

statement about this program money being cut. I do not think his heart was in it, and I am certain his head was not, but I guess there are certain things one has to do. I hope he will not be doing other things like this that appear on the surface so wrong and something he apparently disagrees with so vehemently.

Mr. President, I ask unanimous consent that during the call of the quorum, which I would suggest, the time be charged equally against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MEDICAL MALPRACTICE

Mr. THOMAS. Mr. President, I will visit for a few minutes about medical malpractice, which we will deal with tomorrow. Part of the bill originally had to do with pharmaceuticals. We have had a hard time focusing on pharmaceuticals. The amendment I will discuss expands health care access and has to do with the additional cost brought about by the difficulty arising with lawsuits and medical liability. We need some reform in this area.

In my State of Wyoming, the Wyoming Medical Society has been very concerned. Insurers have been pulling out of the markets or increasing premiums that are above affordable levels. It is a substantial problem. The crisis is now in Casper, WY. Of course, it is all over the country as well. We are beginning to lose some of the practitioners. That is difficult, particularly in an underserved area.

I rise today to support the McConnell amendment on medical malpractice tort reform. The Senate passed this exact language in 1995. There is little reason we should not pass it again. Physicians alone spent \$6.3 billion in malpractice insurance premiums last year. This does not include what other providers such as hospitals have paid. This amendment is a good step in the right direction to reduce or limit the cost of health care to all persons.

The McConnell amendment does a number of things, all of which are very important and necessary. It limits punitive damages to two times the sum of compensatory damages. The amendment only allows punitive damages in cases where the award has been by clear and convincing evidence. It also places limits on attorney's fees, limiting lawyers to collecting a third of the first \$150,000 of an award and 25 per-

cent of the award for amounts above \$150,000. It requires lawsuits be filed within 2 years of the claimant's discovery of the injury. It encourages States to develop alternative dispute resolution mechanisms to help resolve issues before the court.

It seems to me it is a step in the right direction in doing something about these costs. Some of the premiums that physicians are required to pay to practice are amazing. The result is many retreat from practice are particularly those in Medicare where relatively low fees are being paid.

Median malpractice awards increased by 43 percent in 2002 to \$1 million; 52 percent of all jury awards are now over \$1 million. These excessive awards only contribute to the overall costs of health care for all Americans. Since awards drive up malpractice premiums and physicians must pass that on to their consumers, health insurance premiums for everyone continue to go up.

Many Americans are not now able to afford health insurance. They are currently 40 million uninsured Americans.

Recent reports show that medical malpractice is responsible for 7 percent or \$5 billion of the overall increases in health care costs. Last year, one of the largest physician insurers in the Nation stopped its medical malpractice business. As a direct result, some doctors and hospitals see their premiums rising 20 to 100 percent. Some specialists are paying over \$100,000 a year in premiums. Obstetrics is a particular problem. Hospitals in two rural counties in West Virginia have stopped delivering babies; half of 93 obstetricians in Clark County no longer accept new patients. One Nevada obstetrician closed her 10-year practice after her malpractice premiums went from \$37,000 to \$150,000. All of this, of course, must come from the patients.

It is clear something needs to be done to address this growing crisis. According to the American Medical Association, 12 States are in crisis now; 30 are showing signs of being in crisis; 8 are currently OK.

I hope as we talk about this tomorrow, we can do some things that start us moving in the right direction. The cost of health care is certainly an important issue to all of us. We have to deal with it in pharmaceutical costs. We have sought to deal with it by getting physicians into underserved areas by various means. But one of the ways that is important and has changed is the matter of the cost of medical malpractice tort reform. I hope we can deal with it tomorrow.

I yield the floor.

The ACTING President pro tempore. The Senator from Pennsylvania.

#### THE MINERS AND SOMERSET COUNTY

Mr. SPECTER. Mr. President, I have sought recognition to speak about the gallant men, nine miners from Somerset County in my State of Pennsyl-

vania, who went through a most extraordinary ordeal—77 hours trapped in a mine. The eyes and ears of the world were on Somerset County, people wondering if it was possible for men in an underground mine shaft, immersed in water reportedly 4 feet to 5 feet high, no food, no communication with the outside world—people wondered whether those men could survive. Almost in a miraculous way, finally, through the extraordinary efforts of Federal, State, and local rescuers, those nine men were rescued at 2:44 a.m. on Sunday, just yesterday. Their ordeal started on Wednesday, July 24, at 9 p.m., and ended on Sunday morning, July 28 at 2:44 a.m.

