

Loan guarantees are an approach that the Federal Government has used to help recovery of key domestic industries or cities in times of severe crisis. They have been used for Chrysler Corporation and New York City. The Department of Agriculture operates an ongoing loan guarantee program for farmers that addresses their problems during low commodity prices. Here, the concept would provide bridge financing to allow independent producers and the oil industry supply business to recover from the current price crisis.

Independent producers throughout the country continue to suffer severe economic distress. Recovery will be neither quick nor easy. This Emergency Oil and Gas Loan Guarantee Program will save jobs and businesses. It will contribute to the continued viability of the independent producing industry and U.S. national security.

I urge my colleagues to support this legislation.

Mr. BINGAMAN. Mr. President, I co-sponsored the oil and gas loan guarantee program on the emergency supplemental because I believe this is an important and necessary program to ensure independent producers are able to continue operating in the United States. This program is available only to small producers who do not own refineries of any size. No major oil company is eligible.

We are currently importing well over 50 percent of our oil needs. The Energy Information Administration projects that by 2020 we will be importing 65 percent of the oil we consume. The independent oil and gas producers, those companies eligible for this program, have remained committed to domestic production. They are the backbone of our domestic oil supply. They do not import oil, and they do not sell gasoline. Every barrel these independents produce generates jobs, tax and royalty revenues and eliminates another barrel of imports.

Oil prices were as low as \$7 per barrel in New Mexico a few months ago. Although prices have recovered somewhat, small producers were devastated. In addition to the pending loan guarantee program, I believe we need to implement other policy changes to protect our domestic production. Our tax and royalty policies need to be changed to ensure independent oil and gas producers have enough cash flow so they can avoid shutting in production again when prices fall as low as they were recently.

I urge support for this bill.

The PRESIDING OFFICER. The clerk will read the bill for a third time.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I thank my colleagues for their work in the handling of this legislation today. They made a lot of

progress. We will vote on final passage first thing in the morning.

A number of Senators have asked about the plan for tomorrow. We do take up the State Department authorization bill after we have final passage of this piece of legislation. There may be a necessary vote or two on amendments, but they will occur, hopefully, as early in the morning as possible, but none later than 11:45. So any of you who have plans to leave at 11:45 or 12 noon, whatever, you will be able to do that.

As usual, we announced we would have a vote or votes on this Friday, but the votes will not occur beyond 12 noon. I hope it will be earlier than that.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am glad to yield.

Mr. BYRD. I thank the distinguished Senator from Massachusetts.

I only want to take a few seconds to thank the majority leader for bringing up the bill which the Senate has reached agreement on which will be voted on tomorrow morning, the iron and oil and gas guarantee bill. The leader made a commitment to bring that bill up; he did not make any commitment to pass it. He did not make any commitment to vote for it. But he made a commitment to bring it up, and he has kept his word. I thank him for that.

Mr. LOTT. Thank you very much.

Mr. BYRD. I thank my own leader, and I thank TED STEVENS, the chairman of the Appropriations Committee, and Senator DOMENICI. They have used their usual skill, good humor, and toughness. I think the Nation is better off as a result.

Thank you.

Mr. LOTT. Thank you very much.

Mr. BYRD. I thank the Senator from Massachusetts.

#### MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see my friends and colleagues here from California and Illinois. I intend to use my 10 minutes. I will be glad to respond to questions, but I ask unanimous consent that following my time that the Senator from California be recognized for 10 minutes and the Senator from Illinois be recognized for 10 minutes.

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

Mr. KENNEDY. Thank you, Mr. President.

#### THE PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I will take just a few moments this evening to address the Senate on an issue which our leader, Senator DASCHLE, and others, have spoken to the Senate about in the period of these last few days. I would like to urge that the leadership here in the Senate set a firm time for the consideration of legislation, which I believe is of central concern to families all over this country, known as the Patients' Bill of Rights.

We have taken advantage of the opportunity in the Senate to make a case for the consideration of this legislation. We are very mindful that there are appropriations bills that have to be addressed, but I think this is a matter which is of central importance and concern to all of the families of this country. It does seem to me that we ought to address this question and at least establish a timeframe for which the Senate could debate and finalize its actions on this legislation.

I know there are probably Members wondering why there are several of us who are bringing this to the attention of the Senate again this evening. I would like to just review for the Senate membership what the timeframe has been in the consideration of this legislation since the introduction of the original Patients' Bill of Rights more than 2 years ago.

