

stymied in being able to bring forward a bill on court security. I hope it is just a small minority of Senators on the other side holding up this bill. We have had violence in courtrooms all over America. In Reno, NV, a disgruntled man did not like what a judge was doing on a divorce proceeding. He drove to a garage with his high-powered, deer-hunting rifle and fired, at almost 200 yards, through the window of the judge's chambers. The shot did not kill him but badly wounded him.

We know what happened in Atlanta, GA, with someone who was in cahoots, basically, with one of the violent prisoners. As a result of that, people were killed.

In Illinois, a disgruntled litigant waited in the judge's home, and when the father and one of the children came home, he killed them both.

This legislation dealing with court security is extremely important. We just had this terrible incident in Blacksburg, VA, indicating how prone this country is to violence. This legislation dealing with court security allows grants to States to beef up the security in courtrooms. It will allow bulletproof glass, as should have been in the judge's chambers in Reno, NV, and metal detectors. It would allow jurisdictions to obtain metal detectors. It would limit what Federal judges have to list in their various personal papers. It would not be possible, if this legislation passes, for some disgruntled defendant, witness, or whatever the case might be, to go to the Internet and find out where the judge lives, as happened in Illinois. They would not have to disclose personal information like that. They would not have to disclose the jobs of family members so one of these violence-prone people could go to someone's place of business and hurt and injure a child or loved one of one of these judges who make difficult decisions.

This legislation is important to allow us to better understand and protect against disgruntled litigants. It increases the penalties for people who do these bad things, who harass prosecutors, judges, and witnesses.

It is very important legislation, and we should have already completed it. But here we are. We are going to have to move to proceed to it. Once—I hope—cloture is invoked, then we have 30 hours to wait before we get onto the bill. It would be a shame that we have to waste the time of our country, time that could be spent on valuable legislation that could be done here in this Chamber, waiting to move forward because of people not wanting to legislate.

#### 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. There will now be a period of morning business for 60 minutes with Senators permitted to speak therein with the time equally divided and controlled between the majority and Republican leaders or their designees.

Who yields time? The Senator from Arizona.

#### PRESERVING COMPETITION WITHIN MEDICARE

Mr. KYL. Mr. President, I would like to speak for a few minutes on the bill on which we will be voting in approximately an hour, as the majority leader just said. I would like to speak directly to the point he attempted to make, which was why should there be a problem with allowing the Federal Government to negotiate for drug prices for Medicare by repealing Medicare's so-called noninterference provision?

Nobody doesn't support negotiation. Negotiation is at the heart of the Medicare prescription drug benefit. I was there when it was written in the conference committee and there was a conscientious decision to ensure that there would be competition for lowering prices by specifically designating pharmacy benefit managers to do negotiating with the drug companies to bring the prices down. So the first myth is that Medicare somehow does not involve negotiations. It involves extensive negotiations. What it does not do is allow the Federal Government to interfere in those negotiations and, in effect, put itself in between patients and doctors and the drugs.

The Medicare Fair Prescription Drug Price Act of 2007, on which we will be voting cloture, turns this law upside-down and basically inserts the Government into this process under these decisions. The purpose may sound simple—the Government, using its negotiating clout, forcing drug companies to give seniors deep discounts—but if you take a closer look and peel away the layers, you realize it is nothing more than a promise running on empty, void of details and muddled by political rhetoric rather than sustained by the facts. Let's look at the facts.

First of all, Medicare Part D is working. When Congress crafted the bill, we heard from our constituents loudly and clearly. They wanted a prescription drug benefit that guaranteed access to affordable drugs and offered a choice of plans. They didn't want to be packed into a one-size-fits-all, Government-run plan that didn't fit their needs, and in fact they asked us to model the benefit after the plan that is available to Members of Congress. We did that. We chose access over restrictions, choice over Government control, and competition over price control. As a result, Medicare Part D is exceeding everyone's expectations. Approximately 90 percent of Medicare beneficiaries have some form of prescription drug cov-

erage. The average premium was \$22, in 2007, which is 42 percent lower than the Government projected initially. On average, seniors saved \$1,200 on their prescription drug costs last year.

