

Deductible, \$350; for the seniors, \$816.

On the hospital care, we have unlimited care and theirs is defined and limited.

We have prescription drugs covered; not covered for our seniors. That is a key area we had included in President Clinton's program last year.

On the dental care, we are covered; our seniors are not covered.

And then a whole range of preventive services which are included, and they have some benefits but not nearly as extensive.

Then we take care of our out-of-pocket limit of \$3,700 and there is no out-of-pocket limit for the senior citizens.

It seems to me if you have that \$245 billion out there in the Republican budget, that we ought to be able to look out after our senior citizens and try to at least make these more equitable, some of these more fair, some of these that are important lifelines for our senior citizens to live in some peace and some dignity.

These are the issues, Mr. President. We are talking essentially about who is going to bear the burden of these economic cuts. Make no mistake about it, it is going to be the youngest people in this country who are going to find it more difficult, more expensive to go on to the schools and colleges. It is going to be the reduction of services that working families are going to need. It is going to be the concern of working families in recognizing that their parents are going to have to pay much more out of their pockets for the Medicare coverage which they are receiving now.

It is basically unfair to put that kind of burden on working families and to have the benefits for the wealthiest individuals.

So, Mr. President, these are the issues which we are going to have a chance to debate as we move on through. This debate is enormously important and of great consequence. It is going to have a direct impact on every family in this country, not just for this year, but over the period of the next 7 years. It is going to affect every parent and every child. That is what is going to be before this Senate and before the House in these days and weeks to come. We urge them to give it their attention, and let their Members of Congress know where they stand.

Do they think we ought to have these kinds of cuts in education and in the quality of life of our seniors in order to have a tax benefit for the wealthiest individuals? I say "no." That will be an issue we should debate, and we ought to hear from the American people as to what they believe.

I yield the floor.

#### PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

Mr. D'AMATO. Mr. President, I would like to speak on the amendment

that was submitted by my colleague, Senator BRYAN. The issue of whether we should extend the statute of limitations to bring an implied right of action is fraught with confusion.

In 1991, the Supreme Court, for the first time, set the statute of limitations on implied private rights of action. Before the Court's ruling there was no unified statute of limitations in these kinds of cases. The statute of limitations varied from State to State. Whether you could bring suit depended entirely on what the statute of limitations was in any particular State.

In the 1991 *Lampf* case, the Court finally set a standard statute of limitations. There has been no evidence shown that extending this Supreme Court set statute to 5 years will benefit wronged investors. In fact, extending the statute of limitations will do nothing more than hold a sword over businesses, and create more of an unreasonably long opportunity for litigation.

That is why we will be opposing this amendment to extend the statute of limitations. The bill holds to the statutes of limitations set by the *Lampf* case, 1 year from the time of discovery. It seems to me that once you discover fraud, you should be able to bring a lawsuit within 1 year. To extend that to 2 years is unreasonable. If you have discovered a fraud, then bring the suit. Why would you need 2 years?

Also, the SEC has the authority to bring suit at any time on behalf of investors who have been wronged; the SEC has no statute of limitations. Extending the statute of limitations to 2 years will make our judicial system a paradise for these lawyers.

We have not diminished the right to bring a suit after fraud has been discovered, you can bring a suit 5, 10 years later through the SEC. However, the lawyers do not make money in huge settlements when the SEC brings suit, so they oppose the provision. I would rather have the SEC bring suit so that the defrauded investors actually recover their losses when a settlement is made. In fact, the function of the Securities and Exchange Commission is to protect the investor.

The SEC recently forced Prudential to set up an open-ended disbursement fund to compensate investors who were defrauded in the 1980's. I am confident that these investors are actually getting that money. The SEC had the authority to require this firm to set aside \$330 million for investors, and the SEC did not skim off \$30 million of that settlement for lawyers. Is that not the way the system should operate?

