas in the United States.

I hope it will be adopted.

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

The vote now is on agreeing to the Burns amendment.

The amendment (No. 3691) was agreed to.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The majority manager is recognized.

AMENDMENT NO. 3682 WITHDRAWN

Mrs. KASSEBAUM. I would like now to have a colloquy with the Senator from Pennsylvania. Senator SPECTER and myself and Senator KENNEDY have discussed his amendment regarding healthy start and my objection had been it was authorization on this bill which I felt needed to go through the committee with some hearings, review what has always been an appropriations matter rather than an authorization, and I believe this has been agreed to by Senator SPECTER and we will have a hearing if possible by the end of May.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. The distinguished Senator from Kansas expresses it accurately. I think that will accomplish the purpose and lead to authorization, or a reauthorization. That is acceptable, and I formally withdraw the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The minority manager is recognized.

AMENDMENT NO. 3686, AS MODIFIED

Mr. KENNEDY. Mr. President, the Senator from California, Senator BOXER, proposed a sense-of-the-Senate. In her behalf, I have a revised sense-of-the-Senate and I ask unanimous consent that it be in order to send it to the desk and that it be in order for consideration at the appropriate time in the list of amendments.

The PRESIDING OFFICER. Is the Senator modifying the underlying Boxer amendment?

Mr. KENNEDY. The Chair is correct.

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

The amendment as modified is as follows:

At the appropriate place add:

It is the sense of the Senate that patients deserve to know the full range of treatments available to them.

Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

Mr. KENNEDY. I will ask for a vitiation of the yeas and nays on that particular amendment.

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

The PRESIDING OFFICER. The hour of 10:15 having arrived, the question is on agreeing to the motion to table amendment No. 3683. That is the amendment offered by the Senator from Iowa, Senator HARKIN. The yeas and nays have been ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I wanted to get consent that votes occur in the order in which they were debated, with 1 minute of debate after the first vote to be equally divided for explanation; that all votes after the first vote be reduced to 10 minutes in length. I think that is satisfactory to the managers.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

VOTE ON AMENDMENT NO. 3683

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Harkin amendment No. 3683. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The result was announced—yeas 62, nays 36, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—62

Abraham	Ford	McConnell
Ashcroft	Frist	Moynihan
Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Breaux	Grams	Nunn
Brown	Gregg	Pressler
Bryan	Hatch	Reid
Burns	Hatfield	Robb
Chafee	Helms	Roth
Coats	Hutchison	Santorum
Cochran	Inhofe	Shelby
Cohen	Johnston	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Snowe
D'Amato	Kennedy	Specter
Daschle	Kerrey	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	McCain	

NAYS—36

Akaka	Biden	Boxer
Baucus	Bingaman	Bradley

Bumpers	Harkin	Mikulski
Byrd	Heflin	Moseley-Braun
Conrad	Hollings	Murray
Dorgan	Inouye	Pell
Exon	Jeffords	Pryor
Feingold	Kerry	Rockefeller
Feinstein	Lautenberg	Sarbanes
Glenn	Leahy	Simon
Graham	Levin	Wellstone
Grassley	Lieberman	Wyden

NOT VOTING—2

Campbell Mack

So the motion to table the amendment (No. 3683) was agreed to.

The PRESIDING OFFICER. Under the previous order there is a minute to be utilized by the sponsor of the bill and the opposition.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that after all the amendments are disposed of this evening, the vote occur on final passage of S. 1028, as amended, on Tuesday at a time to be determined by the majority leader after consultation of the Democratic leader. Let me indicate why I am doing that. Senator MACK's father passed away. He would like to make the final passage vote, unless there is some objection.

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

Mr. KENNEDY. Is it the intention of the leader that we move to third reading tonight?

Mr. DOLE. Oh, yes. I think there is only one additional vote. I believe this will be the last vote.

The PRESIDING OFFICER. Does the sponsor of the amendment wish to debate the amendment? If not—

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois, Senator SIMON, is recognized.

AMENDMENT NO. 3687, AS MODIFIED

Mr. SIMON. Mr. President, I ask unanimous consent to vitiate the vote on my amendment and to modify it by dropping 4 words that I have given to the clerk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, follows:

At the appropriate place in the bill insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation that will ensure health care coverage for all of the United States' pregnant women and children.