Eight out of ten Part D enrollees report they are satisfied with their current coverage, and the Congressional Budget Office estimates that the drug benefit will cost the taxpayers 30 percent less, \$265 billion in savings over the next 10 years.

To sum it up, we have 90 percent Medicare beneficiaries with coverage, 80 percent satisfaction rate, and it costs 30 percent less than originally estimated. If it "ain't" broke, don't fix it.

The second fact, drug negotiation is at the heart of the Medicare bill. For the first time in history, health insurance plans and pharmaceutical companies and these benefit managers whom I mentioned are required to negotiate better prices for seniors, just like they do for Members of Congress. The non-interference provision, which first appeared in democratically sponsored legislation, prevents the Federal Government from interfering in those negotiations. It is a basic economic principle. In competitive markets, supply and demand interact, determining the price of the good or service. How do you get a good price? These pharmacy benefit managers I mentioned have significant market power.

Consider this fact: The three largest PBMs have nearly 200 million members, compared to Medicare's 44 million. So when you talk about the Government using its considerable bargaining clout because it would represent 44 million, appreciate that these pharmacy benefit managers represent 200 million. They insure all of these people—Americans in the private sector, as well as Americans who have Government insurance. So the private drug negotiators already enjoy a significant competitive advantage. They use that power to negotiate lower prices and, as I pointed out, that negotiation has worked.

Third, the secretarial negotiation cannot achieve any lower price without rationing choice in access. That was the testimony before the Senate Finance Committee, and I think every one of us appreciates that we should be very careful about anything which could restrict access to care for our seniors. When the Finance Committee marked up this bill last week, I looked forward to getting some clarity on exactly how Members contemplated this secretarial negotiation, how it would work.

To my disappointment, no one could explain exactly how it would work. In fact, my colleagues openly and candidly admitted they had no plan or any specifics. What they said was that the Secretary would have to use his imagination and that it could take a number of different forms.

So what we are buying, in effect, is a pig in a poke. Nobody knows what the

Secretary would or could do in order to try to bring prices down; he would have to use his imagination.

I think it is appropriate for us to ask this kind of question before we buy into legislation that could so dramatically and negatively impact health care for our seniors. Restricting access could theoretically reduce lower prices if they were raised with some other program. That is the other downside to this legislation.

During the Finance Committee noninterference hearing, we heard testimony from Dr. Fiona Scott Morton, who is a Professor of Economics at the Yale School of Management. She made a couple of critical points. Individuals eligible to participate in Medicare Part D generate approximately 40 percent of prescription drug spending in the United States. The Secretary cannot negotiate a lower average price for such a large population; Medicare is the average.

So if it were somehow theoretically possible to reduce prices, they would have to go up somewhere else. That is the other point we established as well. There are many different organizations, including veterans organizations, that urged us to oppose this legislation because they understand that if you are somehow able to lower the prices for Medicare, they necessarily, arithmetically, have to go up somewhere else. The Veterans' Administration is one of those areas.

Let me quote from two letters, one received from the American Legion, which asks us to consider, and I quote: . . . the serious collateral damage that would result from repealing the noninterference provision.

The VA is a health care provider, whereas Medicare is a health insurer. Any possible Medicare savings would likely result in a reciprocal cost to the VA. Compromising the noninterference provision by striking this section is not in the best interest of America's veterans and their families.

The American Legion is not alone. The Military Order of the Purple Heart sent a similar letter to the Hill. Bottom line here: Cost savings are the result of true efficiencies. Repealing the noninterference provision is just another way to shift costs at the expense of other consumers.

In conclusion, during this markup of this bill in the committee, I offered three amendments, each of which ensured important safeguards: No. 1, to prohibit cost shifting, as I mentioned, to entities such as Medicaid or veterans or the uninsured; No. 2, to require a certification of cost savings to Medicare beneficiaries if these negotiations were to occur; No. 3, a certification of four beneficiary protections: One, individual choice of a prescription drug plan; two, access to prescription drugs by prohibiting a government formulary or other tool to restrict drug access; three, guaranteed access to local pharmacies; and, four, no cost shifting to other payors, such as Medicaid, veterans or the uninsured. All three of these amendments were re-

jected. In fact, somebody called them a red herring. Well, restricting seniors' access to prescription drugs and increasing drug prices for all consumers are not red herrings, they are important issues which have not been adequately addressed in this legislation.