People are in amazement around the world, at their successful rescues. It is very unusual, very odd to say the least, that a small county in western Pennsylvania, more than 50 miles southeast of Pittsburgh, would be the focus of so much international attention.

Last September 11, as we all know, a flight crashed into Somerset, one of the four hijacked by terrorists on September 11, the flight widely believed to be headed to this building, the Capitol of the United States. No one can be sure—some have speculated it might have been headed to the White House—but the speculation was that the plane which crashed into the Pentagon was headed to the White House.

In any event, Somerset County was the site of an international tragedy less than a year ago. It is more than lightning, but to have lightning, so to speak, strike twice in such a small county in western Pennsylvania is unusual. But this time, instead of tragedy, instead of the loss of lives, these men were rescued.

In an era where there is so much bad news around the world, so much difficulty with terrorism around the world, the problems with the Palestinian terrorists against Israel, the grave difficulties between India and Pakistan over Kashmir, the differences and fighting between the North Koreans and South Koreans and all the problems of Africa—and that litany could be the subject of a lengthy conversation—to find a bright spot, find a success, find a rescue, is certainly more than a breath of fresh air for the entire world but especially, of course, for the miners who were involved: Mr. Randy Fogle, Mr. Harry Blaine Mayhugh, Mr. Thomas Foy, Mr. John Unger, Mr. John Phillippi, Mr. Ronald Hileman, Mr. Dennis Hall, Jr., Mr. Robert Pugh, and Mr. Mark Popernack.

Representing Pennsylvania, as I have for some 22 years now, I have obviously been intimately connected with the issue of the coal miners, with some 30 billion tons of bituminous in western Pennsylvania and 7 billion tons of anthracite in northeastern Pennsylvania and the mining industries being struggling industries, this industry has taken up a great deal of time—not only of mine, but of the entire Pennsylvania delegation, really beyond the Pennsylvania delegation.

I have had occasion to go underground. I must say it is an eerie, desolate feeling to take one of those elevators down about 20 stories and then hunch over, in the miner's gear with a little light on your cap, and lean backwards in a rail car which moves several miles underground because you can't sit up straight, there isn't sufficient room. I have marveled at the courage and the tenacity of the miners who go into those deep mines, day after day after day, risking life and limb.

There was a time not too long ago when a thousand miners a year were killed there. Fortunately, with mine safety, that situation has improved materially, but it is still a very risky line of work.

I got through today to Mr. Ron Hileman who lives in Gray, PA, and talked to him about his experiences. As you might imagine, he is a real hero. When I said to Mr. Hileman that he was a hero, he dissented, but that is the way heroes are. They do not acknowledge being heroes.

We talked about being in that enclosed area with 60 million gallons of water pouring in. A miner of 27 years with a wife and two children, of course, the joy in the Hileman family was overwhelming. Mr. Hileman expressed his own very deep gratitude.

I asked him what had happened. I asked him if the maps might have foretold the problem.

He said no because the maps did the best they could. But when other miners came in adjacent, as Mr. Hileman put it, some of the miners would snatch a little extra coal—go a little extra distance and go beyond the line which they had and into another area. Then, when the miners went down there last week, they ran into an old mine shaft. The old mine shaft had caused the enormous problem with the flooding.

I want to pay tribute to Pennsylvania's Governor, Mark Schweiker, an international figure, a hero in his own right—and for good cause—on the job, persevering, leading Federal, State, and local officials, meeting with the families. I talked to him over the weekend and he was there, on the job, and certainly deserves the commendation, not only of Pennsylvania but the commendation of the Nation, the commendation of the world.

This accident points up the need for greater concern for miners' safety as they are performing very important work, providing energy, providing coal, providing a resource in our effort to try to free ourselves from the dominance of OPEC oil. With progress in clean coal technology, as I have said on this floor on many occasions, the coal industry across America, Pennsylvania, West Virginia to Wyoming and beyond, could provide that alternative source of energy.

