1446(b) shall not apply), without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed by any defendant without the consent of all defendants.

''(c) REVIEW OF REMAND ORDERS.—

''(1) IN GENERAL.—Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), a court of appeals may accept an appeal from an order of a district court granting or denying a motion to remand a class action to the State court from which it was removed if application is made to the court of appeals not less than 7 days after entry of the order.

''(2) TIME PERIOD FOR JUDGMENT.—If the court of appeals accepts an appeal under paragraph (1), the court shall complete all action on such appeal, including rendering judgment, not later than 60 days after the date on which such appeal was filed, unless an extension is granted under paragraph (3).

''(3) EXTENSION OF TIME PERIOD.—The court of appeals may grant an extension of the 60-day period described in paragraph (2) if—

''(A) all parties to the proceeding agree to such extension, for any period of time; or

''(B) such extension is for good cause shown and in the interests of justice, for a period not to exceed 10 days.

''(4) DENIAL OF APPEAL.—If a final judgment on the appeal under paragraph (1) is not issued before the end of the period described in paragraph (2), including any extension under paragraph (3), the appeal shall be denied.

''(d) EXCEPTION.—This section shall not apply to any class action that solely involves—

''(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 (15 U.S.C. 78p(f)(3)) and section 28(f)(5)(E) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(f)(5)(E));

''(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

''(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) and the regulations issued thereunder).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

''1453. Removal of class actions.''.

SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

SEC. 7. ENACTMENT OF JUDICIAL CONFERENCE RECOMMENDATIONS.

Notwithstanding any other provision of law, the amendments to rule 23 of the Federal Rules of Civil Procedure, which are set forth in the order entered by the Supreme Court of the United States on March 27, 2003, shall take effect on the date of enactment of this Act or on December 1, 2003 (as specified in that order), whichever occurs first.

SEC. 8. RULEMAKING AUTHORITY OF SUPREME COURT AND JUDICIAL CONFERENCE.

Nothing in this Act shall restrict in any way the authority of the Judicial Conference and the Supreme Court to propose and prescribe general rules of practice and procedure under chapter 131 of title 28, United States Code.

SEC. 9. EFFECTIVE DATE.

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

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent there now be 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.

The Senator from Oregon.

MEDICARE PRESCRIPTION DRUG BENEFIT

Mr. WYDEN. Mr. President, the staggering cost estimates for the Medicare prescription drug benefit, coupled with the small number of seniors who have signed up so far, has threatened the very survival of this program. I do not want to see that happen, having voted for this program. I want to see the Senate take the steps to ensure that it works; that it delivers medicine to our seniors in a cost-effective way, and ensures that it reaches the hopes and expectations that millions of older people and their families have for this program.

The fact is, the Medicare prescription drug program now faces two very serious problems. The first is the skyrocketing cost. These are the costs we have been debating throughout the week, that have been far greater than anyone could have predicted.

A second problem may also herald very big concerns. To date, a small number of older people have signed up for the first part of the drug benefit, the drug card. So what you have is a pretty combustible mix. The combination of escalating costs and a skimpy number of older people signing up thus far raises the very real problem that a huge amount of Government money will be spent on a very small number of people. That is a prescription for a program that cannot survive.

I do not want to see that happen. As someone who voted for this program and worked with colleagues on both sides of the aisle to make this program work to meet the urgent needs of the Nation's older people, I think the Senate ought to be taking corrective action and take corrective action now, in order to deal with what I think are looming problems.

As I said, we learned a bit about the escalating costs of the program. But when you couple that with low levels of participation by older people, that is particularly troublesome. I think it is fair to say, if the drug card debacle—the first part of the program and the small number of older people signing up for the drug card continues into the full benefit phase of the program, what you have is a situation where I believe people are going to say this program cannot be justified at a time of scarce Government resources.

To turn for a moment to the drug card part of the program that I don't think has been discussed much lately, the choices are eye-glazing. There are more than 70 cards available; 39 you can get in any part of the country, the other 30-plus you can get only in some States. The Inspector General of the Department of Health and Human Services reported in an informal survey that the program information was confusing and inadequate.

What makes it amazing is that a lot of folks who were looking at it are people who were relatives of HHS employees. So you have a situation where even folks connected with those who would know a fair amount about this program are having difficulty sorting through it.

I have come to the floor today to try to sound a wake-up call, to say those of us who voted for the program, like myself, and those who opposed it, we ought to be working together on a bipartisan basis now to correct it. The first part of that effort should be to put in place sensible cost containment like we see in the private sector. It is incomprehensible to me that this program is not using the kind of cost containment strategies that you see in Minnesota and Oregon and all across the country.

The Medicare Program is pretty much like a fellow standing in the Price Club who buys one roll of toilet paper at a time. They are not shopping in a smart way. They are not using their purchasing power. I and Senator SNOWE have sought to correct that and

to take steps to use sensible cost containment strategies and ensure that the costs of this program are held down.

Second, I think we need to take steps to make sure that some of the mistakes of the past are avoided. CMS, the agency charged with dealing with this program, needs people with expertise to answer the questions of seniors and family members. There needs to be better information, on the net and elsewhere, that is not incomprehensible gobbledygook. Seniors are going to need information about real savings for each plan. Pie-in-the-sky projections, which is what they have gotten thus far, are not going to cut it. That is what we saw this week with respect to these cost estimates. Suffice it to say, the U.S. Congress is not satisfied.