When we introduced legislation in the Senate over 2 years ago, we thought we would have an opportunity to address it, at least in the final months or weeks of the last session. We were unable to do so. At the very end of the session, the majority leader, at that time, indicated this would be a priority item for the consideration of the Senate.

I thought I would just review briefly tonight the key parts of this legislation and why so many of us are anxious that we have the assurance by the leadership that this matter will be considered by a date certain. If we secure a date, then members will know about it, and the American people will understand it. They will be able to focus on this extremely important health measure, which effectively, when all is said and done, will guarantee that medical decisions in this country are going to be made by the trained professionals and the patients they are treating and not be made by accountants in the various HMOs and insurance companies. When you get right down to it, that is what this legislation is all about.

The Patients' Bill of Rights was introduced over 2 years ago. It was never scheduled in the last Congress, despite our repeated efforts to bring it before the Senate. This year's track record is equally troubling.

On January 19, the majority leader said on the floor of the Senate that it was a priority. On January 27, in an address to the U.S. Chamber of Commerce, the majority leader announced that he expected the bill to come up in May. On March 18, our Health, Education, Labor and Pensions Committee

passed a bill on a party-line vote, but a report has just filed today. We passed the legislation out of our committee on March 18. Now we have April 18, May 18, June 18 coming up tomorrow.

On April 15, the majority leader issued a list of bills to be completed by Memorial Day. The Patients' Bill of Rights was not even on that list. On May 19, the majority leader told the National Journal that he hoped to bring up the bill in June, that he had ordered the Finance Committee to move its portions of the bill. But that committee has held 30 hearings this year, not one on the Patients' Bill of Rights, and no markup is scheduled.

Then on May 27, just as the Memorial Day recess was starting, the majority leader said at a press conference that he hoped it could be brought up by the summer.

So we have gone from an announcement in January that it is a priority to a possible scheduling in May, to a possible scheduling in June, and now it is something that might come up this summer. And just today, the Republican leader said flatly that if we asked for a reasonable number of amendments, the answer was no. That is a quote from the majority leader in today's publication of Congress Daily.

We can say, well, what is this really all about? Why should we be giving this consideration? We had the opportunity in the Health, Education, Labor and Pensions Committee to actually mark up a Patients' Bill of Rights in March of this year. It was reported out over the opposition of a number of us on some very important measures.

I will review very quickly with the Members of the Senate in the time that I have tonight—how much time remains?

The PRESIDING OFFICER (Mr. BENNETT). The Senator has 3 minutes 8 seconds.

Mrs. BOXER. You can take 5 minutes from me.

Mr. KENNEDY. I yield myself the 3 minutes then.

Mr. President, listed in this chart are the protections in the Patients' Bill of Rights. First of all, the legislation that we favor covers all 161 million Americans with private health insurance. Those on the other side, whose legislation primarily favors so-called self-funded programs, don't protect anyone in HMOs. But that's the issue here. HMOs are making decisions on the basis of the bottom line rather than the interests of the patients. We want to protect families. The Republican proposal doesn't even cover those individuals in HMOs, because HMOs are not self-funded.

One amendment would allow the Senate to show whether we are really interested in providing protection for all Americans who need it or just for one-third? It seems to me that could be an issue that wouldn't take a great deal of time to be able to understand.

We heard very considerable debate on complicated issues here this afternoon

and were able to make resolutions of those measures. Certainly we ought to be able to make a decision on the floor of the Senate whether we are interested in covering all Americans or whether we are interested, as our friends are on the other side, in only covering about a third of those.

So these issues on the chart are the principal differences between the Republican proposal and the Democratic bill. We would make sure we are going to cover all the patients. We would make sure that we are going to guarantee that all patients, including children, are able to get the specialists that are needed to deal with their needs.

We are going to guarantee coverage for routine costs in certain clinical trials. I believe that the next century is going to be known as the century of life sciences. We are committed here, I believe, in the Senate to doubling the research budget in the NIH. Why? Because of the promises of breakthroughs in lifesaving drugs for cancer and Parkinson's disease and Alzheimer's and other conditions. But to get these breakthrough drugs, you have to provide clinical trials. Clinical trials are a key element in terms of bringing the brilliance of our researchers from the laboratory to the bedside.

We want to make sure that individuals who are afflicted with a disease for which traditional treatments offer very little hope for their survival have access to the breakthroughs that can be achieved by clinical trials. If the medical doctor that is treating that patient recommends a clinical trial, we are committed to making sure that clinical trial will be available for that mother, for that daughter, for that child, for whomever it might be in the family that can benefit from it. That is one of the very important aspects in this debate.

