The bill clerk proceeded to call the roll.

Mr. JOHNSON. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. JOHNSON. Mr. President, I voted today for the omnibus appropriations bill that was pending before the Senate, in large part because, very frankly, of my great doubt that delaying what already has been an utterly abominable legislative process would, at this late point, improve the nature of the final product.

It should be abundantly clear to us all, to even the most casual observers, that the first and most fundamental mistake made by this 105th Congress was the unwillingness, or perhaps the inability, of the Republican leadership to craft a budget resolution acceptable to a majority of Members of both parties. But, amazingly, the Republican leadership was then unable or unwilling to put together a budget resolution that could even muster the majority support of its own party. As a result, for the very first time since the current Budget Act was enacted, Congress was forced to proceed on with the 13 separate appropriations bills without the benefit of the direction of a budget resolution at all.

In fairness, this body did pass its own version of a budget resolution, and much of the difficulty in reaching an agreement with the other body lies with the radical faction in the House, which was unwilling to support any measure unless it called for huge tax reductions funded out of a naked raid on the Social Security surplus. There were a few Members of this body as well who indicated they could not vote for a final resolution unless a tax cut/Social Security plunder plan was involved. So, April 15, the deadline for passage of a budget resolution, came and it went, and in the end no agreement was reached between the Senate and the other body and no serious effort at bipartisanship, frankly, was ever attempted. The budget process that has ensued, and we have witnessed its culmination today, is certainly a case of the Republican leadership having to reap what it sowed.

Without the discipline of a budget resolution, this Congress then proceeded to make an utter mockery of the appropriations process.

Rather than deliberate debate and careful consideration of the 13 separate appropriations bills needed to run the Federal Government, we wound up with an omnibus appropriations bill weighing some 40 pounds and going on for 3,825 pages as it compressed 8 of the appropriations bills, a supplemental appropriations bill, and miscellaneous matters all into one ill-considered mess. The bill we have had before us today is a consequence of massive, massive legislative mismanagement.

All this is not to say that the legislation that was before this body today did not have some redeeming strengths. There will be no Federal Government shutdown, and as the American people rightfully celebrate the first balanced unified Federal budget in 30 years, the omnibus bill does stay within the previously agreed upon budget caps. Thanks to President Clinton and his earlier veto, this legislation does provide for significant assistance for farmers and ranchers suffering through an economic crisis throughout much of rural America and, again, thanks to the President's tenacity, this bill will provide for the hiring of additional teachers and the expansion of some key educational programs, such as Head Start.

But even here, the omnibus bill is not as good as it ought to have been. The agricultural provisions failed to address the underlying problem of inadequate market prices for livestock and grain by neglecting to raise the marketing loan rates, and by eliminating price reporting and country of origin meat labeling, it does next to nothing for livestock producers.

The educational provisions are inadequate in several areas, but most noticeably, the Republican leadership refused to permit a Federal-State-local partnership which would have allowed the cost of school construction and renovation bonds to have been significantly reduced for local taxpayers.

To this Senator, it is simply outrageous for some on the far political right to claim, as they have, that this commonsense provision would have amounted to some sort of "federalization" of education. Clearly, the decisions as to whether to build or renovate a school would have remained at the local level, where such decisions belong, and the bulk of funding for such construction would likewise have remained appropriately enough with local taxpayers.

Mr. President, it is not federalization for the Federal Government to help local citizens reduce the cost of their education decisions, decisions that they make at the local level, by partially writing down interest rates on the bonds which these school districts would then have to issue.

There are some who are referring, with some justification, to the 105th Congress as the worst that has ever met in this Capitol Building. I don't know if that is true, but the mismanagement of this legislation, coupled with the refusal of the majority leader to even allow meaningful debate and progress on such issues as managed health care reform, campaign finance reform, and modernization of financial services, among others, ought to be a source of shame for this institution.

Again, Mr. President, while some have voted against the omnibus bill as a protest gesture, motivated by any number of concerns, I wanted to do the responsible thing, and I voted to pass this faulty but, frankly, at this point in time very necessary legislation. It is my hope, however, that never again will Congress proceed without a budget resolution and without an opportunity to debate and deliberate on individual appropriations bills in a timely manner.

FEDERAL VACANCIES REFORM ACT

Mr. THOMPSON. Mr. President, I am pleased that the essentials of S. 2176 have been incorporated into the Omnibus Appropriations bill, H.R. 4328. I appreciate the work of my colleagues, Senator BYRD in particular, in seeing that this bill becomes law.

