be transferred, for trial purposes, by the judge or judges of the transferee district to whom the action was assigned to the transferee or other district in the interest of justice and for the convenience of the parties and witnesses.

''(2) Any action transferred for trial purposes under paragraph (1) shall be remanded by the panel for the determination of compensatory damages to the district court from which it was transferred, unless the court to which the action has been transferred for trial purposes also finds, for the convenience of the parties and witnesses and in the interests of justice, that the action should be retained for the determination of compensatory damages.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action pending on or brought on or after the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I am pleased that the Senate is about to pass S. 1748, the Multi-District Jurisdiction Act of 1999, and H.R. 2112, as amended by the Hatch-Leahy substitute during its consideration in the Senate Judiciary Committee. Our substitute amendment is the text of S. 1748, the Multi-District Jurisdiction Act of 1999, which the distinguished Chairman of the Senate Judiciary Committee and I, along with Senators GRASSLEY, TORRICELLI, KOHL, and SCHUMER, introduced last week. Our bipartisan legislation is needed by Federal judges across the country to restore their power to promote the fair and efficient administration of justice in multi-district litigation.

Current law authorizes the Judicial Panel on Multi-District Litigation to transfer related cases, pending in multiple Federal judicial districts, to a single district for coordinated or consolidated pretrial proceedings. This makes good sense because transfers by the Judicial Panel on Multi-District Litigation are based on centralizing those cases to serve the convenience of the parties and witnesses and to promote efficient judicial management.

For nearly 30 years, many transferee judges, following circuit and district court case law, retained these multi-district cases for trial because the transferee judge and the parties were already familiar with each other and the facts of the case through the pretrial proceedings. The Supreme Court in Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach, 523 U.S. 26 (1998), however, found that this well-established practice was not authorized by the general venue provisions in the United States Code. Following the Lexecon ruling, the Judicial Panel on Multi-District Litigation must now remand each transferred case to its original district at the conclusion of the pretrial proceedings, unless the case is already settled or otherwise terminated. This new process is costly, inefficient and time consuming.

The Multi-District Jurisdiction Act of 1999 seeks to restore the power of transferee judges to resolve multi-district cases as expeditiously and fairly as possible. Our bipartisan bill amends section 1407 of title 28 of the United States Code to allow a transferee judge to retain cases for trial or transfer those cases to another judicial district for trial in the interests of justice and for the convenience of parties and witnesses. The legislation provides transferee judges the flexibility they need to administer justice quickly and efficiently. Indeed, our legislation is supported by the Administrative Office of the U.S. Courts, the Judicial Conference of the United States and the Department of Justice.

In addition, we have included a section in our bill to ensure fairness during the determination of compensatory damages by adding the presumption that the case will be remanded to the transferor court for this phase of the trial. Specifically, this provision provides that to the extent a case is tried outside of the transferor forum, it would be solely for the purpose of a consolidated trial on liability, and if appropriate, punitive damages, and that the case must be remanded to the transferor court for the purposes of trial on compensatory damages, unless the court to which the action has been transferred for trial purposes also finds, for the convenience of the parties and witnesses and in the interests of justice, that the action should be retained for the determination of compensatory damages. This section is identical to a bipartisan amendment proposed by Representative Berman and accepted by the House Judiciary Committee during its consideration of similar legislation earlier this year.

Multi-district litigation generally involves some of the most complex fact-specific cases, which affect the lives of citizens across the nation. For example, multi-district litigation entails such national legal matters as asbestos, silicone gel breast implants, diet drugs like fen-phen, hemophiliac blood products, Norplant contraceptives and all major airplane crashes. In fact, as of February 1999, approximately 140 transferee judges were supervising about 160 groups of multi-district cases, with each group composed of hundreds, or even thousands, of cases in various stages of trial development.

But the efficient case management of these multi-district cases is a risk after the Lexecon ruling. Judge John F. Nangle, Chairman of the Judicial Panel on Multi-District Litigation, recently testified before Congress that: ''Since Lexecon, significant problems have arisen that have hindered the sensible conduct of multi-district litigation. Transferee judges throughout the United States have voiced their concern to me about the urgent need to enact this legislation.''

