privacy regulations and the drug companies using that information, which is extremely personal, to try to sell us something.

I do not have any argument with the lifesaving benefits that are provided to all of us because of the work done by pharmaceutical manufacturers. Their role in the American health system is not only vital but should be rewarded through exclusive patents on their discovery for the full patent term of up to 20 years, as set forth by one of our colleagues and a colleague from the House in the Hatch-Waxman bill passed years ago.

However, Hatch-Waxman represented a carefully crafted balance designed to make the American consumer—the American patient—the ultimate beneficiary. On the one hand, Hatch-Waxman established full restoration of the monopoly patent time for a brand name drug as an incentive for real innovation. On the other hand, Hatch-Waxman ensured that after the monopoly term ended, the consumer would get the benefit of competition because there would no longer be an exclusive right to manufacture and market that drug.

We know the consumer will get benefits with lower drug prices and generic versions which are just as good as the brand name patented versions. Generic drugs share the same active ingredients as the brand name drugs but, as this chart shows, the generics are usually considerably less expensive. Generic drugs have also increased in price but at a much slower rate than brand name drugs have.

Generic drugs help keep prices down, particularly for our seniors. If you look at this next chart, it is a chart showing the costs that are involved in manufacturing and advertising drugs. It is very clear that the amount of money that is spent to market these drugs goes right into the cost of them. That $13,000 per doctor, that has to be paid by somebody, and we are the ones who end up paying for it.

It is important to protect innovation. Nobody wants to undermine innovation. But in recent years, drug companies have clearly taken advantage of these loopholes to keep generics off the market. What we have found is that the brand name manufacturers are frivolously listing patents not because the generics will infringe on the patents but simply to force generics to certify that those patents are invalid in order to get the lower priced generic drugs to market. The reason is that forcing this certification gives the brand name drug an automatic 2½-year extension, called a 30-month stay, on their monopoly, regardless of the merits of the patent.

Let me give you a few quick examples.

There is a medication called Pulmicort, which is an asthma medication. In addition to all the patents on the compound—in other words, the active ingredients that are in the drug that makes it work for asthma—in addition to all the patents on the compound, on its use, and on its formulation, they have a patent on the container, which is in what is called the Orange Book. The container may be a really nice container, it may look great inside your medicine chest, but when a generic company is seeking to make a pill for asthma, it is not trying to make the bottle, it is trying to make the pill. So a patent on the bottle should not prevent the generic version of the drug from coming to market.

In addition, we know that some drug companies make sweetheart deals with generic companies, literally paying them—I would say bribing them—to stay off the market, which under one of the loopholes in the current law means that other generics also have to stay out of the market.

So generic X comes and says, we are going to the market with this drug, and the big drug company says, we will pay you not to; and they say, OK, we will not. That means nobody can come with a competitive drug that will do the same thing at a lower price.

I support adequate patent terms for pharmaceutical manufacturers to conduct research and development, which all of us know is high risk and high stakes, but the best way to encourage that research and development is a prospective approach rather than a patent extension after the fact.

Companies, as we know, have been maneuvering at the 11th hour just as their patents are about to expire. This legislation, the underlying Schumer-McCain legislation, is intended to prevent that.

So let's do the right thing. Let's get our generic manufacturers a level playing field. Let's get a prescription drug benefit for our seniors. And let's send a message to America that we want to treat people fairly in this great country of ours.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THOMAS. Madam President, how much time is remaining on the division in morning business?

The PRESIDING OFFICER. Five minutes is remaining in morning business.

Mr. THOMAS. That is the share the Republicans have?

The PRESIDING OFFICER. That is the current share, yes.

Mr. THOMAS. I wish we could have divided the time up if we say we are going to.

The PRESIDING OFFICER. The Senator from Pennsylvania was accorded, I believe, 15 minutes.

Mr. THOMAS. And we were accorded 30 minutes, and we didn't get 30 minutes.