Mr. DOLE. Mr. President, I urge that the amendment be agreed to.

The amendment (No. 3687), as modified was agreed to.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The majority manager is recognized.

Mrs. KASSEBAUM. Parliamentary inquiry. Mr. President, I believe I moved to table the amendment of the Senator from Indiana, is that correct, and that I had asked for the yeas and nays at that time?

The PRESIDING OFFICER. The Senator is correct.

Mrs. KASSEBAUM. So this is a tabling motion.

VOTE ON AMENDMENT NO. 3685

The PRESIDING OFFICER. There is no debate on the amendment. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Indiana, [Mr. COATS]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

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

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—47

Akaka	Ford	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Hatfield	Pell
Breaux	Heflin	Pryor
Bryan	Hollings	Reid
Bumpers	Inouye	Robb
Byrd	Johnston	Rockefeller
Cohen	Kassebaum	Sarbanes
Conrad	Kennedy	Shelby
D'Amato	Kerrey	Simon
Daschle	Kerry	Snowe
Dodd	Kohl	Wellstone
Feingold	Leahy	Wyden
Feinstein	Levin	

NAYS—51

Abraham	Faircloth	Lugar
Ashcroft	Frist	McCain
Baucus	Glenn	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Nunn
Burns	Gregg	Pressler
Chafee	Hatch	Roth
Coats	Helms	Santorum
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Specter
DeWine	Kempthorne	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Lieberman	Thurmond
Exon	Lott	Warner

NOT VOTING—2

Campbell Mack

The motion to lay on the table the amendment (No. 3685) was rejected.

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

Mrs. KASSEBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. FORD. Mr. President, on amendment numbered 3681, I am recorded voting ''yea.'' Since it will not change the outcome of the vote, I ask unanimous consent to be changed from ''yea'' to ''nay.''

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

Mr. KENNEDY. I understand that Senator BOXER's amendment is ready for final disposition.

Mr. REID. Mr. President, would my friend yield for a unanimous consent request?

Mr. KENNEDY. I think I will get acceptance for the Boxer amendment.

AMENDMENT NO. 3686

The PRESIDING OFFICER. The question is on agreeing to the Boxer amendment, Amendment 3686, as modified.

The amendment (No. 3686), as modified, was agreed to.

Mrs. BOXER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. REID. Mr. President, on rollcall vote 75, it was my intention to vote ''nay.'' Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way affect the outcome.

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

CHANGE OF VOTE

Mr. BRYAN. Mr. President, on rollcall vote 75, I voted ''yea'' and intended to vote ''nay.'' I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome.

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

Mr. LEAHY. Mr. President, today over 62,000 Vermonters are included in the 39.7 million Americans without health insurance. Unfortunately, this number is increasing every year. Health insurance has simply become less available and affordable, especially for small businesses and individuals. I am proud to cosponsor S. 1028, the Health Insurance Reform Act, that will address some of the issues blocking access to coverage that the uninsured face today.

This bill is a good bill and a step in the right direction. The bill increases the availability of insurance by ensuring that anyone who wants it, and can afford it, will be able to buy it. I am hopeful that provisions to encourage small employers to form voluntary purchasing pools will give some relief from rising health insurance premiums by giving them more leverage to negotiate lower premiums and better conditions of coverage.

To be clear, however, this bill does not address the larger issue of the skyrocketing cost of health care which will continue to be a looming problem that Americans face.

What the bill does do is end insurance practices that restrict the availability of insurance to people with preexisting medical conditions, or avoid enrolling or renewing coverage for older or sicker individuals and groups. The GAO estimates that up to 21 million Americans a year would benefit from federal laws waiving preexisting condition exclusions for persons who had prior coverage.

What these reforms add up to is portability of health insurance—an end to ''job lock.'' Currently, some employees are ''locked'' into their current jobs because changing jobs might subject them to periods without comprehensive coverage while preexisting condition limitations were met. Under this bill, a person with previous group coverage would receive credit from this coverage toward any new limitation period. These portability provisions do not guarantee that an individual currently insured would be covered after a job change—the new employer must offer coverage for this guarantee to exist. The GAO estimates that ending job lock will benefit as many as 4 million Americans who have stayed in their jobs due to concerns about their preexisting conditions.