Mr. President, Congress should listen to the concerned voices of our Federal Judiciary and swiftly send the Multi-District Jurisdiction Act of 1999 to the President for his signature into law.

Mr. CRAIG. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee substitute was agreed to.

The bill (H.R. 2112), as amended, was read the third time and passed.

ORDERS FOR THURSDAY, OCTOBER 28, 1999

Mr. CRAIG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, October 28. I further ask unanimous consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period of morning business, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator DURBIN, or designee, 9:30 to 10 a.m.; Senator THOMAS, or designee, 10 to 10:30 a.m.

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

PROGRAM

Mr. CRAIG. Mr. President, for the information of all Senators, the Senate will be in a period of morning business from 9:30 to 10:30 a.m. Following morning business, the Senate will resume consideration of the African trade bill. As a reminder, cloture has been filed on the substitute amendment to the trade bill and, therefore, all first-degree amendments must be filed to the substitute by 1 p.m. tomorrow. Also, pursuant to rule XXII, that cloture vote will occur 1 hour after the Senate convenes on Friday, unless an agreement is made between the two leaders.

Currently, Senator ASHCROFT's amendment to establish the position of chief agriculture negotiator is pending. It is hoped that an agreement regarding further amendments can be made so the Senate can complete action on this important legislation.

The Senate may also consider any legislative or executive items cleared for action during tomorrow's session of the Senate.

ORDER FOR ADJOURNMENT

Mr. CRAIG. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of the Senator from Oregon, Mr. WYDEN.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Reserving the right to object. I say to my colleague from Idaho, I believe the junior Senator from Washington also wishes to make a statement after the Senator from Oregon. And I wish to make a statement

after the junior Senator from Washington.

Mr. CRAIG. Mr. President, I amend my unanimous consent request and ask unanimous consent that following the comments of the Senator from Oregon, Senator MURRAY from the State of Washington be allowed to speak, followed by the Senator from Florida, who would make the final remarks of the evening.

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

The Chair recognizes the Senator from Oregon.

Mr. WYDEN. I thank the Chair.

MEDICARE COVERAGE FOR PRESCRIPTION DRUGS

Mr. WYDEN. Mr. President, and colleagues, this is the seventh time I have come to the floor of the Senate in recent days to talk about the issue of Medicare coverage for prescription drugs. The reason I do so is I think it is so important that before we wrap up our work in this session of Congress, we take action on this matter, given how many vulnerable senior citizens there are in this country who simply cannot afford their prescriptions.

There is just one bipartisan bill with respect to prescription drug coverage now before the Senate. It is a piece of legislation known as the SPICE Act, the Senior Prescription Insurance Coverage Equity Act.

It is a bipartisan bill on which I have teamed with Senator OLYMPIA SNOWE of Maine; and it is one that the two of us are very hopeful this Congress will act on before we conclude our work.

There are some who think this issue is too controversial and too difficult to tackle before the next election. I would note that it is going to be more than a year until the next election. We are going to have a lot of senior citizens who are walking on an economic tightrope, every week balancing their food costs against their fuel costs, and their fuel costs against their medical bills, who are not going to be able to pay for their prescriptions and their necessities if the Senate decides to duck this issue and put it off until after the next election. I think the reason we are sent here is to tackle issues and not just put them off until after the election.

Over the last few months, Senator SNOWE and I have worked with senior citizen groups; we have worked with people in the pharmaceutical sector, in the insurance sector, various public- and private-sector organizations; and we believe the SPICE legislation that we have crafted is the kind of bill that Members of the Senate can support.

In fact, as part of the budget, Senator SNOWE and I teamed up, and we offered a specific funding plan. And 54 Members of the Senate are now on record—they are now specifically on record—with respect to the SNOWE-WYDEN funding plan for paying for prescription drug benefits. So we are now in a position, it seems to me, colleagues, to take specific action.

One of the reasons I have come to the floor tonight is my hope that we can really show how urgent this need is.

What I have done, as the poster next to me says, is urge senior citizens to send in copies of their prescription drug bills, directly to their Senator, U.S. Senate, Washington, DC. I have decided I am going to, in my discussions on the floor each evening, read a portion of the letters I am receiving from seniors at home in Oregon.