We debate whether 1 year is enough time after the fraud is discovered to bring suit. I ask, why would 1 year not be enough time? Investors are protected by the SEC's authority after that 1 year has expired. By limiting the statute of limitations to 1 year, however, we are able to stop lawyers from shopping around for years, looking for any possible violation to allege. If there is fraud which comes to light

after the statute of limitations has expired the SEC can always bring suit. Understand that in most cases there is no fraud, the lawyers search until they find something with which to allege fraud so that they can force the defendants to settle. We need to stop this wasteful practice.

We are not protecting people who commit fraudulent actions. We are saying that you cannot allege fraud year after year, just to make the charge. Again, I stress if there is a real fraud, doggone it, we know that the SEC will bring suit. This is not a new practice for the SEC, they have done it before and they will do it again. The SEC, however, will not waste time or money on a multiplicity of specious, spurious claims. So when the proponents of the extension of the statute of limitations say that investors brought 300 suits and the SEC only brought 1, I would note that those 300 suits were mostly frivolous. I would rather have one meritorious suit that recovers money for investors and is not used as a vehicle to extort money, than hundreds of meritless suits.

So when we talk about extending the statute of limitations understand that we are not doing anything more, in most cases, than giving people an opportunity to fish around until they catch a way to allege fraud and file a lawsuit. Once fraud has been discovered, I think it is preposterous to say that more than 1 year is needed to bring suit. Remember, most of these cases allege fraud although no fraud has been committed. They allege fraud in order to force defendants to settle because they cannot defend themselves without putting themselves at risk of even greater losses.

So I very strenuously oppose the extension of the statute of limitations, which I think would do a great disservice to the litigation system. The Supreme Court, the highest court in the land, established this statute of limitations and stated the need for uniformity in that statute.

I would like to make two other observations. I read in a New York Times editorial that we are making it impossible to bring suit. This is not the case, we are only limiting the ability of lawyers to use these cases as a collection vehicle to enrich themselves just by alleging fraud. I will repeat that the SEC can bring a case where it believes fraud has been committed, without any statute of limitations, and the private right of action is still available in the State court system. If a State court, or State legislature extends the statute of limitations to 5 years from the commission of fraud and 2 years from the time of discovery, investors will be able to file suit. Of course, even in the terrible Keating case suit was brought within a year of discovery and within 2 years of fraud. So when people say we are against extending the statute of limitations, I answer, yes, we are going to bar specious claims, ridiculous

claims brought only to enrich the lawyers, however we keep protections against real fraud. In fact, the Securities and Exchange Commission, I believe, is in a much better position to judge where there is merit and where there is not in these cases.

Mr. President, I have nothing further to add on the amendment put forth by my distinguished colleague, Senator BRYAN.

Mr. SARBANES. Mr. President, I will be very brief.

The amendment offered by the distinguished Senator from Nevada [Mr. BRYAN] on the statute of limitations question is a very important amendment. I hope my colleagues will consider it very carefully over the weekend and again on Monday, when we will debate the amendment and have a vote on or in relation to the amendment.

Let me say that Senators DODD and DOMENICI, when they introduced their bill, included a provision on the statute of limitations that closely parallels what Senator BRYAN has offered.

They recognized the statute of limitations problem and they sought to correct it in the package which they introduced. In fact, they apparently thought it was of such consequence that in the title to their bill, they put it first and foremost.

Their bill as introduced is to amend the Securities Exchange Act of 1934 to establish a filing deadline, and to provide certain other things. They put it right up front. That gives Members, perhaps, some indication of recognition of its importance.

That provision was then dropped out in the committee's consideration—very unwisely, some Members think—and the measure now before the Senate does not contain that provision, which was in the original bill as introduced by Senators DOMENICI and DODD. Of course, the amendment offered by the distinguished Senator from Nevada, Senator BRYAN, is trying to correct that situation.

Now, once again, we hear this argument made about the frivolous suits or the strike suits, but that really is not related to the statute of limitations problem.

A shorter statute of limitations may well knock out meritorious suits, as well. Now, we tried to get a distinction between meritorious suits and frivolous suits with other provisions of the bill—provisions that we are not trying to amend here on the floor.

