

the job done. I am hopeful this year will be different for several reasons.

First, our seniors need our help now more than ever. They shouldn't have to make tough decisions about which prescriptions they can afford to fill each month, or whether or not they should divide pills or skip meals.

This is one of the biggest issues we hear about from our constituents. There are a lot of Kentuckians who would benefit. Almost 144,000 seniors in Kentucky are below 200 percent of poverty, and almost 58,000 are below the poverty level.

Second, this budget resolution sets aside \$400 billion over the next 10 years to create a medicare drug program. This is a great increase over what the President proposed before and shows his dedication to this issue.

In fact, the President proposed \$153 billion for Medicare prescription drugs in his fiscal year 2002 budget.

For fiscal year 2003, this number increased to \$190 billion.

And for fiscal year 2004, President Bush has more than doubled last year's amount to \$400 billion.

For Congress's part, this \$400 billion figure is also a substantial increase.

In the fiscal year 2001 budget resolution, we set aside \$40 billion over five years for a Medicare prescription drug benefit.

In the fiscal year 2002 budget resolution, Congress allocated \$300 billion over 10 years.

Of course, last year, we didn't pass a budget. And, this year, we have set aside \$400 billion over 10 years.

Third, the finance committee will be allowed to consider and report a bill to the floor this year. And I am hopeful we can avoid many of the problems we encountered last year.

Last year we voted on four prescription drug proposals. But because the bill didn't come from the finance committee as it should have, all these proposals required 60 votes to pass. Needless to say, none came close.

Also, these four proposals ranged widely in price from as low as \$295 billion to over \$600 billion. The tri-partisan plan, which I and many of my colleagues voted for, was estimated to cost \$370 billion over 10 years.

We have a real chance for a bipartisan effort this year. An overwhelming majority in this body have indicated their support for a Medicare prescription drug benefit.

I urge my colleagues to vote for this resolution. It will create jobs if we can pass it with the President's job and tax package in tact. And the Medicare prescription drug benefit package it includes is what seniors not only need, but what they deserve.

The PRESIDING OFFICER (Mr. TALENT). Who yields time?

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I yield to my colleague.

Mr. CONRAD. Mr. President, I yield back our time.

The PRESIDING OFFICER. All time is yielded back.

Mr. NICKLES. I thank my colleague from North Dakota.

We have now completed the debate and discussion time for consideration of the budget resolution. The statute calls for 50 hours. We have yielded back a few hours, but for the most part we have probably spent some 40-odd hours on the floor of the Senate debating and discussing various amendments. It has been a very high level debate. We considered several amendments. We have adopted amendments. We have agreed to adopt additional amendments.

Unfortunately, as sometimes happens in budget resolutions, when we conclude the scheduled time for debate, the 50 hours, we have not dealt with all the pending amendments. We still have many amendments. Sometimes that leads to a lot of votes. So tomorrow we will begin that. We will begin it at 9:45.

I urge all my colleagues to be here and, for the most part, to stay on the floor. We will work with all of our colleagues who have amendments filed or pending or feel that they are compelled to offer amendments. We encourage them not to. But knowing a little history, I would expect a lot of rollcall votes tomorrow. I will say on behalf of colleagues on my side and others, we will be happy to work with colleagues. I would hope that maybe we could get some amendments accepted by voice vote, or maybe the sponsors of the amendment might decide it might be a better time to offer their amendment at another date for which we would give them great credit and applause. Regardless, I expect that we would have a lot of votes beginning at 9:45 tomorrow morning.

I expect the time for the votes will be limited to 10 minutes for the information of our colleagues. We will provide periodic breaks for individuals so they can have maybe some chance for us to regroup and reconsider the order and priority of amendments.

Mr. President, I ask unanimous consent that 9:45 the Senate proceed to votes in relation to the following amendments in the order mentioned: Schumer amendment No. 299; Cochran on homeland security; Feingold on war reserve; Lautenberg on defense; Hollings on no tax cut; Sarbanes on a water related amendment; Crapo on a water related amendment; Conrad on IDEA, Gregg on IDEA; and Senator MIKULSKI on long-term care.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. No objection.