Mr. President, I wish to address the changes that have been made to S. 2176 since it was reported out of the Governmental Affairs Committee. The legislative history of the bill is largely described in the Committee report, S. Rep. 105–250. However, this is the opportunity to discuss the subsequent changes made in the bill.

The term "first assistant to the office" is incorporated into 5 U.S.C. §3345(a)(1), rather than "first assistant to the officer." This change is made to "depersonalize" the first assistant. Questions have arisen concerning who might be the vacant officer's first assistant if the acting officer dies or if the acting officer resigns while a permanent nomination is pending. The term "first assistant to the officer" has been part of the Vacancies Act since 1868, however, and the change in wording is not intended to alter case law on the meaning of the term "first assistant."

A third category of "acting officer" is now permitted apart from first assistants and presidentially designated persons who have already received Senate-confirmation to hold another office. The President (and only the President) may also direct an officer or employee of the executive agency in which the vacancy arises to be the acting officer if that officer or employee served in that agency for 90 days preceding the vacancy caused by the departure of the prior Senate-confirmed officer and, the officer or employee has been paid at a rate at least equal to a GS–15. Concerns had been raised that, particularly early in a presidential administration, there will sometimes be vacancies in first assistant positions, and that there will not be a large number of Senate-confirmed officers in the government. In addition, concerns were raised about designating too many Senate-confirmed persons from other offices to serve as acting officers in additional positions.

The 180 day period in § 3345(b) governing the length of service prior to the onset of the vacancy that the first assistant must satisfy to be eligible to serve as the acting officer is reduced to 90 days. Under § 3345(b)(1), the revised reference to § 3345(a)(1) means that this subsection applies only when the acting officer is the first assistant, and not when the acting officer is designated by the President pursuant to §§3345(a)(2) or 3345(a)(3). The 90 day service requirement is inapplicable to a first assistant who has already received

Senate confirmation to serve in that position.

New § 3345(c) was added to address the special case of an executive department (not executive agency) officer who serves not at the pleasure of the President, but under a fixed term, and without a holdover provision that governs acting service in that office following expiration of the fixed term. In that situation, without passing judgment on the constitutionality of fixed term appointees within executive departments, if the person whose term expires is renominated without a break in service, that already Senate-confirmed officer may continue to serve in the position subject to the time limits contained in § 3346 until the Senate confirms or rejects that person's renomination, notwithstanding the adjournment of the Senate sine die. The subsection does not apply until the incumbent officeholder is renominated, or when a person other than the previously appointed officeholder is nominated.

In § 3346(a), an exception is added for ''sickness,'' a narrower category than ''unable to perform the functions and duties of the office.'' If the Senate-confirmed officer cannot serve because he is sick for more than 210 days, the acting officer may continue to serve during the sickness, and no nominee need be submitted to the Senate to avoid the vacant office provisions of § 3348. The office is not vacant if the Senate-confirmed officer is sick, and he may reclaim the office even after 210 days if he is no longer ill. However, the 210 day limit will apply if the Senate-confirmed officer is unable to perform the functions and duties of the office for other reasons. For instance, the Doolin court stated that the current language of the Vacancies Act does not apply when the officer is fired, and for similar reasons, it might not apply when the officer is in jail if he does not resign. To make the law cover all situations when the officer cannot perform his duties, the ''unable to perform the functions and duties of the office'' language was selected. Sickness is the only exception to the 210 day limit, since in other circumstances when the officer is unable to perform the functions and duties of the office, there is no reason to allow the officer to reclaim his duties sometime after 210 days.

The 150 day period adopted in the Governmental Affairs Committee was lengthened to 210 days in each place it appeared in § 3346 as an accommodation to the Administration in light of the increased time the vetting process now consumes.

The amendment's striking of ''in the case of a rejection or withdrawal'' in § 3346(b)(2) is to ensure that an acting officer can serve for 210 days if a second nomination is made of a person whose first nomination was returned by the Senate.

The phrase ''applicable to'' is replaced by ''the exclusive means for temporarily authorizing an acting official to perform the functions and duties of'' in § 3347(a) to ensure that the Vacancies Act provides the sole means by which temporary officers may be appointed unless contrary statutory language as set forth by this legislation creates an explicit exception.