It doesn't make a lot of sense on the one hand to be voting for billions of dollars to support research at the NIH to discover breakthrough therapies, but on the other hand not be able to use them. We want to make sure that there is going to be a law, a guarantee, that encourages access for certain patients.

So, we will take the time in the Senate to go over a few of these issues each day and spell out exactly the kinds of protections that we think are needed in a real Patients' Bill of Rights. There are not a lot of them.

When the minority leader indicated there would be probably 20 amendments or so needed on our side, it is no secret what many of those amendments would be. You can look right over this list and see the protections that are guaranteed in our Patients' Bill of Rights and the failings of the one that will be proposed by the opposition.

The bottom line is that over 200 organizations in this country, made up of the best of the medical profession, the best doctors, the best nurses, the patients' organizations, working families

and others, universally and uniformly support our proposal. And the other side does not have one, not one organization. There isn't a single medical organization in our country that supports their program. But 200 leading groups support ours. Not because it is Democrat or Republican. It is because ours protects patients.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. BOXER. Mr. President, if I could, I ask unanimous consent to engage my friend on my time in a couple of questions, reserve the remainder of my time, and then ask the Senator from Illinois if he would go, and then I will close.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. BOXER. I thank the Chair.

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

Mrs. BOXER. Mr. President, we thought there was a breakthrough from our majority leader. We believed we were going to have this Patients' Bill of Rights before us soon. I know we did that with the gun bill. I just want to know where we stand on this. I was listening to my friend. Is it my understanding it is the position of the majority leader that he would not agree to scheduling this Patients' Bill of Rights if we would just offer 20 amendments to it? Is that it? Did he put out a number of amendments he would accept?

Mr. KENNEDY. The Senator is quite correct, according to this morning's edition of Congress Daily. The leader was here earlier this evening and has not refuted it. The Democratic leader has restated it. Here it is. He says, "If they are still insisting on 20 amendments, the answer is no." Then he says, "We don't have but 2 weeks before the Fourth of July."

But, as I understand it, there are some 52 or 53 amendments that are now pending on the legislation we are calling up tomorrow, dealing with the State Department authorization. So 52 amendments are OK for the State Department authorization, but our 20 amendments are not OK for the Patients' Bill of Rights.

Here they are, effectively, on this chart. There is no secret about what we are generally interested in addressing. There may be some changes in some of the language. I think one of the ones that might be missing is something on "drive-through mastectomies," which is not spelled out here. But there is no secret here.

Mrs. BOXER. Mr. President, so that people in this country understand, when it comes to the State Department, which deals with other countries, there doesn't seem to be any problem of the leadership with having 50-plus amendments. But when it comes to the reality and everyday life of our people who are not getting the quality health care they deserve, who want to see HMOs held accountable,

who want to be able to go to a specialist, who want to make sure they have the information as to what all the possibilities of treatment are, who want to make sure, if they are, for example, a woman and they go to an OB/GYN and all of those points on there, we can't have that. They would add up to 20, 21 amendments, but we do not have agreement.

I think the American people ought to understand what is going on here. I have to say, in my heart of hearts, as my friend points out, every responsible organization that deals with health care supports this Patients' Bill of Rights—the Democrats' version. So one can only conclude it is the special interests on the other side that are blocking this proposal from coming to the floor. I can't come up with any other answer. I wonder if my friend can.

Mr. KENNEDY. The Senator is quite correct. I mentioned a moment ago—but it bears repeating—that we had the assurance by the majority leader on January 19 and January 27 that this would be a priority, and we expected the bill to come up in May. On March 18, we acted in our Health and Education Committee and reported out what I consider to be a "Patients' Bill of Wrongs." It doesn't provide the protections American patients need. But we ought to have whatever is going to be used out here so we can debate it. The bill from our committee was just filed today. They have had half of March, all of April, May, and half of June—3 months. That gives an indication of what the attitude and atmosphere is here in terms of acting on something that is of central importance to protecting families across this country.

And then, finally, as we heard today, it isn't just to the Senator from California, or from Illinois, or the Senator from Massachusetts, but they are saying no to the families in this country: No, you are not going to be able to have those protections considered. No, you are not going to be able to bring this up. We heard last year from those on the other side of the aisle that we are not going to let you decide what the agenda is going to be.

All we are trying to do is the people's business. It is the business that has been supported by virtually every single major medical and patient organization. It is their business, and their treatment. It is each family's business. That is why I wonder whether the Senator from California, like myself, is troubled by the fact that we can't get this legislation up, why we get a refusal to consider this proposal.