PRESCRIPTION DRUGS

Mr. THOMAS. Madam President, I will take just a short time to talk a little bit about pharmaceuticals. Obviously, there are different ideas about that. Indeed, there should be. We are on the floor again, however, without having a committee suggestion to follow, so it will be difficult for us. But certainly we need to do that.

I suggest that the tripartisan bill that is before us is probably the one that is most likely to get support. Indeed, it is the only bipartisan plan in the Senate.

We truly talk about finding common ground traditionally between the views. I think that is a good idea. This bill reforms Medicare and provides prescription drug benefits which will ensure that seniors do have coverage.

The proposal, if it had been debated, I think would have come out of the committee as the one selected. The tripartisan bill spends about $330 billion over 10 years for drugs, which is more than some of the bills, but is considerably less than the one the Democrats have put forth. So this, perhaps, is a reasonable compromise between those proposals.

I think the Democrat bill is unofficially scored at $500 billion for 5 years, and then it expires. So I think that is one of the difficulties, the idea that it expires.

The tripartisan bill also spends $40 billion to make some long overdue changes in Part B and Part A so seniors will have health coverage. So there seems to be quite more available there than in the alternatives. I hope we do something.

Just to comment, one of the things that, of course, we are dealing with—we have talked about, and I think has merit—is the idea of reimportation. That is kind of what is on the floor at the moment. I think there is some merit in that. I do not believe it is the final solution. Indeed, as it gets into operation, we may find it more difficult than it has been.

I think the Cochran amendment, that was passed yesterday, is very useful in terms of safety as it relates to the bill. I do think we ought to go a bit further; that is, I think there ought to be some labeling so that consumers have the opportunity to choose whether or not they want to take on the reimported drugs that have gone through Canada, that may or may not have come from the United States in the beginning. So I do think perhaps we ought to consider the idea, which can be very simple, to have it labeled that it is imported from Canada so people can, in fact, make those kinds of choices.

Mr. President, since our time has been used, I will yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BINGAMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. 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. MCCAIN. Mr. President, may I ask what the parliamentary situation is at this time?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5011, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The PRESIDING OFFICER. The Senator from Arizona controls 5 minutes of debate on this pending measure.

Mr. MCCAIN. Mr. President, I ask to be recognized for my 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MCCAIN. Mr. President, I regret that the managers are not in the Chamber, but I will proceed with my statement.

Regretfully, I rise yet again to address the Senate on the subject of military construction projects added to an appropriations bill that were not requested by the Department of Defense and are strongly opposed by the Office of Management and Budget.

This bill contains over $1 billion in unrequested military construction projects and includes hundreds of millions of dollars for Army and Air Force infrastructure projects relating to Interim Brigade Combat Teams, IBCTs, and C–17 Globemaster aircraft beddown military construction projects that the Senate Armed Services Committee has neither approved nor authorized for this purpose.

There are 29 members of the Appropriations Committee. Only one committee member has not added projects to this appropriations bill. Those numbers, needless to say, go well beyond the realm of mere coincidence. Of 116 projects added to this bill, 91 projects, representing 80 percent of all projects, are in the States represented by the Senators on the Appropriation Committees, totaling over $728.1 million.

Every year, I come to the Senate floor to highlight programs and projects added to spending bills for primarily parochial reasons. While I recognize that many of the projects added to this bill may be worthwhile, the process by which they were selected is not.

By adding over $1 billion above the President's request, the Appropriations Committee is further draining away funds desperately needed for transformation. But such short-sightedness is pretty much the norm for Congress. Common-sense reforms—closing military bases, consolidating and privatizing depot maintenance, ending ''Buy American'' restrictions, and ending pork-barrel spending—that I have long supported would free up nearly $20 billion per year which could be used to begin our long-needed military transformation.