When I look over what we have done on the subcommittee for the Department of Labor appropriations going back to September of 1981, there were efforts to reduce the mine surface in-

spections from twice a year to once a year. Many of us resisted, and that was stopped.

We had a mining hearing August 1991 where there were operators who were tampering with coal mine dust devices. Then there have been efforts made to cut the Mine Safety and Health Administration repeatedly.

This body, the U.S. Senate, and Senator HARKIN, as ranking member in 1995 when I took over the chairmanship, and now Senator HARKIN as chairman, on a bipartisan approach has maintained the safety funding so that where there have been efforts to cut, we have resisted. We maintain the black lung clinics.

I believe that this is a good day for the United States and the U.S. Senate to pay tribute to the coal miners of America for what they are doing for the Nation by providing needed energy for domestic purposes and also for national security.

Especially thanks for the rescue of the nine mine workers; and we pay tribute to those men and their families and to the heroic rescuers led by Governor Schweiker that brought them to safety.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, how much time remains on our side?

The ACTING PRESIDENT pro tempore. Seven minutes 43 seconds remaining.

Mr. ENZI. Thank you. I have a more extensive speech, but I will limit my remarks so that the Senator from North Dakota will have his full time.

#### FOREST MANAGEMENT

Mr. ENZI. Mr. President, I just returned from a normal weekend. On Fridays, my wife and I usually go to Wyoming, and we come back on Sunday night, which actually turns out to be Monday morning by the time we make the trip. This time I was able to concentrate a little bit of time in the area just outside Yellowstone Park, on the east side of Yellowstone Park between Cody and the park. I was there last year.

There was a fire inside Yellowstone Park. I wanted to see how the new fire plan was working. I got a very extensive and excellent tour. It was educational, but it pointed out some problems that need to be taken care of in the West.

Of course, those problems wouldn't be quite as extensive except for the drought we are having. This is the third year of the drought in Wyoming. One of our lakes in the northern part of the State that drains up into Montana is dropping almost 2 feet a week. It is down 125 feet from its normal level. Most lakes in the Nation would be dry if they were down 125 feet. This one still has some water, but it doesn't have boating anymore. That not only affects recreation in the area; it affects

the communities in the area because they do not get the revenues they would normally get from tourism and visitors.

Ranchers are having to sell off their herds. They don't have any grazing because of the drought. This is the third year they have had to diminish their herds. Most of them are completely wiped out from that aspect.

We have another little problem. That is the way the Tax Code is arranged. The Tax Code says if you have to do an emergency sale and you have some revenue in the next 2 years you can apply that so you don't have to pay taxes. They have been wiped out with the herds, and they are going to have to pay taxes because there is no revenue to take it against.

There are many peripheral issues that happen with the drought.

We need to concentrate in this body on fire prevention in our forests. This is what some of the forests look like right now—just tremendous blazes. You can see the way the tinder lays up in layers. It forms a chimney, and it goes to the top of really big trees. When it gets to the top of the trees, the fire itself creates a wind. The wind will sway the trees, and the trees throw the crown a half mile away to start another fire. Once a fire starts, it can be very extensive.

We have a new plan that says put it out as soon as you can. That is helping tremendously. We used to let it burn. We tried to do some of what they call natural foresting. When natural foresting was actually natural foresting, there weren't people inhabiting those areas.

In this particular area near Yellowstone, there is a huge pine needle forest because of pine bores. They bore into the trees when they are young. They eat a circle around the tree, and it kills the tree. Then the tree looks rusty. The next year and the year after, all the needles are gone, and it is just a standing dead pine tree.

Of course, the best time for it to burn is when it is all rusty. When the needles are dried out and they burn, they form a chimney effect, going up to the top of the tree. That is how huge parts of the forests are between Yellowstone Park and Cody, WY, right now.

Those trees need to be taken out. If they are not taken out, a Boy Scout camp, 12 lodges, and 68 homes will go up in smoke.

Last year, when there was a fire in the park, they pointed out the pine needle forest and the need to get those trees taken out. I have been working on that since then. We haven't been able to get it done. There are a few very easy court actions that can prohibit that sort of thing from happening. But it is absolutely essential.

Those lodges have post-evacuation plans. As the fire starts, they have to call all their guests in and explain how they are going to be able to get out of this valley to keep from being trapped by the fires, fires such as these where