The individuals who will benefit from this bill are real people who have preexisting conditions that they were born with or people who become sick or have had a severe accident. Without the Kassebaum/Kennedy bill, insurance companies can continue to impose restrictions on the coverage they offer to these people whose health conditions are beyond their control. Even worse, someone seeking insurance who has an adverse health condition can be denied insurance altogether. These are children, teenagers, young people trying to get jobs for the first time, our brothers, sisters, parents, and our grandparents. We cannot, in good conscience, risk the well being of people whose health could be dramatically affected if denied coverage for the care they need.

I am proud to say that Vermont has already addressed many of the health insurance reforms included in S. 1028. In 1991, Vermont was the first state in the nation to prohibit insurance companies from denying coverage or charging excessive rates to high-risk groups. In 1992, the state extended this to the individual market. Today in Vermont, no one can be denied health insurance at a reasonable cost from a carrier doing business in the state.

However, there is a large exception to this rule. Due to a Federal law, the Employee Retirement Income Security Act [ERISA], the State of Vermont's insurance reforms do not apply to businesses that self-insure their health benefits programs.

For example, during the health reform debate in 1994, I was contacted by a Vermont woman who shared with me her husband's experience of losing health coverage due to a preexisting condition. This gentleman had worked for the same business for over 20 years. He had a heart condition, but had always been covered under his employer's health insurance plan. When his employer was bought out by a self-insured company from another state, the new employer deemed the heart condition a preexisting condition and denied insurance coverage.

Because of stories like this, I have sought to address the issue of self-insured employer plans being exempt from State regulation because of ERISA in past Congresses. I am very pleased that a key component of S. 1028 extends these nondiscrimination and portability requirements to self-insured plans. The GAO has estimated that about 44 million Americans are in self-insured health plans that states cannot regulate.

S. 1028 is long overdue. Nearly 2 years ago, Congress was engaged in a great battle over how to get health care costs under control and make health care services available to all Americans. That battle heeded few results and left millions of Americans frustrated and disappointed that health care would continue to be out of their reach. The obstacles that prevented Americans from buying health insurance have not gone away and Congress now owes it to Americans to pass the Kassebaum/Kennedy bill to address some of the issues that these individuals face.

We must pass this bill and make the modest changes that will make it easier for people to get the health care coverage they need. I hope in the future we will be able to come to agreement on further health reforms that will address the skyrocketing cost of health care—simply requiring access to health insurance coverage does not address this looming issue.

Mr. WARNER. Mr. President, at the close of debate during the series of rollcall votes, I was prepared to vote in favor of the amendment offered by the distinguished Senator from California, Senator BOXER, proposing a Senate Resolution that the Congress fully examine administrative practices of Health Maintenance Organizations [HMO's] in which physicians may be precluded from providing full and complete medical counsel, or referral for specialized care.

I am pleased that Senator BOXER's amendment was accepted but wish to take this opportunity to indicate that had there been a rollcall vote, I would have voted in favor of the Boxer Amendment.

No physician should feel that they are being subjected to a ''gag rule'' in the course of their professional practice. Patients are entitled to a full and open discussion of all medical options and physicians should not feel restrained in the process.

LIABILITY FOR BIOMATERIALS

Mr. MCCAIN. Mr. President, I had planned to offer an amendment which would ensure the availability of raw materials and component parts for implantable medical devices. This provision is necessary if Americans are to have continued access to a wide variety of life-saving devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers. Unfortunately, we were unable to obtain agreement for this amendment from my colleagues on the other side of the aisle.

Currently, the manufacturers and suppliers of materials used in implantable medical devices are subject to substantial legal liability for

selling relatively small amounts of materials to medical device manufacturers. These sales generate relatively small profits and are often used for purposes beyond their direct control. Due to their small profit margins and large legal vulnerability for these sales, some of the manufacturers and suppliers of these materials are now refusing to provide them for use in medical devices.

It is absolutely essential that a continued supply of raw materials and component parts is available for the invention, development, improvement and maintenance of medical devices. Most of these devices are made with materials and parts that are not designed or manufactured specifically for use in implantable devices. Their primary use is in non-medical products. Medical device manufacturers use only small quantities of these raw materials and component parts, and this market constitutes a small portion of the overall market for such raw materials.