But all too often Congress fights these reforms because of home-State politics. As a result, the Defense Department looks elsewhere to find the resources. For example, according to a Baltimore Sun article, ''Pentagon To Consider Large-Scale Troop Cuts,'' the Department is considering cutting nearly 100,000 troops ''to free up money'' for transformation. I would oppose this and we will debate this another day, but I certainly understand the pressure that Secretary Rumsfeld and the Joint Chiefs are under because of Congress' continuing parochialism as evidenced once again by the military construction bill before us.

Included in the Senate Appropriations Committee's report are the words: ''The Committee strongly supports the authorization-appropriation process.'' That is news to many of my colleagues. If that statement is true why would over $550 million in military construction projects be added without prior Senate Armed Services Committee authorization. It could be that many of these projects would be acceptable after going through the normal, merit-based prioritization process. But the Appropriations Committee decided to do otherwise.

Two rather large additions—totaling $200 million—for large military construction projects for Interim Brigade Combat Teams, IBCTs, facilities and the C–17 Air Mobility Modernization Program are examples of the committee's disregard for the authorization process. The committee report justifies these add-ons on the grounds that ''the war on terror has placed new demands on all elements of the military'' and ''military construction timetables developed prior to September 11 are no longer sufficient.'' War profiting is what it is all about. Because of this, the report continues, ''the committee believes that it is imperative to accelerate the Army and Air Force transformation programs.'' There is no mention of Navy and Marine Corps transformation programs. The committee report leads one to ask how the Navy and Marine Corps got it right and the Army and Air Force missed the boat.

The committee's justification for adding $200 million for the IBCTs facilities and new hangars for C–17s, C–5s and C–130s under the Air Force Air Mobility Modernization program is at odds with the facts. The President's budget was sent to the House and the Senate in February—a full 5 months after September 11. Since September 11, the President and his Secretary of Defense have officially forwarded to Congress the Fiscal Year 2002 Supplemental Appropriations bill—which we have not passed—and recently a formal description of how the Defense Department will spend the $10 billion war reserve fund set-aside in the Defense Emergency Response Fund that the President requested for the war on terrorism. Let me ask: did anyone on the Appropriations Committee inform the President that his budget proposal was not ''sufficient''? I know the answer is no.

Let me share some critical facts that were left out of the committee report related to the $200 million in additional funding added for these key programs. It is common knowledge that nearly all the IBCTs will initially be stationed in Alaska and Hawaii and will require a significant increase of infrastructure. General Shinseki has supported testing the IBCT concept in Alaska and Hawaii and then expanding the concept elsewhere. However, in putting together the Army budget, the Chief of Staff of the Army, the Secretary of the Army, and the Secretary of Defense weighed all the other Army priorities and decided that their were more critical funding issues than to accelerate an already robust IBCT program and adding $100 million more for facilities construction.

Likewise, other facts left out of the Appropriations report related to the $100 million in accelerated funding for the Air Force Air Mobility program should be known:

The Air Force did not request this funding;

The requirement for accelerating funding is not on the Air Force Chief of Staff's ''Unfunded Requirements List'';

Nor does it appear in the Secretary of Defense's Wartime Fiscal Year 2002 Emergency Supplemental Appropriations request;

Nor does the requirement to accelerate funding for C–17 hangars show up on the war reserve fund set-aside in the Defense Emergency Response Fund (DERF) that the President recently submitted to Congress as an Fiscal Year 2003 budget amendment for the Department of Defense for expenses relating to the war against terrorism; and

Moreover, over 80 percent of the total $1.6 billion military construction projects under the Air Force C–17 Air Mobility Modernization program will be built in just 4 states: surprise, surprise California, West Virginia, Alaska, and Hawaii—how surprising.

Funding $200 million for IBCTs and C–17, C–5 and C–130 hangars—as part of a larger 4-5 billion dollar program—was simply not authorized by the Armed Services Committee in its recently passed bill. I attended more than 10 hearings on Armed Services this year, and I cannot remember a single instance in which an argument was made in support of accelerating this funding.

Separately, I am at a loss as to the rationale for including in this bill certain site-specific earmarks and directive language. For example, in time-