

rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) EMPLOYEE BENEFITS.—

(A) IN GENERAL.—An employee of the Commission shall be an employee for purposes of chapters 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) NONAPPLICATION TO MEMBERS.—This paragraph shall not apply to a member of the Commission.

(6) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) CONDITIONAL EMPLOYMENT.—

(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure that such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. SUPPORT SERVICES.

During the 180-day period following the date of enactment of this Act, the General Services Administration shall provide administrative support services (including office and equipment) for the Commission.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) INAPPLICABILITY OF FACAA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) PUBLIC ATTENDANCE.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. FUNDING OF COMMISSION.

Notwithstanding section 1346 of title 31, United States Code, or section 611 of the Treasury and General Government Appropriations Act, 1998, of funds made available for fiscal years 1998 and 1999 to the Departments of Justice, State, and any other appropriate agency that are otherwise unobligated, not more than \$3,500,000 shall be available for the interagency funding of activities of the Commission under this Act. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

Mr. KYL. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be considered read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The Amendment (No. 2335) was agreed to.

THE PRESIDING OFFICER. Without objection, the committee amendment, as amended, is agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

ORDERS FOR MONDAY, MAY 4, 1998

Mr. KYL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. on Monday, May 4. I further ask that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 12 noon, with Senators permitted to speak for up to 10 minutes each, with the following exceptions:

Senator HUTCHINSON for 30 minutes;

And Senator DORGAN for 30 minutes.

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

Mr. KYL. I further ask that following morning business at noon, the Senate proceed to the consideration of H.R. 2676, the IRS reform bill, for debate only.

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

PROGRAM

Mr. KYL. For the information of all Senators, when the Senate reconvenes on Monday, it is the leader's intention to begin consideration of the IRS reform bill. It is hoped that Members will come to the floor, offer their opening statements and debate this important piece of legislation. As a reminder, any

votes ordered with respect to the IRS reform bill will be postponed to occur following the vote on the job training partnership bill ordered for 5:30 p.m. on Tuesday, May 5.

ORDER FOR ADJOURNMENT

Mr. KYL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator DORGAN.

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

The Senator from North Dakota.

HEALTH CARE BILL OF RIGHTS

Mr. DORGAN. Mr. President, following the business of the Senate today, there was an hour of morning business and a number of Members of the Senate came to the floor to comment on the hearings that were held yesterday and, I think today, before the Senate Finance Committee. These are hearings about the Internal Revenue Service. I am going to talk about that in a bit because the hearings are dealing with, at least from what I have read, some abuses in the Internal Revenue Service. Some of the instances that have been disclosed in these hearings represent abusive behavior on the part of some employees of the Internal Revenue Service. I will comment on that in a moment, but first I want to talk about some other abuses first that relate to another agenda that many of us want brought to the floor of this Chamber to be debated as soon as is possible. I am referring to abuses in the area of health care, particularly with regard to managed care organizations in our country.

We know that some in this Chamber and in the Congress do not want to address the issue of managed care because the largest insurance companies in the country do not want it addressed. It would be difficult and inconvenient for some insurance plans if the Congress addressed these issues, so there is some stalling going on. However, we intend to, every day that we are in session and have the opportunity, come to the floor of the Senate and talk about some specific instances of abuse that the American people have suffered at the hands of their health care plans. In many respects, we have a wonderful system of health care in this country—new medicines and procedures, breathtaking medical advances—but this is only true for the people who have the quality care available to them.

Let me talk about one American named Buddy Kuhl from Missouri who is dead now. Buddy had a heart attack on his 25th wedding anniversary. He was told by his doctor that he required specialized heart surgery, but because the hospital in his hometown did not have the necessary equipment for that surgery, the doctor arranged for the

surgery to be performed in St. Louis. When the hospital requested recertification for the surgery, the utilization review coordinator—that is quite a title, utilization review coordinator—at Mr. Kuhl's HMO refused because the St. Louis hospital was outside the HMO's service area. So the surgery was canceled. The HMO, instead, sent Mr. Kuhl to another doctor to determine whether the surgery could be performed locally. The second doctor agreed with the first one that the surgery had to be performed in St. Louis.

So 2 weeks later, finally the HMO and the accountant who makes these judgments decided they would pay for the surgery in St. Louis, but by that time, the surgery could not be scheduled for another 60 days. By the time the doctors in St. Louis examined Mr. Kuhl, his heart had deteriorated so much that surgery was no longer a possibility. Instead, they concluded he needed a heart transplant. Although the HMO refused to pay for the evaluation for a heart transplant, Mr. Kuhl managed to be placed on the transplant waiting list in St. Louis. Tragically, he died waiting for that heart transplant. Mr. Kuhl was only 45 years old, and he left behind a wife and two children. And the Kuhl family attorney said this: "He did what his HMO told him. Unfortunately, he's dead because he did."

Mr. President, Mr. Kuhl's case is not an isolated one. There is case after case all across this country. Do you think this family has any recourse against their managed care organization? No, because that organization cannot be sued. They can make a decision that will lead to a patient's death but a law called ERISA, an acronym unfamiliar to the widow of Mr. Kuhl, prevents certain types of health plans from being sued.