While raw materials and component parts suppliers do not design, produce or test the final medical implant, they have been sued in cases alleging inadequate design and testing of, or warnings related to use of, permanently implanted medical devices. The cost of defending these suits often exceeds the profits generated by the sale of materials. This is the reason that some manufacturers and suppliers have begun to cease supplying their products for use in permanently implanted medical devices.

Unless alternative sources of supply can be found, the unavailability of raw materials and component parts will lead to unavailability of life-saving and life enhancing medical devices. The prospects for development of new sources of supply for the full range of threatened raw materials and component parts are remote, as other suppliers around the world are refusing to sell raw materials or component parts for use in manufacturing permanently implantable medical devices in the United States.

The product liability concerns that are causing the unavailability of raw materials and component parts for medical implants is part of a larger product liability crisis in this country. Immediate action is necessary to ensure the availability of raw materials and component parts for medical devices so that Americans have access to the devices they need. Addressing this problem will solve some important aspect of our broken medical product liability system.

This issue came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about her daughter Tara who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain damage, blindness, paralysis and ultimately death. With the shunt, she is a healthy, happy and productive straight-A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example that our medical liability system is out of control. It is tragic, but not surprising that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. This amendment would have helped to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, have protected negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would have protected manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act to ensure the continued availability of biomaterials to ensure that the lives of Tara and thousands of other Americans are not jeopardized. Because this is a life and death situation, I will do everything I can to assure that the Senate addresses this issue in the near future.

HEALTH INSURANCE REFORM AND GENETIC INFORMATION

Mr. HATFIELD. Mr. President, as we are all too aware, the past several months, it has grown exceedingly difficult for Members of Congress to focus their attention on anything other than sad circumstances of our Federal budget. As chairman of the Appropriations Committee, I share in the frustration. Fortunately, I am pleased to see that in the midst of our negotiations, and setbacks, excellent progress has been made in the area of health insurance reform. Senators KASSEBAUM and KENNEDY are to be commended for their efforts this past year. While compromise may not be in fashion, they have utilized this tool with extreme skill, crafting a bill that makes great strides towards improving the infrastructure of health care in the United States.

Accessibility to health care was the focus of debate in the 103d Congress and it has become our focus again. Many of you know that the State of Oregon is already on the cutting edge of improving accessibility for many groups. The Oregon Health Plan, with its focus on providing health care coverage under the Medicaid program, has successfully prioritized those health care services most important to its citizens. Oregon is therefore able to provide coverage to thousands of low-income individuals who would otherwise be uncovered. Oregon is also making progress improving its health insurance system. But issues to accessibility, affordability and portability are national issues as well.

Several of my colleagues have already discussed the merits of the Health Insurance Reform Act. As one who is about to change jobs, I strongly support the goal of increasing health insurance portability. We must keep this focus in mind. Several amendments are being offered, which I would normally tend to vote for. However, in light of our need to ensure that this reform is passed and signed, I will not be supporting such amendments. Again, several of these amendments being considered today are excellent. But if their passage only serves to make health insurance reform impossible to pass, my support would be in vain and our goal to increase portability would be unmet.

Increasing the availability and renewability of health coverage for millions of Americans is a reform Congress has sought for years. Individuals should not be refused the opportunity to renew or change health plans based on their preexisting conditions. Senator KASSEBAUM's bill addresses this problem and it is estimated it will serve over 25 million Americans each year. But I also want to thank Senator KASSEBAUM for clarifying in her bill that individuals with genetic information that predisposes them to a disease will also benefit from the Health Insurance Reform Act's portability conditions. This clarifying language is a first step toward bringing important issues surrounding genetics to their forefront. I would also like to thank Senator HARKIN for his leadership on the Labor Committee in working to see that genetic information is protected in the health insurance reform bill.

New biomedical technologies have resulted in scientific breakthroughs unimaginable just a generation ago. Scientists are working to decode our DNA and will ultimately map and sequence every gene in the human body. Such genetic research is our most advanced tool in the search for treatments and cures to diseases such as breast cancer, Alzheimer's or Huntington's disease. These are exciting medical frontiers, but if the fruit of this labor is to be realized, an unhindered commitment to genetic research must be promoted, and this includes protecting an individual from the threat of genetic discrimination. There have already been cases cited where a physically fit individual, with no previous health problems, is denied insurance on the basis of a single genetic test result.