If I could ask the Senator, does the Senator remember that the Democratic leader indicated that, as far as speaking for the Democrats, we could go on sort of a dual track. If it was the judgment of the Republican leadership that we could do their agenda, I know I would be here through the afternoon tomorrow and through the afternoon

on Saturday, or in the evenings, of course, next week. We could certainly get a debate and discussion on the various 20 or so amendments needed to pass a good bill. And I am wondering if the Senator from California or the Senator from Illinois remembers when that proposal was put forward. I have been here a number of times when we have followed that procedure.

Mrs. BOXER. Yes, I just heard Senator DASCHLE propose again that we have a late shift. He said many Americans, after they work their day shift, work a late shift. Why don't we do it here in the Senate? Here we are, the Senator from Utah is in the Chair, and he is always ready to work; he is a great worker. We are here ready to work. The people want us to do the business.

I will close my question this way. This happened once before on the minimum wage. I hope the Senate remembers the ending of that. When the Senator from Massachusetts decides to take all his energy and put it to an issue, and we come around and we put our energy and spirit behind an issue, what happens is that eventually the issue will be heard. We did it with the minimum wage. It was a horrible situation, trying to get that before the Senate. But I think we know how to do it. As the Senator from Massachusetts said, if this wasn't an important issue, we would fail in our effort. If this was a frivolous matter, we wouldn't win. But it is important every single day to people.

I have case after case in California—and I hear them coming from around the country—where you have a little child who is your pride and joy. Suddenly, a terrible disease hits and an HMO says: You don't need a pediatric specialist; take him to our cancer specialist. They ask: Has the cancer specialist ever operated on a child before? The answer is: No, but he is good. They say: No; I want the best for my child. I want somebody who knows what it is to examine a little body. Children are not little adults; they are changing, they are growing, they are different. I, on the other hand, am a little adult, but a child is different and they need to have specialties.

Under the bill the Democrats are supporting, that would be a fact. You would have the right to have someone who knows what they are doing. If you want to get a tooth pulled, you don't go to a foot doctor. If you want to treat a child, you go to a pediatric specialist. So this is serious.

I am so happy to be part of this little trio tonight.

Mr. KENNEDY. If the Senator will yield, the proposal advanced by our Republican friends is so bad that you can't even appeal the rights it purports to guarantee. If, for example, you had a child whose doctor recommended a cancer specialist—a pediatric oncologist—and the HMO rejected it, by saying, "No, we are not going to allow you to see that specialist, even if

the doctor recommended it," and the parent said, "Well, I want to appeal"; under the proposal reported out of the Labor Committee, that family has no right of appeal, because the right of appeal is defined to deal only with certain decisions and not with regard to individuals' access to specialists. So it effectively excludes from the appeal system a whole range of care and protection that it claims to provide. That is rather a technical aspect. That may take a little time to debate. We can certainly vote on that. But not only don't you get the specialist, you don't even have a right to appeal it even if the doctor says this is what your child needs.

I can say, from a personal point of view, how important these provisions are. My son had cancer, osteosarcoma, and he was given little chance in terms of survival. They told him he needed a pediatric oncologist, and he was able to participate in a clinical trial that worked miracles for him and the other children who participated in it.

Members of the Senate always have very good insurance. We can get into clinical trials, and we can have our specialists. It is always interesting to me that some Members can vote no on these protections when they have it themselves. Then some Members wonder why people are cynical about how they view Members of the Congress.

As you well know, when you become a Member of the Senate, you fill out that little card so you can have the health care coverage that is available to Federal employees. You don't have to take it. But I bet there isn't a Member of the Senate who has refused it.

Yet, they are prepared to deny Americans across the country the kind of protections we have, and that our families have. They don't want to debate this issue.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am happy to join my colleagues from California and Massachusetts. We were on the floor about a month ago and decided that we would like to have the Senate debate the gun issue. I remember the day very well. The majority leader, Senator LOTT, came to the floor and said: You will have your wish. In 2 weeks you will get a vote.

Most people view that as a very historic debate, as America was literally emotionally wrenched over the Littleton, CO, tragedy.

We, finally after a few weeks, addressed it on the floor of the Senate in a debate which culminated in the passage of sensible gun control legislation, when the Vice President of the United States, AL GORE, cast the deciding vote.

We come to the floor this evening, as we have before and will in the future, to urge the leadership of the Senate to again address the issue which is on the minds of American families nationwide.

