

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 11 a.m., with the first half of the time under the control of the minority, and the second half of the time under the control of the majority.

The Senator from Iowa.

MEDICARE DRUG BENEFIT

Mr. GRASSLEY. Mr. President, I welcome the new Presiding Officer to the Senate. I look forward to working with him as a new Senator. I hope he enjoys his time in the Senate.

I am back here again today, as I was yesterday, to talk about the Medicare drug benefit. Yesterday I spoke about how the benefit uses prescription drug plans and competition—with emphasis upon competition—to keep costs down for our senior citizens. I spoke about how well that system of competition that is in the prescription drug bill has been working for the last 2 years of its operation. Today I want to get to the crux of this debate and a debate that is going to take place a few days from now in this Chamber, the so-called prohibition on Government negotiation with drugmakers.

Opponents of the Medicare drug benefit have misrepresented what we call the “noninterference clause” language. That language doesn’t prohibit Medicare from negotiation with drugmakers. It prohibits the Government from interfering in negotiations that are actually taking place.

Much of this debate hinges on a convenient lapse of memory that I am going to emphasize during my remarks about the history of the noninterference clause. So today I want to take my colleagues on a little trip down memory lane. For our first stop on memory lane, I would like to read something. This is a quote from someone talking about their very own Medicare drug benefit proposal:

Under this proposal, Medicare would not set prices of drugs. Prices would be determined through negotiations between private benefit administrators and drug manufacturers.

The person who said this clearly wanted private negotiation with drug companies for a Medicare benefit, not Government negotiations. The person I quoted was proposing—and I will quote again what he said—“negotiations between private benefit administrators and drug manufacturers.” I don’t think that person could be more clear in what he was attempting to accomplish with his proposal.

You are going to be shocked to hear who said this. The quote is from none

other than President Clinton. President Clinton made that comment as part of his June 1999 plan for strengthening and modernizing Medicare for the 21st century. President Clinton went on to say that under his plan “prices would be determined through negotiations between the private benefit administrators and drug manufacturers.”

I quote further:

The competitive bidding process would be used to yield the best possible drug prices and coverage, just as it is used by large private employers and by the Federal Employees Health Benefits Plan today.

President Clinton also described his plan as using private negotiators as opposed to Government negotiators, because “these organizations have experienced managing drug utilization and have developed numerous tools of cost containment and utilization management.”

Does this ring any bells? It should because it is the same framework used in today’s Part D Medicare prescription drug benefit, private negotiations with drug companies, and it is based on the nearly 50-year history of the Federal Employees Health Benefits Program.

I would like to refer to another part of Medicare history for memory’s sake as well. This is another interesting spot on memory lane for history buffs. The Clinton plan had a coverage gap that we refer to in the Senate as the doughnut hole, just like the bill eventually signed into law in 2003.

Like many others, the brandnew Speaker of the House has questioned why one would pay premiums at a point in time when you are not receiving benefits, as is the case with the doughnut hole. Well, that is how insurance works. We all know how the insurance industry works. Go look at your homeowner and auto policies and Part B Medicare. You pay premiums to have coverage. That is how President Clinton’s plan was meant to work, if it had become law.

In Sunday’s Washington Post, the new Speaker of the other body, PELOSI, was quoted about having a doughnut hole. She said:

How could that be a good idea, unless you are writing a bill for the HMOs and pharmaceutical companies and not for America’s seniors?

Was she referring to President Clinton’s plan proposed in 1999? As I said, he proposed his plan in June of that year. On April 4, 2000, S. 2342 was introduced in the Senate. S. 2342 would have created a drug benefit administered through private benefit managers. So here again would be private negotiators negotiating with the drug companies to save seniors money on their prescription drugs. Does that sound familiar? It is just like today’s Medicare Program that is law.

Here is another important stop down our memory lane. That bill, S. 2342, introduced in 2000, included language on noninterference:

Nothing in this section or in this part shall be construed as authorizing the secretary to

authorize a particular formulary, or to institute a price structure for benefits, or to otherwise interfere with the competitive nature of providing a prescription drug benefit through benefit managers.