This is a problem for two reasons. First, information about our genes tells us much about who we are, but is not accurate enough to tell us the state of our health in the future. Our future medical condition is a complex puzzle, of which our genetic makeup is just one piece. Health plans should not be discriminating on the basis of this single piece. Second, cases have been documented of individuals who wanted

to participate in a genetic test, but when they were told that their participation may threaten their insurability, they turned around and walked out of the lab.

This is not in the best interest of research; this is not in the best interest of society; and it is certainly not in the best interest of the individual. Furthermore, while including genetic discrimination in the Health Insurance Reform Act is a good start, but is just the beginning of a process aimed at protecting the privacy and insurability of individuals, regardless of their genetic information or family history.

As I mentioned earlier, it is estimated that this bill will affect about 25 million each year. I have sponsored a separate piece of legislation, the Generic Privacy and Nondiscrimination Act, S. 1416, with Senator MACK, which addresses the needs of millions of Americans who may not fit within the boundaries of the bill we are discussing today. S. 1416 also addresses issues of genetic privacy and employer discrimination. I am hopeful that the Senate's consideration of genetic information in this legislation will open the door wider to a deeper understanding of these important issues.

Mr. KENNEDY. Mr. President, I want to raise two concerns about the long-term care provisions in the leadership amendment to the Kassebaum/Kennedy health insurance reform bill.

First, under the leadership amendment, long-term care insurance receives the same tax treatment as medical insurance. Since long-term care insurance is treated as medical insurance, I want to make sure long-term care insurance provided to employees by an employer is subject to the same nondiscrimination rules as health insurance.

Second, I have a concern that the long-term care provisions in the leadership amendment (which includes the National Association of Insurance Commissioners' model long-term care consumer protections) precludes States from enacting stronger long-term care consumers protections.

Mr. ROTH. Mr. President, with respect to the first point, long-term care insurance is treated the same as medical insurance for tax purposes under the leadership amendment. Since long-term care insurance is treated as medical insurance it is intended that it will be subject to the nondiscrimination rules applicable to medical insurance provided to employees by an employer.

On the Senator's second point, it is not the intent of the leadership amendment to preclude States from enacting stronger long-term care consumer protections. A clarification of this issue can be addressed in the conference report to the bill if necessary.

JEFFORDS-SIMON AND DOMENICI-WELLSTONE AMENDMENTS

Mr. BREAUX. Mr. President, tonight the Senate voted on two amendments to S. 1028. The first offered by Senator JEFFORDS and SIMON, would increase the maximum lifetime benefit caps in health insurance plans to $10 million. The second, offered by Senators DOMENICI and WELLSTONE, would require health plans to provide mental health benefits comparable to their other medical benefits. I believe both of these amendments are good policy—providing meaningful and equitable coverage for those who purchase health insurance. Following the no amendment strategy of the bill's managers—Senators KASSEBAUM and KENNEDY—I regretfully voted to table these amendments. It is the unfortunate outcome the no-amendments strategy to have to table good policy such as these. However, the purpose is intended to maintain an important yet fragile bipartisan coalition to pass necessary insurance reform. I would otherwise support these policies.

Mr. KOHL. Mr. President, earlier today I noted the serious problem this Congress faced in 1994 when it tried to take on too many health care-related issues under one bill. We learned that painful lesson during debate on the President's health care reform proposal.

For that reason, I mentioned that some amendments that would come up today, no matter how meritorious, should be considered on future measures and not impede passage of the Health insurance Reform Act.

Several amendments required votes today that, in another context, I would have strongly supported. The issue of life-time caps, and treatment of mental health coverage were passionately debated and deserve the attention of this Congress.

My votes on these issues were not intended to approve or disapprove of their merits. My overriding concern was that they could complicate this narrowly crafted proposal and jeopardize any chance at health reform this year. The sooner we pass this bill to address insurance problems of pre-existing condition exclusions, portability and renewability, the sooner we can address other pressing problems that affect the quality of health care in this Nation.

In the interest of time, I believe we should pass a clean health reform bill. I also believe that Congress should carefully consider several of the measures that failed today as soon as possible.