The phrase ''statutorily vested in that agency head'' is added to § 3347(b) to clarify that so-called ''vesting and delegation'' statutes that permit the agency head to delegate functions and duties to subordinates in the department whose positions lack defined statutory duties apart from assisting the agency head do not permit the agency head to appoint acting officials. Thus, the organic statutes of the Cabinet departments do not qualify as a statutory exception to this legislation's exclusivity in governing the appointment of temporary officers.

Changes were made to § 3348(b) to provide that the vacant office provisions of the legislation apply not only when an acting officer has served more than 210 days without a nomination for the office having been submitted to the Senate, but also prior to the 210 days after the vacancy occurs unless an officer of employee performs the functions of the vacant office in accordance with §§ 3345, 3346, and 3347 of this legislation.

The tolling period provided in § 3348(c) when the 210th day falls on a day on which the Senate is not in session is extended from the first day that the Senate is next in session and receiving nominations to the second such day.

The changes clarify § 3348(d) to provide that actions taken by persons not acting under §§ 3345, 3346, or 3347 or as provided by § 3348(b) of any function of a vacant office to which §§ 3346, 3347, 3348, 3349, 3349a, 3349b, and 3349c apply shall have no force or effect.

Added to the list of positions in § 3348(e) that are not subject to the vacant office provisions are any chief financial officer appointed by the President by and with the advice and consent of the Senate, since the head of the agency should not be permitted to execute the functions of such an official. The amendment also adds to the same list any other positions with duties that statutory provisions prohibit the agency head from performing.

The Comptroller General's duties under § 3349(b) are now to be performed ''immediately'' upon his or her determining that the 210 day period has been exceeded.

Section 3349b is changed to preserve all statutory holdover provisions in independent establishments, not merely those independent establishments headed by a single officer.

The list of excluded officers contained in § 3349c is expanded to include any judge appointed by the President by and with the advice of the Senate to an Article I court. This includes the Court of Federal Claims, but this exclusion does not apply to administrative law judges, since they are not appointed by the President by and with the advice and consent of the Senate. The list is also expanded to include members of the Surface Transportation Board, which, like the Federal Energy Regulatory Commission, is denominated an ''independent establishment'' despite its location in an Executive department.

New § 3349d addresses the situation when the 210 day service period for an acting officer expires without a nominee having been submitted to the Senate, and the 211th day occurs during a Senate recess or adjournment of more than 15 days. Rather than wait until the Senate reconvenes to avoid the vacant office provisions of § 3348 from taking effect, the President may submit to the Senate a written notification of intent to nominate a permanent officer for a particular office after the recess or adjournment. At that point, an acting officer qualified to serve as such by this law may begin to serve as the acting officer for that particular position. So long as the President actually submits the nomination of the person so designated in the written notification for that particular office within two days of the Senate's reconvening, the actions of the acting officer are valid from the date the acting officer begins service and so long as the nomination is pending. However, if the President does not actually nominate the person who was the subject of the written notification for the particular subject designated in the written notification within two days of the reconvening of the Senate, then the notification considered a nomination that permitted the acting officer's service shall be treated after the second day the Senate reconvenes as a withdrawn nomination is treated under this legislation.

The effective date of this portion of the bill is 30 days after the date of its enactment. For any vacant office as of the date of enactment, the time limitations under § 3346 apply as if the office became vacant as of the effective date of this section.

If the President nominates a person after the effective date of this section for an office to which that person had been nominated before the effective date, that second nomination will be treated as a first nomination under this section.

All other changes are intended to be purely technical.

Mr. BYRD. Mr. President, the United States Constitution contains two options providing for the appointment of the principal officers of our federal government. First, the Appointments Clause, found in Article II, section 2, clause 2, states that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint'' such officers. Alternatively, should the Senate not be in session, Article II, section 2, clause 3, authorizes the President to unilaterally ''fill up all Vacancies that may happen during the Recess of the Senate,'' subject only

to the proviso that the recess appointment expires at the end of the next session of Congress.

As the Supreme Court pointedly observed in the 1997 case of Edmond v. United States, ''the Appointments Clause of Article II is more than a matter of 'etiquette or protocol'; it is among the significant structural safeguards of the constitutional scheme.''