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

Mr. NICKLES. I thank my colleague, Senator CONRAD. He has been a pleasure to work with through the first several days of this resolution. I expect that we might have a long day tomorrow. I hope not. But we will be in as long as necessary to complete this resolution, and I encourage all of our colleagues, tomorrow is a good day to at-

tend if you want to improve your voting record. It is not a good day to miss if you want to have a good voting record for the year.

Mr. CONRAD. Mr. President, let me thank my colleague, the chairman of the committee. He has been gracious throughout this process and a gentleman. I have very much enjoyed working with him.

The fact is, now we have over 90 amendments pending at the desk—I think 93. At 10 minutes apiece, that is over 15 hours of voting, and that is if we voted every 10 minutes. We all know that won't occur. So we would be talking about a very long day tomorrow.

I will just send a message out to any of our colleagues or any of their staffs who are listening, to those who have amendments pending: If this is something that you think is a good idea but you really don't need to do now, that you could offer on an appropriations bill or some other vehicle, we encourage you to do that.

This is a very difficult process. I think the record is 34 votes in a day. I remember that day. I think the chairman remembers that day. It was not pretty. I don't look forward to a replication. But that is what the rules are. That is where we are. The only way it is going to be better is if we use restraint. I just hope colleagues and staffs are listening and that tomorrow restraint is demonstrated. We don't need to vote on every one of these 93 amendments.

The chairman and I will work diligently to try to clear amendments, to get agreement on amendments, to work through amendments that could be accepted. We ask our colleagues, we implore them to work with us tomorrow, to avoid this being an unpleasant and unproductive experience.

Again, I thank the chairman and our colleagues who have worked cooperatively today to make progress.

Mr. NICKLES. Mr. President, I thank my friend and colleague, the ranking member of the Budget Committee. He is exactly right. There are 90-some amendments. I would hope most of them would not be called up, and I hope the balance will be voice voted, and maybe we will have a couple rollcall votes and finish at decent hour.

I would like the Senate to conduct itself in a way that we would be proud. In years past that has not always been the case, when we are doing these rapid fire amendments.

---

#### MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to a period for morning business.

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

---

#### BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL WEAPONS COUNTERMEASURES RESEARCH ACT

Mr. HATCH. Mr. President, I rise to speak about my cosponsorship, with

Senator LIEBERMAN, of the bipartisan Biological, Chemical, and Radiological Weapons Countermeasures Research Act of 2003. Senator LIEBERMAN and I also offered similar legislation, S. 3148, in the 107th Congress.

I think that when our colleagues, the administration, academic biomedical researchers, patient advocacy organizations, and the general public study the ambitious set of incentives contained in the Lieberman-Hatch bill, they will conclude that this measure can materially improve our national security. If adopted, this legislation will allow the families of Utah and in our sister states across America to live with a greater measure of safety.

Although this is a complex piece of legislation, its goal is simple. The Lieberman-Hatch bill will establish a unique public-private sector relationship that will result in stimulating the private sector to increase its scope and pace of research and development activities for a wide range of medical products intended to deter and respond to acts of biological, chemical, or radiological terrorism.

Senator LIEBERMAN and I believe that the best way to discourage and prevent acts of bioterrorism is to be able to demonstrate our capacity to develop, produce, and distribute biological, chemical, and radiological weapons countermeasures.

In short, if our medicine chest is full and we show the world that we have the ability to rapidly discover new countermeasures, we will decrease the likelihood of ever having to deploy these countermeasures in the first place. For example, in the last 18 months we have made great strides in ramping up production of, and our capacity to distribute, smallpox vaccine. In fact, few, in any, countries could respond more effectively than the United States to the introduction of smallpox. Our enemies in Baghdad and those hiding in mountains of Afghanistan might do more harm to themselves and their neighbors if a worldwide smallpox outbreak occurs.

Unfortunately, there are dozens, and perhaps many more, biological and chemical threats for which we have no adequate response. As well, this latest outbreak of antibiotic- and antiviral-resistant pneumonia points out the need to develop responses to new public health threats whether they are spread intentionally or naturally. This bill tries to create a new paradigm for the development of vital bioterrorism countermeasures that could also serve as a model for stimulating private sector drug discovery activities in other important areas such as cancer, heart disease, and infectious and rare diseases.