Ms. MOSELEY-BRAUN. Mr. President, subpart (a)(1)(B) of Section 101, Subtitle A of Title I of the bill now before us provides that ''an employee health benefit plan or health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements under the terms of such plan, except that such requirements shall not be based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability.'' As I understand it, this formulation is intended to ensure that, among other things, that participants and beneficiaries are not excluded from health care coverage because they participate in activities such as motorcycling, skiing, horseback riding, snowmobiling, all-terrain vehicle riding, or other similar kinds of activities. I would like to ask the distinguished manager of the pending bill whether my interpretation of this provision is a correct one.

Mrs. KASSEBAUM. The Senator from Illinois is correct.

Mr. MCCAIN. Mr. President, Americans deserve the security of knowing that they will not lose their health care coverage if they get sick or lose their job or if they can change jobs. Currently, our system does not provide this security, and as a result many of our workers have to choose between changing jobs and retaining adequate health care for themselves or their families. Others live in fear of losing their health insurance if they lose their job. And many who have paid insurance premiums for years cannot get insurance at any price if they get sick. Clearly these Americans deserve to know that when they are sick or injured, they will get the medical attention that they need when they need it, without having to worry about losing their homes, savings and financial security.

Rather than attempting to change the entire health care system at once, this is an incremental approach which targets these specific problems. It will make it easier for those who change or lose their jobs to keep their health insurance, and by limiting exclusions for preexisting conditions, it will assure access to health care for many who are sick. By making health care portable, the legislation will allow millions of Americans to move to better jobs and improve their standard of living. And by ending ''job lock,'' the legislation will improve the fit between workers and their jobs and increase the overall productivity of American workers. Finally, this legislation will make it easier for small employers to obtain adequate coverage for their employees. As a result, health insurance will be available to more Americans.

In addition to providing portability of health insurance and limiting exclusions for preexisting conditions, this legislation contains certain other important provisions. It will increase the tax deduction for health insurance for the self-employed to 80 percent, granting long overdue tax relief to the owners of small businesses and farms. The legislation also provides tax deductibility for long term care and insurance, making it possible for more Americans to avoid financial difficulty as the result of chronic illness.

Although there is broad bipartisan support for this legislation, I am aware of the concerns that it may increase individual health insurance premiums. The legislation addresses this issue in two ways. First, the legislation imposes no limit on the rate which individual insurers may charge those with

preexisting illnesses, allowing premiums to be set at a level which would not raise costs for others. Therefore any increase in premiums which does occur will not be the result of this legislation but of how each State chooses to regulate its individual insurance market. Second, the legislation gives States considerable flexibility in how they address the requirements of the bill. This will allow States to devise strategies which fit their individual situations.

In the past several years, many States have taken significant steps to reform their health care systems, and they are to be commended for these efforts. For example, my home State of Arizona was one of the first to use managed care to improve the efficiency of publicly funded health care, and has passed legislation which encourages the use of Medical Savings Accounts. There are certain reforms, however, which only the Federal Government can make. These reforms fall in that category, and it is our responsibility to make them.

FUNDING MEDICARE FRAUD AND ABUSE CONTROL

Mr. DOMENICI. Mr. President, earlier today we adopted an amendment, now that we have had a chance to review, we find creates a concern.

In effect, in our proper and correct effort to address fraud and abuse in the Medicare Program, we converted spending that previously had been subject to appropriations into entitlement funding.

Because of the consent agreement it is too late to fix this problem.

I had an amendment, however, that would have corrected the problem.

My amendment would have provided a different funding mechanism for the Medicare fraud and abuse control program. Instead of funding this program by creating a very large new entitlement program, my amendment would have provided a different funding mechanism.

The issue is not whether we should fund the Medicare fraud and abuse control program, but how we should fund this program.

I strongly support the Medicare fraud and abuse control program, but I am troubled by the fact that the bill in its current form would create $1.5 billion in new mandatory spending for the administrative expenses for three agencies.

Congress already addressed this issue on the funding mechanism for the Continuing Disability Reviews [CDR's]. As part of the debt limit, we provided for funding for CDR's by providing a mechanism to give these programs additional funding through the appropriations process. My amendment would have essentially taken the same approach as we did with CDR's.

Mr. President, Medicare fraud and abuse control is currently funded through discretionary spending. Discretionary spending is the funding we provide annually for programs through the appropriations process.

My amendment would have replaced the unprecedented new entitlement spending for enforcement in this bill with a mechanism that would have provided an automatic upward adjustment for Medicare fraud and abuse control spending in the appropriations process.