Senator KENNEDY made an excellent point. We are blessed as Members of

the Senate. We are blessed by being considered Federal employees. As Federal employees, we have access to health care, which very few people in America have.

Imagine this for a moment. Once a year, we have open enrollment. We get to make a choice of medical plans. What do we want for our families?

There is a Congressman now who serves from the State of South Carolina in the House of Representatives who decided at age 60 that he wanted a lung transplant. He waited until open enrollment and enrolled in a plan which would cover a lung transplant for him at the age of 60. He signed up for it and went through the operation successfully, and still serves in the U.S. House of Representatives. This was 6 or 8 years ago. But he was able to shop for his health insurance. What a luxury.

How many Americans can do that? Those of us in the Senate and most Federal employees have that option. What we are talking about is giving this kind of protection and this kind of option to many different Americans when it comes to the quality of their own health care.

When we asked the Rand Corporation how important this issue is, they told us that 115 million Americans either have had a problem with their managed care insurance, or a member of their family has had a problem. This is a real concern.

Do you remember the movie "As Good As It Gets" with Jack Nicholson and Helen Hunt? She was so good in that movie and had a little boy suffering from asthma. There was this great scene in the movie where Jack Nicholson decides to pay for a specialist to come see her little boy at their apartment. They are sitting at the table, and Helen Hunt decides to give, in her own earthy way, an expletive definition of managed care. In every movie theater that I have been to where that movie is shown the people started applauding. She knows what she is talking about.

Arbitrary decisions that are being made by bureaucrats and clerks in insurance companies are not good for you or your family.

Senator KENNEDY is talking about the Democratic Patients' Bill of Rights. Senator BOXER of California spelled out the difference between these two.

It gets down to some fundamental things. When you look at it, think about this.

An internist from my hometown of Springfield, IL, a town of about 110,000 people with two excellent hospitals comes in to talk to me. We are in a conversation. He says: You know, I am treating more and more patients for depression. It is something that seems to bother a lot of people, and thank goodness we have many ways to treat it with drugs and therapies that work. He says: You know, a lot of my patients are concerned if it gets into part

of their medical record that they have been treated for chronic depression. He says: Of course, they know that if they are in a position where they have to apply for health insurance in the future they may be turned down because they have "a mental illness," a chronic depression, a very common malady among American people.

Shouldn't we during the course of this debate on a Patients' Bill of Rights talk about this kind of prejudice and discrimination against people who have chronic depression? This is something that affects every family. It could.

When we talk about access to health care—Senator KENNEDY made this point, and Senator BOXER as well—the difference between the Republican plan and the Democratic plan is graphic. The Republican plan excludes more than 100 million Americans from protections we are talking about. They cover people that are in a self-funded employer health insurance plan, about 48 million Americans. But look who is left behind—15 million Americans buying individual policies, 23 million State and local government workers, 75 million people whose employers provide coverage through an insurance policy, or an HMO, 75 million people written out of the Republican plan. They leave behind 113 million Americans.

If we are talking about a real bill that addresses the concern of real American families, it should include all.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. DURBIN. I am happy to yield.

Mr. KENNEDY. Basically, the self-funded plans are primarily the largest businesses. Looking at this another way, you will find that people left out of the Republican plan are schoolteachers, police officers, social workers, and small business men and women. How many small businesses have self-funded programs? Virtually none.

Mr. DURBIN. And farmers.

Mr. KENNEDY. And farmers. These are the ones that aren't included in the majority's proposal. These are the ones that the statistics confirm what the Senator from Illinois has said. But when you look behind those statistics about who is covered and who isn't covered, you will find that it is the working families, the small business men and women, and the farmers and the workers who are the ones that aren't included. They certainly should be protected as well as everyone else.

I thank the Senator.

Mr. DURBIN. I thank the Senator from Massachusetts. His point is well taken.

Before we end this debate, let's stop talking about health for a minute and let's talk about politics.

If this is such an important issue, and the debate on this issue is really one where we could have some debates, why are we not considering it on the floor of the Senate?

We spent 5 days debating protection for computer companies against lawsuits—5 days to protect these computer companies. It is an important debate. Can't we spend 5 hours talking about protecting American families when it comes to their health insurance? We are afraid of amendments, the Republicans say. We want to make sure that we have a limited number of amendments—no more than 20 on the side. In fact, that may be too many.

As Senator KENNEDY said, on the next bill we will consider there are over 50 amendments. We haven't disqualified that bill from consideration. We understand that it is important that we do our business and debate these things and vote on them.