This is the first bill—the very first one—where the noninterference clause appeared. This is the first prohibition in present law on Government negotiation that was introduced. But S. 2342 wasn’t introduced by a Republican; it was introduced by my esteemed colleague, the late Senator Moynihan. One month later, there was a bill, S. 2541, introduced. I will read some of the language that was in that bill. That bill said this; I have it on the chart:

The secretary may not (1) require a particular formulary, institute a price structure for benefits; (2) interfere in any way with negotiations between private entities and drug manufacturers, and wholesalers; or (3) otherwise interfere with the competitive nature of providing a prescription drug benefit through private entities.

I will make it clear that this wasn’t a Republican bill, either. It was introduced, as you can see, at that time by Senator Daschle, who was joined by 33 other Democrats, including 3 who are still prominent in the Senate—REID, DURBIN, and KENNEDY. That is right. I want you all to know that 33 Senate Democrats cosponsored a bill with a noninterference clause in it. You see, it turns out that the Democrats didn’t want the Government—nor did President Clinton—interfering in the private sector negotiations either. They recognized then that the private sector would do a better job, and they didn’t want some Government bureaucrat messing it up.

I will go to another chart. In June 2000, two Democratic bills were introduced in the House of Representatives that also included noninterference language. H.R. 4770 was introduced by then-Democratic leader Dick Gephardt. That bill had more than 100 Democrats cosponsoring, including the new Speaker of the House—then not speaker—NANCY PELOSI, and Representatives RANGEL, DINGELL, and STARK. RANGEL, DINGELL, and STARK are people whom I have worked closely with in Congress recently on a lot of health legislation or tax legislation—or trade legislation, in the case of Congressman RANGEL.

The prohibition on Government negotiation included in that House bill was almost identical to the language Senator Daschle had in his bill. Here is the text of the actual noninterference clause included in the bill signed by the President in 2003, present law—what we refer to as Part D now:

Noninterference.—in order to promote competition under this part and in carrying out this part, the secretary (1) may not interfere with the negotiations between drug manufacturers and pharmacies and PDP sponsors; and (2) may not require a particular formulary or institute a price structure for reimbursement of covered part D drugs.

Well, that sounds a bit like what was sponsored by Democrats over the last several years. Last week, the senior

Senator from Illinois described the 2003 Medicare bill—and this was in a speech on the floor—as being written by the pharmaceutical industry. But the non-interference clause first appeared in legislation introduced by Democrats who now oppose the same provision that is in present law.

Now, the opponents of the Medicare drug benefit always say that the non-interference clause is proof the present law was written by the drug industry. My question, Mr. President, is this: If that is what they want to think, then did the same pharmaceutical industry write these bills that the Democrats introduced in 2000, 2001, and 2002?

I bet you are wondering how many Democratic bills had the now infamous noninterference clause in it—that is, the prohibition on Government negotiation. Well, here is the whole timeline. As you can see from chart 4, that prohibition on the Government negotiating, the noninterference clause, has been in seven bills by Democrats between 1999 and 2003, including a bill introduced in the House on the same day, H.R. 1, which eventually became the bill the President signed. There were seven. Here they are. The first is the Moynihan bill, April 2000; Daschle-Reid bill, May 2000; Eshoo bill, June 2000; Gephardt-Pelosi-Rangel-Stark-Dingell-Stabenow—when she was in the House and is now a Senator—introduced June 2000. STARK had it in a motion to recommit in June 2000. Senator WYDEN from Oregon introduced it as part of S. 1185 in July 2001. THOMPSON of California had it in a House bill in June of 2003.

It seems to me that on the other side of the aisle there ought to be some consideration of where did Republicans get this idea. I hate to steal ideas from Democrats, but if they work, they work. I spoke yesterday about how this provision—or the present way of doing it. The Federal Health Employee Benefit Program has been doing it for 50 years, and it has been saving senior citizens lots of money, not just on the price of prescription drugs but prescription drugs and premiums and a lot of other things—not only saving senior citizens money out of their own pockets but saving the taxpayers with a new judgment on what the cost of the drug program is going to be that was projected back when it was signed by the President. It is \$189 billion less than the Congressional Budget Office, the CMS, and the OMB said it would cost.