In other words, there has been an acceptance of the proposition that there is something of a problem that we need to try to deal with. Certain provisions in this bill do that, and represent an appropriate change in the existing securities litigation system.

Other provisions, we submit, go well beyond that. They are excessive and constitute overreach, and will in effect, reduce investor protections. We hope, in the course of the consideration of this measure, to change those provisions, to strengthen investor protec-

tions and, in effect, to make this a better bill, and eventually, if one could alter it sufficiently, make it worthy of broad-based general support.

The statute of limitations problem does not reach the question of the distinction between meritorious suits and frivolous suits, unless one is going to assert the proposition: "Well, the more immediate the statute of limitations, the more suits you can knock out."

It makes no distinction whether we are knocking out meritorious suits or frivolous suits. In fact, probably you will more likely knock out meritorious suits, since those usually take time to work out, and if people are responsible, they do not bring the suit until they have asserted a substantial basis for it.

Now, Senator BRYAN earlier today said it takes the SEC itself—with all of the resources that it has, all of the expertise that it has, all of the experience that it has—about 2.2 years to bring a suit once they begin working on it.

That is the SEC. What does that mean for investors who are trying to bring private suits in terms of what constitutes a reasonable statute of limitations for them?

Second, the 2- and 5-year time periods were what was generally applicable throughout a good period of our experience with the Securities and Exchange Act. It worked well. I have heard very little criticism of how it worked over that time period.

I have heard criticisms of other aspects of the litigation system, but not really sharp criticism with respect to the statute of limitations question. As I indicated earlier, in fact, a provision was included in the bill that Senators DODD and DOMENICI are pushing, this effort to revise the securities litigation system, very strongly. They included that in the legislation which they proposed.

The Senate Banking Committee, in 1991, unanimously, just a couple of years ago, unanimously approved a provision that provided for the 2- and 5-year statute of limitations. The 2 years would mean that from the time you learned of the fraud, you would have 2 years to bring your action. These are complicated cases. You want people to bring responsible actions, and bringing responsible actions means it takes time to prepare them.

In some respects, a shorter statute of limitations is an invitation for the filing of, in a sense, not well-grounded suits, because you just want to get in under the wire and you will go ahead and file the suit. The 5-year period would be the statute no matter what, even if you had not discovered the fraud.

Now, unless we change that, it is only a 3-year period. Some of these things are concealed—they are concealed from the victims. In fact, the previous Chairman of the SEC, Mr. Breeden, testified to that effect:

Adoption of these measures will give private litigants a more realistic timeframe in which to discover that they have been de-

frauded, while also accommodating legitimate interests in providing finality to business transactions and avoiding stale claims.

The shorter period does not allow investors adequate time to discover and pursue violations of securities laws. Many of these things are very complicated. There is a lot of deception and concealment involved. The 1- and 3-year limits really break with 40 years of legal precedent.

I just hope that the Senate, when it considers this matter, will adopt the Bryan amendment, and go to the 2- and 5-year limitation period. I think it is reasonable. Some States have longer periods, as a matter of fact. I think it is reasonable to go to the 2- and 5-year standard, which is generally what prevailed over four decades of experience with the security laws.

I am very hopeful my colleagues, in considering this amendment on Monday, will be supportive of it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Bryan amendment.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as if in morning business.

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

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 963 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending business is the Bryan amendment to the securities litigation bill.

Mr. LEAHY. I thank the Presiding Officer.

Mr. President, I ask unanimous consent to proceed as in morning business.

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

#### LET US KEEP TRYING TO WORK WITH RUSSIA

Mr. LEAHY. Mr. President, Vice President GORE is going to travel to Moscow this week to meet with Russian Prime Minister Victor Chernomyrdin. The meeting takes place amid a renewed challenge to President Yeltsin and the Prime Minister by conservative elements of the Russian Duma. Certainly just this morning's newspapers gives us a pretty clear understanding of what is happening.