The bottom line here is that there are Members on the other side of the aisle who do not want to face votes on these issues. They don't want to have to go home and explain why they stood with the insurance companies and voted against the people they are supposed to represent—the families, the consumers, those who are literally worried on a day-to-day basis as to whether they have health insurance protection.

I think, frankly, they have to face their responsibility on this side of the aisle as we do on our side of the aisle, a responsibility to face a tougher vote, make a choice, go home, and defend your vote. That is the nature of this government.

For them to try to construct some sort of a strategy on the floor to protect themselves from criticism is at the expense of the families across America who do not have adequate health insurance and expect Congress to do something to protect them.

Mrs. BOXER. Will the Senator yield?

Mr. DURBIN. I am happy to yield to the Senator from California.

Mrs. BOXER. I thank the Senator for his eloquence on this point.

When he said we spent 5 days taking care of the computer industry, I come from the Silicon Valley. I love those people. They are good people. They are the best employers. As a matter of fact, I thought it was a bit insulting to them to think that they need to have all of this special help from us. I think they are going to take care of the problem and stand up to the challenge. They are wonderful people. We took care of them with days of debate. We took care of the steel companies. We just did that. Oil companies—just did that.

I am sitting here thinking what about all these people who write us every day.

I want to ask the Senator a question. Is it not his understanding—because the Senator said this before, and I want the Senator to expound on it—that there are only two groups in America today who cannot be held accountable in a court of law? Could the Senator talk about who those groups are?

Mr. DURBIN. Every one of us as individuals and businesses can be held accountable for our actions. That is understandable. You go out and drink too much, drive a car, get in an accident, and you might be sued. There are two groups, though, that are spared this: foreign diplomats and health insurance companies.

Why in the world would we carve out this kind of protection from liability for this group of health insurance companies? If they make the wrong decision on coverage, and it is your child who ends up not getting adequate care, or getting a bad medical result, who should be held responsible—the doctor, the hospital, or the insurance company that made the basic decision? I think the insurance company should.

Frankly, if they are held accountable, they will think twice about making the wrong decision. They will make certain that children have access to specialists they need, that people can go to emergency rooms close to home, and when there is a medical necessity there is a continuity of care. If your employer changes health insurance, you have an opportunity to keep that doctor who is so important to you.

One of the most humbling experiences in my life—in the life of virtually anyone—is to sit in a waiting room in a hospital waiting to hear about the surgery on your child. Senator KENNEDY has been through that. I have been through that. It is something I will never forget. You realize that everything you hold dear and close is in the hands of people you have to trust to be the very best specialists, well-trained medical technicians trying to save or improve the life of someone you love so very much.

I think at those moments in our life when we are so vulnerable and pray that we have the very best and brightest helping our children and helping members of the family we love so much, to do the job and do the right thing and bring them home, we need to have the confidence that we have a system that works.

Over 100 million Americans today question whether this system works. They question whether that doctor they want to trust can tell them everything they need to know. They question whether that hospital making a decision can make that decision without worrying about some insurance clerk in some faraway city.

If we do nothing else in the 106th Congress, shouldn't we address this basic gut issue that American families worry about on a day-to-day basis? The 105th Congress came and went with a record no one remembers. This Congress has a chance to act. We may debate a lot of things on the floor of the Senate, but if we don't take up this very fundamental issue, we are missing our responsibility.

This Congress should not be toiling in an atmosphere of partisanship. It shouldn't be afraid to face tough issues. It should come forward and vote

for the Patients' Bill of Rights, as Senator KENNEDY and Senator BOXER have said, to make sure families across America receive the protection they deserve.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will address the same subject that my senior colleague from Massachusetts and the Senators from California and Illinois have talked about: The Patients' Bill of Rights.

Our health care system has been a remarkably successful system. We can't forget the fact that over the years the idea of people living longer and healthier has become a reality.

When I was a little boy, all the kids in my neighborhood would come around and press their foreheads to the kitchen window because in our home sat a curiosity, in a certain sense. It was my great grandmother; she was over 80. In the neighborhood, everybody said she was the oldest lady in the world. They hadn't seen anybody over 80. It was a rarity.

These days, of course, somebody who lives over 80 is, thank God, rather commonplace. In fact, on the "Today Show" they used to announce people who celebrated their 80th birthday; then they announced the 90th birthdays; and now they announce the 100th and 105th birthdays. That is, in good part, because of our health care system.

It is a good health care system, there is no question. However, over the last several years it has developed some problems that can be fixed. These are not the intractable problems of how we pay for the costs of new operations that cost tens of thousands and even hundreds of thousands of dollars.