With enactment of the Federal Vacancies Reform Act of 1998, an important step will have been taken toward securing the Senate's constitutional responsibility to render its advice and consent on presidential nominations. It is my hope that this legislation, which makes several substantive changes to the current Vacancies Act, will protect this vital constitutional ''safeguard'' by bringing to an end a quarter century of obfuscation, bureaucratic intransigence, and outright circumvention

Mr. President, because I am an original sponsor of the Federal Vacancies Reform Act, and because the Act as it is being enacted differs somewhat from the bill reported to the Senate by the Committee on Governmental Affairs on July 15, 1998, (S. Rpt. 105–250), I wish to offer my perspective on the Act's application, time limitations, exclusivity and exceptions, enforcement, reporting requirements, and effective date and application to current vacancies.

APPLICATION

Section 3345 states that the provisions of the Act will apply to any officer in any executive agency, other than the General Accounting Office, if that officer's appointment is made by the President, subject to the advice and consent of the Senate. Unlike current law, this change will make clear that the Vacancies Act, as amended by this legislation, applies to all executive branch officers whose appointment requires Senate confirmation, except for those officers described in Section 3349c.

Section 3345 applies when an officer dies, resigns, or is otherwise unable to perform the functions and duties of the office (the latter provision covers, inter alia, sickness or absence, which are listed in current law, or expiration of a term of office). Should one of these situations arise, the officer's position may then be filled temporarily by either: (1) the first assistant to the vacant office; (2) an executive officer who has been confirmed by the Senate for his current position; or (3) a career civil servant, paid at or above the GS–15 rate, who has served in the agency for at least 90 of the past 365 days. However, a person may not serve as an acting officer if: (1)(a) he is not the first assistant, or (b) he has been the first assistant for less than 90 of the past 365 days, and has not been confirmed for the position; and (2), the President nominates him to fill the vacant office.

TIME LIMITATION

Section 3346 places a strict time limit of 210 days upon how long an acting officer may serve. As the language of this section make abundantly clear, the time limit begins on the day the position becomes vacant, and not on any other date. The precise language that was used in the Act will correct the decision of the D.C. Circuit Court of Appeals in *Doolin Security Savings Bank* v. *Office of Thrift Supervision*, 139 F.3rd 203 (D.C. Cir. 1998). If, however, the President forwards to the Senate a first or second nomination to fill the vacant office, the acting official may continue to serve until 210 days after the nomination is rejected by the Senate, withdrawn, or returned to the President by the Senate.

With respect to this time limitation, section 3349d further provides that the vacant office may be temporarily filled beyond the 210-day time limit if, during a recess or adjournment of greater than 15 days, the President formally notifies the Senate of his intention to nominate a specified person for the vacant position, and, in fact, does submit to the Senate the nomination within two days of the end of the recess or adjournment. Should the President, for whatever reason, fail to forward the nomination, then any action taken by the acting official shall have no legal force or effect, nor shall that action be ratified. Moreover, such failure would render the position vacant as of the second day following the Senate's return.

Finally, on the issue of time, the Act, unlike current law, appropriately recognizes the difficulties faced by a new President following his initial inauguration. To address that situation, section 3349a provides that, with respect to any advice-and-consent position which becomes vacant during the first 60 days of the new President's term, the 210 day time limitation shall not begin until 90 days after the inauguration date, or 90 days after the date of the vacancy, whichever is later. Effectively, then, this provision will give a new President up to 300 days to forward nominations to the Senate.

EXCLUSIVITY AND EXCEPTIONS

Mr. President, turning now to the question of the exclusivity of the Act, I think it is a fair assessment of this entire issue to say that the matter of exclusivity is the bedrock point on which the executive and legislative branches have historically differed. Indeed, it is very likely that we would not be here today were it not for the differing interpretations as to the exclusivity of the Vacancies Act. And, without opening old wounds, suffice it to say that the problems that have heretofore been brought to the attention of Congress were not the fault of any one President, any one Attorney General, and certainly not the fault of any one political party. Accordingly, it is my fervent hope that the language of the Act will, once and for all, end this decades-long disagreement.

As the language of Section 3347 makes clear, unless other statutory provisions exist which explicitly authorize the temporary filling of vacancies in executive positions requiring Senate confirmation, or unless such provisions are enacted in the future, Sections 3345–3349d are to be the exclusive statutory means for filling vacant advice-and-consent positions in the executive branch.