Some of us in this Chamber believe that health care ought to be a function of doctors providing the health care, rather than some insurance company executive prescribing what is necessary for the medical care of a patient 500 miles away. Yet that is the way health care has evolved. Ask any doctor and you will discover the truth of that statement.

Some of us believe there ought to be a patients' bill of rights that would provide some very basic protections to consumers in their dealings with their health plan. For instance, every patient in this country should have the right to know all of their medical options, not just the cheapest, all of the medical options to treat their disease or their problem, not just the least expensive. And patients and their families ought to have the right to address the wrongs that are done them when a managed care organization's bad decision leads to long-term disability or death.

When you hear the stories of the abuses in managed care, and, yes, they are abuses, it is perfectly understand-

able, I suppose, why many organizations resist every step of the way any effort to bring to the floor of this Senate a patients' bill of rights. But if we are talking about abuses in this Congress and it is perfectly appropriate to talk about the abuses in the IRS, let us also talk about abuses we can stop in the area of managed care. Just as we ought to stop the shameful abuses that are occurring at the IRS, let us also make sure that Americans who walk through a doctor's office door or through a hospital entrance understand that their care is not going to be a function of a profit and loss statement but rather a function of a health care provider responding in a caring way to their health care problem.

Regrettably, that is not happening in this country today. We can remedy this if we understand exactly what is happening. We will come every day to the floor of the Senate to talk about the abuses in managed care until those who schedule the business of the Senate decide that this is an important enough issue for the American people that it ought to be high on the agenda of the issues to be considered here in the Congress.

Let me finish by telling a story I read about not too long ago about a woman who had just been the victim of an accident and had suffered a brain injury. As her brain was swelling and she was laying in the back of the ambulance, she informed the driver of the ambulance that she wanted to go to a hospital that was farther away. After she recovered, she was asked why she told the ambulance driver she wanted to go to the hospital that was farther away even though it was the closer hospital that was affiliated with her health care plan. And she explained that she knew by having read and heard about what had happened with her neighbors and others, that the hospital would evaluate her care in the context of profit and loss, and she wanted everything that was humanly possible to be done by doctors and nurses to save her life. That is the concern of people about managed care. I am not suggesting that all managed care in this country has disserved the needs of the patients in this country. That is not the case. In some cases it has reduced the cost of health care and still provides decent service.

But you know and I know that all across this country there are examples of managed care organizations that are forcing doctors to sign contracts that say to a doctor, "Don't let one of your patients show up at an emergency room. If you do, if one of your patients comes into an emergency room, guess what, we are taking it out of your pocket." You talk about a disincentive. That represents a conflict of interest, yet that is what is going on in these managed care organizations, because it is becoming for them not so much a delivery of health care, it is a function of profit and loss.

We ought to begin to separate that discussion just a bit by passing a pa-

tients' bill of rights. To those who say they don't want to bring that to the floor, I say you are going to be annoyed then, because every day we will come to the floor to talk about this, and one day, one way, sooner or later, we are going to debate this on the floor with a piece of legislation we call the Patients' Bill of Rights. You may not think that now, but before the end of the year it will be here and you will vote on it.

THE INTERNAL REVENUE SERVICE

Mr. DORGAN. Mr. President, let me go to a couple of other issues.

About the Internal Revenue Service hearings that are being held in the Senate Finance Committee this week, let me say first that I think those hearings are appropriate. I think anywhere you find abuses of a taxing agency, they are repulsive and disgusting. Those who commit those abuses ought to be summarily fired and penalized in any other way the agency can do so.

It is clear to me from the hearings that have been held that there has been mismanagement at the Internal Revenue Service and that some of the circumstances of abuses they should have known about, they didn't. On some of misconduct that they did know about, they didn't take appropriate action. And if these hearings accomplish anything, I hope it is that this agency simply cannot ever treat lightly the abuse of the American taxpayer. It is ugly and disgusting and must never happen. All tax agencies have a special responsibility to make sure it doesn't happen.

I ran a State tax agency for some long while in a State capital, and I understand about it. We were the repository of hundreds of thousands of income tax returns having sensitive financial information of all the folks of our State. I understand the responsibility of taxing authorities to make certain that the agency behaves appropriately with taxpayers. And I am appalled by some of the stories that have come from these hearings.

We ought to stop in its tracks any abuse that exists anywhere, anytime in the IRS, and we ought to do it now. And I will support the legislation that comes to the floor of the Senate dealing with changing some of the procedures down at the Internal Revenue Service.

But I want to tell you something else we should stop, and we should do it now. We should stop the fundraising that goes on surrounding these issues. I hold in my hand a fundraising letter by a Member of the Senate. It was sent to people across this country, coordinated, I assume, to be timed with the IRS hearings in the Senate Finance Committee. It is, I understand, the second such fundraising letter that has gone out, possibly the third. The letters have been timed, I think—at least I am told—to coordinate somehow with the hearings on the IRS.