What happened is very simple. Costs were going up. We were basically involved in a cost-plus system. As a result, HMOs developed. HMOs had a good purpose. They were going to "rationalize" the health care system. They were going to keep costs down so that the providers could not raise costs willy-nilly and have a third party pay.

For a while it worked. Costs did decline. It is one of the reasons that our budget is in better shape today than it has been.

However, the pendulum swung too far. In a good effort to reduce costs, HMOs began to go too far. They started assigning important, often life-and-death decisions. They started taking those decisions out of the hands of physicians, out of the hands of hospitals, out of the hands of trained personnel, and putting them in the hands of actuaries.

As a result, day after day after day, injustices are done. We hear stories such as the one I told on the floor a couple of days ago about the young nurse who can barely walk because her HMO would not provide her with an orthopedic oncologist. Instead, she went to a regular orthopedic surgeon. The surgery was performed not well. The

tumor grew back. She had to go to an orthopedic oncologist.

How about a simple case where somebody has cancer. The HMO says yes, that is covered. Because of the cancer, they cannot swallow; they cannot eat. The HMO's decision of no dietary supplements being allowed is a ridiculous decision.

How about the times when people go to an emergency room and are told: You are not covered; go somewhere else.

Or when woman after woman after woman is again turned away from going to an obstetrician or gynecologist. A woman is told that osteoporosis, a common woman's disease, is not covered by the HMO, even though diseases that would be just as frequent in men are covered.

On issue after issue after issue, every day across America, scores of people—perhaps hundreds of people—are sitting there in awful situations and are told that not only do they have to deal with their illness but they have to deal with an unfair HMO.

What we seek to do, led by the senior Senator from Massachusetts, is simply to redress that imbalance. This is not radical surgery. We are not trying to totally change the system. We are not even trying to eliminate HMOs. We are simply trying to put in place some basic rules of fairness that seem to most Americans to be called for. We are simply trying to say that the pendulum, which has swung so far over on the side of the actuaries, should move a little bit back to the middle. We are attempting to keep the best parts of HMOs, which deal with cost savings, and at the same time get rid of their most egregious violations. We are on the floor of the Senate simply asking for a chance to debate those issues.

I have now been in the Senate close to 6 months. We had some historic moments in the first few months. Since then, it seems to me no issue is being asked to be debated more, to be discussed, to be legislated upon than this subject. Yet we are told we can't do it. It just does not make sense.

So we must come to the floor of the Senate in the early hours of the morning or the later hours of the evening and make our case. We shouldn't have to. This is a deliberative body that has been known for its great debates, that has been known for the fact that, if a group of Senators feels strongly about an issue, they will get to debate it and vote on it. That has been the tradition for the 200-some-odd glorious years of this body. It is being thwarted on an issue of great importance.

I am sure most of my colleagues in this body do not agree with every position I hold, and I don't agree with every position they hold on HMOs. How in the name of fairness can we refuse to debate the issue? How can we refuse that young nurse who really needs the orthopedic oncologist or that cancer victim who needs dietary supplements or that woman who needs help with

osteoporosis? How can we refuse, at least through their elective Representatives, to let their voices be heard?

So we debate tonight simply asking for some vital things. We ask for the ability of patients to be treated in the emergency room wherever that emergency occurs. We ask for the ability of people to get the specialists that are medically called for and that they need, not for excessive use, not for things they do not need, but for things they need. We ask, if that HMO makes an egregious and reckless mistake, for the ability to sue it, not out of malice but out of fairness, out of recompense, and out of a desire to correct an abuse that may have occurred.

As I mentioned, these are not large demands in the grand scheme of things, but they are very important to millions of Americans who either have an ill loved one, or have an illness themselves, or who worry that they might.

So I ask, and I am joined by so many of my colleagues, particularly those of us on this side of the aisle, I ask the majority leader to allow this issue to come to the floor, to allow a full and open debate. I do not know what the results will be, but I can tell you this: If we do that, we will be, indeed, fulfilling our obligation as the people's Senators, as the people's Representatives, and we will be living up to the fine and high traditions of this Senate.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, I hoped to get over here prior to the time my colleagues left the floor, but let me compliment Senators KENNEDY, DURBIN, BOXER, SCHUMER, and others who participated in the colloquy this afternoon on the Patients' Bill of Rights. We are very hopeful that over the course of the next two weeks the Senate can reach an agreement on proceeding to the bill, the Patients' Bill of Rights.