The Medicare Fraud and Abuse Control allowance proposed in this amendment would have provided an automatic upward adjustment in the discretionary spending caps to make sure additional funding for the Inspector General of the Department of Health and Human Services, the FBI, and HCFA is not curtailed by budget limits.

However, under my amendment Congress would still have been required to annually review and fund these programs.

I want to emphasize two important points, Mr. President. First, this amendment would have done exactly what we did for increasing funding for continuing disability reviews in the debt limit bill.

Second, the policy effects for Medicare fraud and abuse control are exactly the same as in the current bill. The increased funding for fraud and abuse control would have still occurred, and the savings would still have resulted.

Mr. President, we will never gain control of Federal spending unless we gain control of entitlement spending. My amendment would have kept us from heading down the slippery slope of creating new entitlements for administrative expenses.

I hope that laying down this concern now, conferees on this bill will attempt to correct his problem before we take final action.

I ask unanimous consent that a copy of the amendment I would have offered be printed in the RECORD.

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

At the appropriate place, insert the following:

SEC. . MEDICARE FRAUD AND ABUSE.

(a) ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding the following new subparagraph:

''(I) Health care fraud and abuse control.—

''(i) Whenever a bill or joint resolution making appropriations for fiscal year 1997, 1998, 1999, 2000, 2001, or 2002 is enacted that specifies an amount for health care fraud and abuse control under the heading 'Health Care Fraud and Abuse Control' for the Office of the Inspector General of the Department of Health and Human Services, under the heading 'Health Care Fraud and Abuse Control' for the Federal Bureau of Investigations, or under the heading 'Health Care Fraud and Abuse Control' for the Health Care Financing Administration, the adjustments for that fiscal year shall be the additional new budget authority in that Act for such health care fraud and abuse control for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

''(I) with respect to fiscal year 1997,

''(aa) $14,000,000 in additional budget authority and $13,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

''(bb) $8,000,000 in additional new budget authority and $6,000,000 in additional outlays for the Federal Bureau of Investigations; and,

''(cc) $18,000,000 in additional new budget authority and $29,000,000 in additional outlays for the Health Care Financing Administration;

''(II) with respect to fiscal year 1998,

''(aa) $29,000,000 in additional budget authority and $28,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

''(bb) $17,000,000 in additional new budget authority and $15,000,000 in additional outlays for the Federal Bureau of Investigations; and,

''(cc) $78,000,000 in additional new budget authority and $89,000,000 in additional outlays for the Health Care Financing Administration;

''(III) with respect to fiscal year 1999,

''(aa) $41,000,000 in additional budget authority and $40,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

''(bb) $27,000,000 in additional new budget authority and $24,000,000 in additional outlays for the Federal Bureau of Investigations; and,

''(cc) $143,000,000 in additional new budget authority and $154,000,000 in additional outlays for the Health Care Financing Administration;

''(IV) with respect to fiscal year 2000,

''(aa) $54,000,000 in additional budget authority and $53,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

''(bb) $37,000,000 in additional new budget authority and $34,000,000 in additional outlays for the Federal Bureau of Investigations; and,

''(cc) $213,000,000 in additional new budget authority and $224,000,000 in additional outlays for the Health Care Financing Administration;

''(V) with respect to fiscal year 2001,

''(aa) $70,000,000 in additional budget authority and $68,000,000 billion in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

''(bb) $49,000,000 in additional new budget authority and $58,000,000 in additional outlays for the Federal Bureau of Investigations; and,

''(cc) $263,000,000 in additional new budget authority and $274,000,000 in additional outlays for the Health Care Financing Administration; and,

''(VI) with respect to fiscal year 2002,

''(aa) $88,000,000 in additional budget authority and $86,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

''(bb) $62,000,000 in additional outlays for the Federal Bureau of Investigations; and,

''(cc) $283,000,000 in additional new budget authority and $294,000,000 in additional outlays for the Health Care Financing Administration.

''(ii) As used in this subparagraph—

''(I) the term 'health care fraud and abuse control' means the administration and operation of the health care fraud and abuse control program including the following activities—

''(aa) prosecuting health care matters (through criminal, civil, and administrative proceedings);

''(bb) investigations;

''(cc) financial and performance audits of health care programs and operations;