Moreover, in an effort to squarely address past problems, the Act specifically prohibits the use of general, ''housekeeping'' statutes as a basis for circumventing the Vacancies Act. Provisions such as, but not limited to, 28 U.S.C. 509 and 510, which vest all functions of the Department of Justice in the Attorney General and allow the Attorney General to delegate responsibility for carrying out those functions, shall not be construed as providing an alternative means of filling vacancies.

Finally, Section 3349b makes clear that the Vacancies Act, as now amended, does not affect statutory holdover provisions. Nor does the Act, as explained in Section 3349c, apply to members of independent, multiple-member boards or commissions, to commissioners of the Federal Energy Regulatory Commission, to members of the Surface Transportation Board, or to any judge of any court constituted pursuant to Article I of the Constitution.

ENFORCEMENT

Mr. President, with enactment of this legislation, the Vacancies Act will, for the first time ever, contain an effective enforcement mechanism. As spelled out in Section 3348, failure to comply with Sections 3345, 3346, or 3347 shall result in a vacant office remaining vacant, and no-one, other than the agency head, may perform the functions or duties that are assigned by statute or regulation to that office exclusively. An action taken by an acting official who is not in compliance with Sections 3345, 3346, or 3347 shall have no force or effect and may not be subsequently ratified.

For those who are concerned with this provision, I would point out that, while this is an effective, and admittedly tough enforcement mechanism, it is not so stringent that it will result in governmental paralysis. On the contrary, not only is the head of the agency authorized to carry out the most essential functions of an office forced to remain vacant due to noncompliance, but the language of the legislation is crafted in such a way as to allow for the filling of a vacant office once the President submits a nomination to the Senate. In that respect, then, the enforcement mechanism should not be considered, nor is it intended to be, a form of punishment, but, rather, a means of providing incentive for the timely submission of nominations.

REPORTING REQUIREMENT

Because one of the keys to exacting compliance with the Vacancies Act is full and complete disclosure of information regarding vacant positions, Section 3349 establishes a provision for the regular reporting of information.

Under this section, the head of each executive branch agency shall, at the appropriate time, submit to the Comptroller General and to each House of Congress the following information: Notification of any vacancy in an office subject to the Vacancies Act; the name of the person serving in an acting capacity and the date such service began; the name of any person nominated for the vacant position and the date such nomination was submitted to the Senate; and the date the nomination was withdrawn, rejected by the Senate or returned by the Senate. If the Comptroller General, once he has received the relevant information, determines that an individual is serving in an acting capacity beyond the 210-day time limitation in violation of the Vacancies Act, the Comptroller General is required to notify the Senate, the House of Representatives, various committees of the two Houses, the Office of Personnel Management and the President.

Mr. President, although these may seem to be rather routine procedures, in this case they are vitally important, because one of the great difficulties in crafting this legislation has been the absence of reliable information. However, with these reporting requirements, the Congress and the executive branch will be in a far better position to objectively evaluate the operation of the Vacancies Act, and, should this issue require further review, will be prepared to discuss the matter based on reliable data.

EFFECTIVE DATE AND APPLICATION TO CURRENT VACANCIES

Finally, let me address the matter of the Act's effective date and application. First, as the legislation makes clear, the Act will take effect 30 days after the date of enactment. Next, the Act, and all of its provisions, will fully apply to any position which becomes vacant after the effective date. Third, with respect to those positions that are vacant on the effective date, or those positions which are being filled by an acting official on the effective date, only the time limitations of section 3346 shall apply. None of the other provisions of the Act (including, but not limited to, the length of service requirements contained in section 3345), shall apply to those individuals currently serving in an acting capacity. Lastly, the Act makes clear that, notwithstanding the fact that an individual may have previously been nominated, the next nomination of that individual will be treated as a first nomination for purposes of the Vacancies Act, as amended.

Mr. President, that concludes my remarks on the meaning and intent of the various provisions of the Federal Vacancies Reform Act of 1998. However, I would like to take a moment to extend my congratulations and my sincere gratitude to Senator THOMPSON, the distinguished chairman of the Committee on Governmental Affairs, for all the time and effort he has put into this endeavor. I also wish to thank the Democratic members of the committee—in particular Senators GLENN, LEVIN, LIEBERMAN and DURBIN—for their willingness to see this legislation through to completion. It was not an easy task, and I commend them all for their hard work. Despite the difficulties, though, I hope they will agree that securing the rights of the Senate, and thus the integrity of the U.S. Constitution, is a task that bears doing no matter how demanding it may be.