Senator LIEBERMAN and I praise the work that has already been done to help our nation meet this new type of threat. Senators BYRD, STEVENS, SPECTER, and HARKIN made available a substantial amount of new resources immediately in the aftermath of the Sep-

tember 11th and the October, 2001 anthrax attacks.

Last year, Senators GREGG, KENNEDY, and FRIST led the effort to pass important bioterrorism legislation to improve the public health infrastructure so that our country can better respond to public health emergencies.

The Bush administration is currently working closely with Congress on the Project BioShield program. We salute these efforts. We are pleased that the Administration is now embracing the concept of a guaranteed market that was part of last year's Lieberman-Hatch bill, S. 3148. We urge the Administration and Congress to adopt other critical features of Lieberman-Hatch.

The Lieberman-Hatch bill is a bold attempt to move the ball closer to the goal line. Our bill attempts to complement all the previous efforts to build up the capacity for public sector responses with a set of incentives designed to unleash the creative genius and substantial resources of the private sector actors within our Nation's biomedical research enterprise.

Let me quickly summarize the major features of the bill.

The Department of Homeland Security sets the countermeasures research agenda so that firms know beforehand the research targets. Interested companies register with DHS and become obligated to report their activities and subject their plants to inspection.

The legislation allows a participating company seeking to fund eligible research to elect from among four types of tax incentives. First, we provide for the establishment of R&D limited partnerships. Second, we create the authority for qualified firms to issue a new class of stock that would be subject to no capital gains tax. Third, we create a new tax credit to help fund the research. Fourth, we allow for a special tax credit for research conducted at non-profit and academic research institutions.

Anyone familiar with the current dismal financial state of affairs within the biotechnology industry will understand the attraction of these tax provisions. Many struggling firms might find it prudent to explore the benefits of adjusting their research portfolios to include countermeasure research and development.

The legislation authorizes funding for a program whereby companies successfully developing countermeasures that secure FDA approval can be guaranteed a market at a pre-negotiated price and pre-negotiated quantities.

Our legislation also contains some fundamental revisions in pharmaceutical intellectual property laws. As author of the Drug Price Competition and Patent Term Restoration Act of 1984, I hold these provisions near and dear.

Essentially, the bill adopts a policy of day-for-day patent term restoration for each day lost during FDA review. Under the current provisions of the 1984 Hatch-Waxman law, no patent may

be restored by more than five years and then only if the effective patent term does not exceed 14 years regardless of whether the FDA review takes longer than five years.

The legislation also grants a ten year period of marketing exclusivity for any approved countermeasure, regardless of a product's patent status. This means that FDA could not approve a competitor product until that period expires. This provision operates in parallel with patent protections and serves as a floor time period during which generic versions of the pioneer countermeasure product could enter the market. Current U.S. law only provides for a five year marketing exclusivity period while most European Union countries and Japan already provide a ten year marketing exclusivity period.

The Lieberman-Hatch bill also allows certain types of biotechnology companies, specifically those with less than \$750 million in paid-in capital, to extend any patent by two years if the firms successfully develop a countermeasure.

I can tell you that these substantial changes in the area of intellectual property will get a positive reaction in corporate boardrooms; resources will flow in the direction of products eligible for these new intellectual property protections and products will be developed to help our country respond to bioterrorist threats.

In addition to the guaranteed market provisions, targeted tax breaks, and intellectual property incentives, the Lieberman-Hatch legislation also contains liability provisions; accelerated FDA approval procedures, and a limited antitrust exemption.

In summary, the Lieberman-Hatch bill contains an array of incentives designed to spur a robust response from the private pharmaceutical sector. If we are going to increase our ability to defend the American homeland, we need to be certain that both the public and private sectors' are fully engaged. That is exactly what our bill will help accomplish by unleashing the energy and resources of those private sector firms engaged in biomedical research and development.

I urge all of my colleagues and others with an interest in homeland security to study the bipartisan Lieberman-Hatch Biological, Chemical, and Radiological Weapons Countermeasures Research Act of 2003. I believe that when our legislation is examined, it will attract broad and strong bipartisan support.

Let me close by commending my friend from Connecticut, Senator JOE LIEBERMAN, for his vision, energy, and leadership in this critically important area. I would also like to commend the efforts of our bipartisan group of partners in the House, Congressmen TOM DAVIS, CAL DOOLEY, CURT WELDON, and NORM DICKS.