We will be more than happy to enter into negotiations with our colleagues on the other side of the aisle with one understanding, that we have the opportunity to offer amendments. In fact, we have suggested at least 20 amendments to ensure that we have a good debate. We don't want to have a sham debate on something of this import. On a bill that we will take up tomorrow, the State Department authorization bill, both sides have agreed to consider 52 amendments. We passed the Defense authorization bill a month ago, and we agreed to over 100 amendments. We have reached an agreement on virtually every bill that has come to the floor. In fact, the juvenile justice bill

had 35 amendments with over 18 roll-call votes.

But I think the key question is, if tomorrow we can agree, as Republicans and Democrats, to consider 52 amendments on a bill that has, frankly, very little relevance to the day-to-day lives of every American, as important as it is for other reasons, then, my goodness, it would seem to me we could agree to 20 amendments on the Patients' Bill of Rights.

One of the amendments we feel very strongly about offering is an amendment to expand the scope of the bill. I just want to talk briefly about that before I move to another issue. Probably the single biggest difference—I won't say the only big difference, because there are many—but one of the most important differences between the Republican bill and the Democratic bill has to do with what we call scope. By scope, we simply mean who is covered.

By everybody's recognition, the Republican bill covers 48 million Americans. Those 48 million Americans fall into one category: those employed by large businesses that are self-insured. Those are the only American people today who are covered under the Republican bill.

I have a chart. This is so important. This chart says it so well. This chart shows what the Republican bill does not do, and why we feel so strongly about offering amendments. Mr. President, 48 million Americans are covered through a plan that self-funds insurance within the company. Here are all the people who are not covered; 75 million Americans are not covered who have individual insurance policies or an HMO that is purchased but not funded by their employer. In other words, if you are an employee of a company with self-funded insurance, you are covered. If you work for an employer who contracts with an insurance company or an HMO, you are not covered.

There are only 48 million people in that category—those who work for a self-insured employer. There are 75 million Americans who are working for employers who purchase their insurance through separately-funded insurance companies and HMOs. There are another 23 million Americans who have their insurance through their jobs in State and local governments, and then there are 15 million Americans who have individual insurance plans. All of those people are not covered in the Republican plan. Two-thirds of all of those with health insurance are not covered.

I do not know why they would not be covered under the Republican plan. I am sure our Republican colleagues have a good rationale for not including all of these people. I have heard them say they are covered in some of the State plans. That is the problem.

What if you move from one State to another? The average American family now moves three times in the life of the family as children are growing up. What if you move? What if you get

transferred? You may not be covered. How do you know? Are you going to call the State capital and find out? We say: Cover them all. Cover all 75 million Americans who are working for companies that have insurance coverage. Cover all State and local government employees. Cover all people who have individual policies and, yes, cover everybody who is working for a self-insured company.

That is just one of the many differences—and we want to talk more about that in the future—but it is why we ought to have amendments. Some suggest let's just have an up-or-down vote on the Republican bill and an up-or-down vote on the Democratic bill. That will not cut it. We will not have an opportunity to talk about issues like this.

I really hope we will have the opportunity to have that debate in the next 2 weeks. We will have the opportunity, because if we cannot get an agreement, we will be forced then to offer it as an amendment to another bill.

#### WHO CALLS THE SHOTS ON CAPITOL HILL, THE GUN LOBBY OR AVERAGE AMERICANS?

Mr. DASCHLE. Mr. President, I want to briefly talk about another issue, because it is pending in the House at this time and I think it is very important to talk about the gun control issue.

Last month, the day before the Senate voted to close the gun show loophole, a prominent Republican Senator made a prediction. He said it really did not matter how the Senate voted, because the House would water down any gun restrictions we pass.

That is what was predicted. The gun lobby and its supporters in the House have now made good on that threat. But even though we were warned, we are still stunned that the power of one lobbyist organization can be so demonstrably effective as they appear to have been thus far.

The gun lobby's approach to gun control in the Senate was a sham. It is a sham in the House. The first House Republican leadership announcement was that they would divide the juvenile bill into two separate bills: one focusing on youth crime and culture, the other on gun control.

We all recognize what that announcement was. It was a move to dilute or even kill the modest gun control measures that had passed in the Senate just a few short weeks ago. Now the House Republican leadership has decided not to bring its sham bill to the floor of the House until 8 o'clock tonight, well after the evening news. I think we know why. The pro-gun forces clearly do not want the American public to know what is going to happen after 8 o'clock tonight.

It may be after 8 o'clock tonight when the House begins its gun debate, but it is certainly high noon for those of us who care about this issue. It is time we find out who is going to win