I believe without effective cost containment and without good administration of the program, particularly as it moves into this next stage, we are going to see the bills continue to run up and we are going to see the participation of seniors continue to run down. That is a prescription for a Government program that cannot survive. I do not want to see that.

I stuck my neck out in order to get that legislation passed. I believe it can survive. Congress needs to hustle, now, to mend it, to mend it with sensible bipartisan cost containment along the lines of what is used in the private sector; mend it with changes in the way the program is administered so it goes into the second phase without some of the problems we saw connected with the drug card. I just hope, as a result of what the Congress has learned this week, that there has been a real wakeup call as to how urgent it is that Congress take these corrective steps and that Congress move quickly. I believe this program now, because of the huge new cost estimates and the problems with getting folks signed up, could well be headed for life support.

I don't want to see that. I think it would be a tragedy. I want the program that I voted for to work. That means it has to be supplemented with good cost containment and improvements in the way it is administered. I intend to work with my colleagues, particularly on the other side of the aisle—Senator SNOWE and Senator MCCAIN, who joined me in this legislation—to deal with the cost containment features, plus many colleagues on this side of the aisle who have bills of their own.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, my comments will come, appropriately, after the distinguished Senator from Oregon, about this program that was enacted a couple of years ago, the so-called providing prescription drugs for senior citizens. There are a number of Senators here who were promised, in order to get their votes, that this program would not cost more than $400 billion over a 10-year period. Of course, we know now that the result of the most recent studies is that it is not $400 billion, it is $720 billion. How many more cost estimates will go up and up?

There is one thing we can do to this legislation, legislation that this Senator didn't vote for because I thought it was quite flawed—not only the true costs, which we were not given, but the fact that we are not allowing the principle of private enterprise to function. There is a provision in the bill that specifically prohibits the Federal Government, through Medicare, from negotiating bulk rate purchases, thus bringing the cost of the prescription drugs down.

All of our colleagues embrace the private marketplace. Free market competition is where you can get the most efficient products at the least cost.

Why wasn't that same principle of free market competition allowed to work here in the purchase of prescription drugs for Medicare recipients? It is certainly not new to the Federal Government. We have done this for almost 20 years in the Veterans' Administration—for the VA contracts for the purchase of prescription drugs in bulk and, therefore, the cost of the drugs to the Veterans' Administration is considerably less than retail price.

If it is good for the Department of Veterans Affairs, why isn't it good for the rest of the Federal Government and for Medicare to do it? But we were not allowed to because the law specifically says we are going to violate the principle of free market enterprise, and you can't negotiate the price of the prescription drugs down. It seems to me that not only violates the principle, it violates good common sense.

Now what do we do? The news has come out. No, the bill isn't going to cost what was promised, $400 billion over 10 years; it is going to cost a minimum of $720 billion over 10 years. We had better be minding our Ps and Qs or else we are going to continue to bankrupt this country by using faulty mathematics.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for as much time as I consume.

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

(The remarks of Mr. DORGAN pertaining to the introduction of S. 355 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

PHARMACEUTICAL MARKET ACCESS

Mr. DORGAN. Mr. President, yesterday I and 28 of my Senate colleagues introduced legislation allowing the reimportation of FDA-approved prescription drugs from Canada and other countries. We have introduced legislation of this type before, but we have been blocked from consideration in the Senate. We do not intend to be blocked this year. We intend to get the Senate on record. We believe there are sufficient votes in the Senate to pass a bill dealing with the reimportation of prescription drugs. We very much hope we can get a bill to the President and have that legislation signed.

The 29 Senators who have reached agreement on this represent a broad bipartisan consensus in the Senate. That bipartisan group includes Senator SNOWE, Senator GRASSLEY, Senator KENNEDY, Senator MCCAIN, Senator LOTT, Senator STABENOW, and many others—a broad group of Republicans and Democrats joining together to try to put downward pressure on prescription drug prices.

Let me show two pill bottles in the Senate. These bottles held the drug called Lipitor, one of the most popular cholesterol-lowering drugs in America. Obviously, the Lipitor tablets that went into these two bottles are made by the same company. In each bottle, it is the same FDA-approved tablet, made by the same company in the same plant and put in the same pill bottle. The only difference is price. This bottle was sent to a Canadian pharmacy that paid $1.01 per tablet; this one was sent to the United States pharmacy that paid $1.81 per tablet.

Why are the Americans charged nearly double for the same pill, put in the same bottle, made by the same company? Because the company can and does call the shots. We do have price controls on prescription drugs in this country: it is the pharmaceutical industry that is controlling prices, and they have decided that the U.S. consumers should pay the highest prices in the world for prescription medicines.

Many of us believe that should not be the case. Miracle drugs offer no miracles to those who cannot afford them. We have so many senior citizens living on fixed incomes in this country who need prescription drugs. Senior citizens are 12 percent of this country's population. Yet they consume over one-third of all the prescription drugs in our country. That is why this issue is so important.

The reimportation legislation we have introduced is again a broad bipartisan agreement between Republicans and Democrats, one we intend to push to a vote. We believe it is finally time that we have a vote in the House and the Senate and get a bill to the President. We understand the President has not supported this. We understand the Food and Drug Administration has been very strong and assertive in saying there are safety issues with this legislation.

That, of course, is patently absurd. We have had testimony before the U.S. Congress that in Europe, for 20 years, they have done reimportation. In Europe, they call it ''parallel trading,'' where if you are from France and want to buy a prescription drug from Germany, that is just fine. If you are from