trend. Probably more than any other circuit in the America, the views of the Ninth Circuit are unquestionably out of alignment with mainstream America, and I believe the panel badly needs a sense of judicial balance. I do not believe that Judge Fisher would have helped to provide that balance.

AMERICA'S HEALTH CARE

Mr. GRAMM. Mr. President, I wish to bring to the attention of my colleagues one of the most insightful articles that I have read in regard to the most effective way to promote health care and patient's rights.

Written by Mr. M. Anthony Burns of Ryder System Inc., the comments appear on the op-ed page of yesterday's Washington Post. Mr. Burns speaks as the CEO of a company which provides health care benefits for 80,000 employees and family members. At a time when courage appears to be in short supply, it is refreshing to find a person who is able and willing to publicly examine a complex issue in such a lucid, thoughtful manner.

I encourage all my colleagues to read and consider carefully the analysis offered by Mr. Burns. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1999]

AN ASSAULT ON AMERICA'S HEALTH CARE

(By M. Anthony Burns)

As the CEO of a $5 billion transportation company, when I need legal advice, I listen to the experts. Congress should do the same when it considers the Dingell-Norwood ''Patients' Bill of Rights,'' which would allow patients to sue their HMOs but would also make employers liable in state court for the health care benefits they provide.

The sponsors claim their legislation includes an exemption to shield employers from liability, but Reps. John Dingell and Charlie Norwood are just dead wrong on that. A new study prepared by independent legal experts shows this so-called employers' ''shield'' is nothing more than a legal mirage that provides only the illusion of protection. In reality, very few companies could withstand the lawsuit exposure this bill would impose on every business in America.

David Kenty and Frank Sabatino, experts in employee benefits law and co-authors of the publication ''ERISA: A Comprehensive Guide,'' found that under the Dingell-Norwood bill ''employers would be subject to state law causes of action replete with jury trials, extra-contractual damages, and punitive damages.'' This would ''dramatically change the way that group health benefits claims are litigated in the United States,'' conclude the authors. ''Anyone who claims the contrary is simply failing to comprehend the thrust of the legislation.''

Trial lawyers could initiate lawsuits against employers based on a number of legal arguments, according to Kenty and Sabatino.

First, plaintiffs could argue that insurance companies or third-party administrators are merely the agents of the employer and therefore—shield language notwithstanding—the employer is also responsible.

Second, a lawyer could argue that by selecting one health care provider over another, the employer's discretionary decisions played an integral part in a particular employee/patient outcome.

Third, most employers commonly retain the right to override the decisions of their health care provider or fiduciary to enable them to serve as patient advocates for their employees. The Dingell-Norwood bill would turn that relationship on its ear, forcing most companies to abandon their advocacy role altogether.

Supporters of the lawsuit provisions scoff at the notion that trial attorneys would abuse the health care system or employers who provide insurance. Tell that to the West Virginia convenience store that got hit with a $3 million judgment when one of its workers injured her back opening a pickle jar.

The likely epidemic of litigation this kind of legislation would generate creates an impossible choice for employers. They can continue to provide health care coverage and risk financial disaster if they find themselves on the losing end of a health care lawsuit, whether they had anything to do with treatment decisions or not. Or they can stop providing health care altogether.

In fact, according to a recent survey of small business owners, six out of 10 reported they would be forced to end employee coverage rather than face this risk. Today my company, Ryder, provides top quality health care benefits to 22,000 employees covering more than 80,000 people. We monitor employee satisfaction with our health care providers, and we act as a strong advocate for employees in disputes with these providers.

But if Dingell-Norwood passes, we will be forced to seriously reevaluate whether and how we can continue to offer health benefits to our employees. As with most businesses today, the exposure could simply be too severe for us. It would put our traditional employer-provided system of health care at extreme risk.

Add rising health care costs to this new threat of expensive litigation and it's clear that this legislation is a prescription for disaster. Last year healath care costs went up 6 percent and the average employer spent $4,000 per employee on health care. This year, health care costs are expected to go up an average 9 percent, and potentially much higher for small businesses.

As a result, it will be harder for employers to offer health insurance and, as some costs are passed on, harder for workers to afford it. Research shows that every one percent increase in costs forces 300,000 more people to lose their health care coverage.

A lot of people agree that ''right-to-sue'' provisions don't make sense for either employers or employees. The U.S. Senate, 25 state legislatures and President Clinton's own hand-picked Health Care Quality Commission all refused to support similar provisions to expand liability.

Congress says it wants to make managed care more accountable, but Dingell-Norwood would only raise health care costs, increase the number of uninsured and punish the nation's employers who voluntarily provide health care to millions of American workers and their families.

This legislation isn't a ''Patients' Bill of Rights.'' It's a devastating assault on America's health care system, and Congress should reject it.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 5, 1999, the Federal debt stood at $5,657,493,668,389.71 (Five trillion, six hundred fifty-seven billion, four hundred ninety-three million, six hundred sixty-eight thousand, three hundred eighty-nine dollars and seventy-one cents).

One year ago, October 5, 1998, the Federal debt stood at $5,527,218,000,000 (Five trillion, five hundred twenty-seven billion, two hundred eighteen million).

Five years ago, October 5, 1994, the Federal debt stood at $4,692,973,000,000 (Four trillion, six hundred ninety-two billion, nine hundred seventy-three million).

Ten years ago, October 5, 1989, the Federal debt stood at $2,878,570,000,000 (Two trillion, eight hundred seventy-eight billion, five hundred seventy million).

Fifteen years ago, October 5, 1984, the Federal debt stood at $1,572,268,000,000 (One trillion, five hundred seventy-two billion, two hundred sixty-eight million) which reflects a debt increase of more than $4 trillion—$4,085,225,668,389.71 (Four trillion, eighty-five billion, two hundred twenty-five million, six hundred sixty-eight thousand, three hundred eighty-nine dollars and seventy-one cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 559. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building.''

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2606, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes

At 11:36 a.m., a message from the House of Representative, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate: