hearings to discuss the IOM's findings and explore ways to implement the recommendations outlined in the IOM report. The FY 2001 Labor-HHS appropriations bill contained $50 million for a patient safety initiative and directed the Agency for Healthcare Research and Quality—AHRQ—to develop guidelines on the collection of uniform error data; establish a competitive demonstration program to test best practices; and research ways to improve provider training. In Fiscal Year 2002 and Fiscal Year 2003, $55 million was included to continue these initiatives. We are awaiting a report, scheduled to be issued in September by the Department of Health and Human Services, which will detail the results of the patient safety initiative.

There is evidence that increases in insurance premiums have been caused, at least in part, by insurance company losses, the declining stock market of the past several years, and the general rate-setting practices of the industry. As a matter of insurance company calculations, premiums are collected and invested to build up an insurance reserve where there is considerable lag time between the payment of the premium and litigation which results in a verdict or settlement. When the stock market has gone down, for example, that has resulted in insufficient funding to pay claims and the attendant increase in insurance premiums. A similar result occurred in Texas on homeowners' insurance where cost and availability of insurance became an issue because companies lost money in the market and could not cover the insured losses on hurricanes.

In structuring legislation to put caps on jury verdicts, due regard should be given to the history and development of trial by jury under the common law where reliance is placed on average men and women who comprise a jury to reach a just result reflecting the values and views of the community.

Jury trials in modern tort cases descend from the common law jury in trespass, which was drawn from and intended to be representative of the average members of the community in which the alleged trespass occurred. This coincides with the incorporation of negligence standards of liability into trespass actions.

This ''representative'' jury right in civil actions was protected by consensus among the state drafters of the U.S. Constitution's Bill of Rights. The explicit trial by jury safeguards in the Seventh Amendment to the Constitution were adaptations of these common law concepts harmonized with the Sixth Amendment's clause that local juries be used in criminal trials. Thus, from its inception at common law through its inclusion in the Bill of Rights and today, the jury in tort/negligence cases is meant to be representative of the judgment of average members of the community—not of elected representatives.

The right to have a jury decide one's damages has been greatly circumscribed in recent decisions of the United States Supreme Court. An example is the analysis that the Court has recently applied to limit punitive damage awards.

In recent cases, the Court has shifted its Seventh Amendment focus away from 2 centuries of precedent in deciding that federal appellate review of punitive damage awards will be decided on a de novo basis and that a jury's determination of punitive damages is not a finding of fact for purposes of the reexamination clause of the Seventh Amendment which provides that ''no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law''. Then, earlier this year, the Court reasoned that any ratio of punitive damages to compensatory damages greater than 9/1 will likely be considered unreasonable and disproportionate, and thus constitute an unconstitutional deprivation of property in non-personal injury cases. Plaintiffs will inevitably face a vastly increased burden to justify a greater ratio, and appellate courts have far greater latitude to disallow or reduce such an award.

These decisions may have already, in effect, placed caps on some jury verdicts in medical malpractice cases which may involve punitive damages.

Consideration of the many complex issues on the Senate floor on the pending legislation will obviously be very difficult in the absence of a markup in committee or the submission of a committee report and a committee bill.

The pending bill is the starting point for analysis, discussion, debate, and possible amendment. I am prepared to proceed with the caveat that there is much work to be done before the Senate would be ready, in my opinion, for consideration of final passage.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. FRIST. Mr. President, I now send a cloture motion to the desk on the pending motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the consideration of Calendar No. 186, S. 11, the Patients First Act of 2003.

Bill Frist, Mitch McConnell, John Ensign, Craig Thomas, Rick Santorum, Larry E. Craig, George V. Voinovich, John Cornyn, Trent Lott, Ted Stevens, Michael B. Enzi, James M. Inhofe, Chuck Hagel, Jon Kyl, Judd Gregg, Pat Roberts, John E. Sununu.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum, as provided for under rule XXII, be waived.

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

Mr. FRIST. Mr. President, this cloture vote will occur Wednesday morning. I will announce, during tomorrow's session, the precise timing of this vote for Wednesday.

MORNING BUSINESS

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

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

ADDITIONAL STATEMENTS

TRIBUTE TO MARGARET SEALS

● Mr. BUNNING. Mr. President, I pay tribute to one of Kentucky's finest citizens. On July 29, 2003, Margaret Seals of Winchester, will be inducted into the Kentucky Civil Rights Hall of Fame for the significant contributions she has made to the Commonwealth of Kentucky in the areas of civil and human rights.

After decades of putting the interests of others above her own, Margaret has distinguished herself as a leader. Upon attending the Lafayette Vocational School, where she developed the skills necessary to succeed, Margaret remained determined to remain a member of the workforce in order to provide for her two children. In Lexington, Margaret was the first African-American to be employed by the Social Security Administration in 1964. While she served in a number of occupational fields, some of her notable accomplishments include her service to the Winchester Board of Commissioners and the Winchester Municipal Utilities Commission.

Margaret has participated in a wide range of other public service projects including the Generations Center Board, the Urban Renewal Development Board, and the Winchester Solid Waste Committee. Her span of contributions also include the Clark County United Way Distribution Committee where she served since 1995, the same year she graduated Leadership Winchester. Margaret also remains an active member of the Elk Club. For her outstanding efforts, Reverend E. Baker, Sr., a retired pastor of the Broadway Baptist Church and an inductee into the Kentucky Civil Rights Hall of Fame nominated Margaret to receive this distinguished honor.

Margaret's commitment to education, hard work, family and community are an inspiration to many. Her contributions have made a difference in the lives of many and have paved a path for generations to come. Margaret's example should be emulated throughout Kentucky and across our Nation. I thank the Senate for allowing me to recognize Margaret Seals and voice her praises. She is Kentucky at its finest.●