I read about one group in the newspaper the other day who said it is not really that urgent a need. More than 20 percent of the Nation's senior citizens are spending over $1,000 a year out of pocket for their prescription medicine.

I read a couple of nights ago about an elderly woman from southern Oregon whose income is just over $1,000 a month in Social Security. She spends more than half of it on her prescriptions.

Those are the kinds of accounts we are hearing again and again and again. The fact is, our senior citizens are getting shellacked twice. First, Medicare doesn't cover prescriptions. That is the way the program began in 1965. I was director of the Gray Panthers at home for about 7 years before I was elected to Congress. The need was very acute back then for prescription drug coverage. But today it is even more important, for two reasons.

First, the senior citizen, who not only gets no Medicare coverage for their prescriptions, is now subsidizing the big buyers such as the health maintenance organizations that are in a position to negotiate big discounts. These big buyers, the health maintenance organizations, have real bargaining power and clout. They go out and negotiate a discount; they get a break. If you are a senior citizen, for example, in Myrtle Creek, OR, or Philomath—I will read from those letters in a moment—you end up subsidizing those big buyers. I don't think that is right.

In addition, since the days when we began to push, with the Gray Panthers, for prescription drug coverage, a lot of the new, important prescriptions are preventive in nature. I described several days ago an important anticoagulant drug that can help with a variety of ailments relating to strokes. The cost of that anticoagulant drug is in the vicinity of about $1,000 a year. You have a full-scale stroke that can come about if you don't get the medicine, and the cost can be $100,000 a year.

When people ask me, can this country afford to cover prescription drugs under Medicare, my view is, our country cannot afford not to do it. As part of this campaign we have launched in the Senate to have seniors send in, as this poster says, copies of their prescription drug bills, Senator SNOWE and I have teamed up on a bipartisan kind of plan. I am going to read from these letters. I will take just a couple of minutes for that tonight.

Just a couple of days ago, I heard from a woman in Philomath, OR, who wrote me about her mother. Her mother had recently spent more than $2,220 on prescription drugs. The daughter said—this was particularly poignant, in my view—the only way her mother was able to, in effect, cover her prescription needs was that her mother was getting samples from the doctor. The fact that she spent more than $2,220 on prescription drugs and the year isn't even over yet is dramatized by the fact that the cost would be much greater were it not for the fact that she was getting samples to supplement what she was paying for. That is the kind of account we are hearing from seniors in Oregon, as they, as this poster says, send in copies of their prescription drug bills. I hope we will get more of that.

We need to deal with this issue on a bipartisan basis. Senator SNOWE and I have chosen to model our program after the Federal Employees Health Benefit Plan. The SPICE proposal we introduced is sort of a senior citizens version of the Federal Employees Health Benefit Plan. The elderly population, of course, is different from that of the Federal workforce, but the model of trying to offer choices and options and alternatives to make sure there is competition in health care of the kind Senator GRAHAM has advocated in the past is very sensible. If it is good enough for Members of Congress, it certainly ought to be the kind of thing we look at to cover older people. It is especially important because it can be a model that prevents cost shifting on to other groups of citizens.

There are other proposals, for example, that in effect have Medicare sort of buying up all the prescription drugs and taking the lead as the purchaser. What concerns me about that approach is, I think you will have massive cost shifting on to other groups of individuals. Nobody in the Congress intentionally would want to see a proposal developed that would, in effect, give a discount to folks on Medicare and then just have the cost shifted over to somebody who was 27 years old and had a couple of kids and was working hard and doing their best to get ahead in life. We have to use marketplace forces to develop and implement this benefit.

The proposal I have introduced with Senator SNOWE is one that uses those marketplace forces. It would give seniors the kind of bargaining power a health maintenance organization and a big buying group would have, but it wouldn't involve a lot of price controls. It wouldn't involve a lot of micromanagement. It wouldn't be sort of one-size-fits-all health care.

As we go ahead with this bipartisan campaign, the bill on which Senator SNOWE and I have teamed up is, in fact, the only bipartisan measure now before the Senate. I am going to come to this floor as often as I can and urge seniors to send in copies of their prescription drug bills directly to their Senator and just keep bringing to our colleagues' attention the need for action on this issue.