WOMEN'S HEALTH CANCER RIGHTS ACT OF 1998

Mr. D'AMATO. Mr. President I rise today to applaud this body for passing perhaps one of the most critical pieces of legislation this Congress. Today, before the Senate, in the omnibus appropriations bill, is the Women's Health and Cancer Rights Act of 1998, or more appropriately, Janet's Law.

Mr. President, I first began the fight to pass this critical legislation on January 30, 1997 when I introduced this legislation along with Senator DIANE FEINSTEIN, Senator OLYMPIA SNOWE, Senators HOLLINGS, MOYNIHAN, DOMENICI, FAIRCLOTH, MOSELEY-BRAUN, BIDEN, INOUYE, MURKOWSKI, DODD, KERREY, HATCH, GREGG, SMITH, and FORD.

We faced an uphill fight, but we were persistent. We never gave up.

We couldn't—Mr. President, there was too much at stake. We took on this fight for the women of America—our mothers and daughters, sisters and wives, grandmothers and friends. We took on this fight because it was critical to the health of every woman in America.

Today, there are 2.6 million women living with breast cancer. In 1998 alone, more than 184,000 women will be diagnosed with breast cancer and, tragically, 44,000 women will die of this dreaded disease. Breast cancer is still the most common form of cancer in women; every 3 minutes another woman is diagnosed and every 11 minutes another woman dies of breast cancer.

I want to tell you, Mr. President, about one of those women, because the battle against breast cancer is not about statistics—it's about real women who are in the fight of their lives. Janet Franquet, a young woman, just 31 years old, from my home state of New York was recently denied reconstructive surgery following a mastectomy.

Janet Franquet was diagnosed with an extremely aggressive form of breast cancer on December 11, 1997. Mrs. Franquet required a mastectomy and a very intricate, involved reconstruction of the breast following her mastectomy. The wound site required her surgeon to perform a very extensive procedure, medically necessary due to the considerable wound site after the removal of her breast.

Mrs. Franquet's insurance provider, the National Organization of Industrial Trade Unions (NOITU) Insurance Trust Fund refused to cover the reconstruction of Mrs. Franquet's breast. Imagine the shock and horror of being told by your HMO that surgery following the removal of your breast is cosmetic. That is outrageous.

In fact, when the surgeon performing the reconstruction asked about coverage, the Medical Director of the insurance company told Mrs. Franquet's doctor that breast reconstruction was considered cosmetic surgery, and he would have to deny coverage.

So, Mr. President, I decided that I would give Mrs. Franquet's insurance company a call. When I spoke with the Medical Director for the insurance company, he told me that "replacement of a breast is not medically necessary and not covered under the plan. This is not a bodily function and therefore can not and should not be replaced."

Mrs. Franquet and her family, were left to pay for the procedure out of their own pocket. The procedure cost approximately $16,500. Luckily, her doctor, Dr. Todd Wider, agreed to forgo payment for this life saving surgery. But recently, the insurance fund agreed to pay for the surgery—only after a lengthy appeal before the Board of Directors with lawyers and doctors testifying as to the medical necessity of the surgery.

I ask you, Mr. President, how many other Janet Franquets are out there? Will they be lucky enough to have a Dr. Wider to take care of them, or will they be forced to forgo this lifesaving surgery so that insurance companies can cut costs and save money?

That is why, Mr. President, I began this fight in the Senate and made it my crusade every day, at every opportunity. The D'Amato legislation which we will enact into law today makes critically important changes in how breast cancer patients receive medical care.

This important reform legislation will significantly change the way insurance companies provide coverage for women diagnosed with breast cancer. This new law will ensure that breast cancer patients will have access to reconstructive surgery following mastectomies. Too many women have been denied reconstructive surgery following mastectomies because insurers have deemed the procedure cosmetic and not medically necessary. It is absolutely unacceptable and wrong that many insurers have decided that this essential surgery is "cosmetic."

I know that there are going to be those who say let the marketplace work, let free competition work. Well, that is simply naive. To say that by insisting on a minimum standard, insisting on basic commonsense minimums we are interfering with the free market system is preposterous. For the government to not live up to its most basic duty of protecting its citizenry, that is what is wrong.

There exists a very basic relationship between a doctor and a patient that no Member of Congress and no insurance bean counter can ever understand.