Now, I know what the response will be. It will be that even though Democratic bills had nearly the exact same prohibition on Government negotiation—practically word for word in seven bills over a long period of time—opponents now think the approach is no longer the best for Medicare. That's sort of like “we supported it before we opposed it.” Beneficiaries and the public deserve more than that.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, it is my understanding we are in morning business.

The ACTING PRESIDENT pro tempore. The Senator is correct.

HONORING THE UNIVERSITY OF FLORIDA'S NCAA FOOTBALL CHAMPIONSHIP

Mr. NELSON of Florida. Mr. President, I am here with a big smile on my face, with an orange and blue tie, to recognize the signal accomplishment of the University of Florida Fighting Gators, and not only now with the national championship in football, but in the same season, the 2006 season, to have the unusual achievement of having the national champions in basketball as well as football.

Throughout the season, this team was challenged time after time and was underrated in the press; yet, they had the heart to win and keep fighting. The score of 41 to 14 last night clearly shows who are the national champions.

On behalf of our State of Florida, later today, I will be introducing a resolution commending the University of Florida for being the national champions and urge our colleagues to join in this Senate resolution.

I will only additionally call to the Senate's attention that with my colleague, SHERROD BROWN of Ohio, we engaged in a friendly wager. This is not like the normal wager that years ago, when a Florida team was playing a California team and the junior Senator from California, Senator BOXER, and I entered into a friendly wager of a crate of oranges versus a barrel of California almonds—and our office enjoyed those almonds for several months. No, this was a different kind. This was a wager with Senator BROWN of Ohio that the losing team's Senator would do the number of military pushups equivalent to the score of the game in public in front of the cameras. So with a score of 41 to 14, that is 55 pushups. I will even extend the olive branch to Senator BROWN that if he doesn't want to do all of them, I will do part of them with him. But it is a great day for college football, and it is certainly a great day for the State of Florida and for the University of Florida.

STAR PRINT—S. 21

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that S. 21 be star printed with the changes that are at the desk.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IMPACT OF THE WAR IN IRAQ

Mr. DORGAN. Mr. President, this morning and in the days leading up to today, we have seen and heard a great deal of discussion, particularly by the media, describing the issue of the President's speech tomorrow evening and all of the discussion in the political system as a political tug of war about Iraq. It is not that. This is not a political tug of war. It is a serious moment for this country to try to evaluate what to do about something that overlays almost everything else we are considering these days; that is, the current war in Iraq. What do we do about what is happening there? It is about the lives of our soldiers. It is about our country's future. It is about how to make change in Iraq, how to create the kind of change that will give us the opportunity to do the right thing.

I intend to listen carefully to what the President says in his speech to the nation tomorrow night. I am not going to prejudge what he says, but let me suggest what I think the President has to answer for us, for me, for the American people.

There is considerable discussion about the fact that the President will likely call for a surge or an increase in American troops going to Iraq. There is also discussion that perhaps he will call for additional funds that would be sent to Iraq for reconstruction or other things Americans would contribute.

One point the President will have to explain is the testimony that was given less than 2 months ago before the Senate by General Abizaid, the top military commander in Iraq. I am talking about the top military commander of American troops in Iraq. Here is what General Abizaid said in November, less than 2 months ago. He said:

I met with every divisional commander, General Casey, the corps commander, General Dempsey. We all talked together. And I said, “In your professional opinion, if we were to bring in more American troops now, does that add considerably to our ability to achieve success in Iraq?” And they all said no. The reason is because we want the Iraqis to do more. It is easy for the Iraqis to rely upon us to do this work. I believe that more American forces prevent the Iraqis from doing more, from taking more responsibility for their own future.

This is testimony before a congressional committee of the top U.S. military commander in Iraq saying he has asked all of his top commanders, if we were to bring in more American troops now, does it add considerably to our