Repealing this noninterference provision would put the Government, not the individual in charge, and put seniors one step closer to a single Government-run designed formulary.

I appreciate and respect the goals of my colleagues. We all want to improve access to affordable health coverage. But with all due respect, they are wrong. A great deal of expert testimony and experience with Medicare Part D by millions of Americans has demonstrated they are wrong. So I urge my colleagues, when considering how to vote on this motion for cloture, to appreciate the fact that, first of all, there is a great benefit that is producing savings and is well appreciated by the American people; that there are organizations that are very much opposed to this, such as the VA, and that we would be very foolish, it seems to me, to adopt a piece of legislation such as this about which there is no consensus as to how the Secretary would utilize his authority to negotiate.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial from the Wall Street Journal of today, April 18, 2007, which further amplifies the points I have made this morning.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 18, 2007]

#### BITTER PILLS

The Senate is scheduled to vote today on legislation to allow the government to negotiate drug prices under the 2003 Medicare prescription drug bill. Democrats and such liberal interest groups as AARP claim this would save money for seniors and taxpayers, but the more likely result is that seniors would find that fewer of their therapies are covered.

We opposed the prescription drug bill as a vast new entitlement, but there's no denying the program's innovation of using private-sector competition has worked far better than critics predicted. In the first year alone, the cost of Medicare Part D came in 30 percent below projections. The Congressional Budget Office calculates the 10-year cost of Medicare Part D will be a whopping \$265 billion below original estimates.

Seniors are also saving money under this private competition model. Premiums for the drug benefit were expected to average \$37 a month. Instead, premiums this year are averaging \$22 a month—a more than 40 percent saving. Democrats don't like to be reminded that many of them wanted to lock in premiums at \$35 a month back in 2003. No wonder recent polls find that about 80 percent of seniors say they're satisfied with their new Medicare drug benefits.

Democrats who opposed all of this private competition now say that government-negotiated prices will do even better. They must have missed the new study by the Lewin Group, the health policy consulting firm, which found that federal insurance programs that impose price controls typically hold down costs by refusing to cover some of the

most routinely prescribed medicines for seniors. These include treatments for high cholesterol, arthritis, heartburn and glaucoma.

Supporters of federal price "negotiations"—really, an imposed price—also like to point to the example of the Veterans Health Administration, which negotiates prices directly with drug companies. But it turns out that the vaunted VHA drug program has a few holes of its own. The Lewin study examined the availability of the 300 drugs most commonly prescribed for seniors. It found that one in three—including such popular medicines as Lipitor, Crestor, Nexium and Celebrex—are not covered under VHA. However, 94 percent are covered under the private competition model of Medicare Part D. Fewer than one of five new drugs approved by the FDA since 2000 are available under VHA.

Here's the real kicker: Statistics released March 22 by the VHA and Department of Health and Human Services show that 1.16 million seniors who are already enrolled in the VHA drug program have nonetheless signed up for Medicare Part D. That's about one-third of the entire VHA case load. Why? Because these seniors have figured out that Medicare Part D offers more convenience, often lower prices, and better insurance coverage for their prescription drugs. In short, seniors are voting with their feet against the very price control system that Democratic leaders Harry Reid and Nancy Pelosi want to push them into.

Of course, the greatest threat from drug price controls is not to our wallets, but to public health. Price controls reduce the incentive for biotech and pharmaceutical companies to invest the \$500 million to \$1 billion that is often now required to bring a new drug to market. If government price controls erode the profits these companies can earn to produce these often life-saving medications, the pace of new drug development will almost certainly delay treatments for AIDS, cancer, heart disease and the like. Congress is proposing dangerous medicine, and if it becomes law seniors may be the first victims.

Mr. KYL. I yield the floor.

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

#### PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, we have a very important vote we are going to take in a few minutes about whether we are going to be allowed to proceed—even to proceed—to a bill that would give the Secretary of Health and Human Services a very important tool to lower prices for prescription drugs.

With all due respect to my friends on the other side of the aisle, I hear very differently from seniors. First of all, they don't like, in Michigan, wading through 50, 60, 70 different insurance plans and all the paperwork to figure out what plan they are going to sign up for. They wanted us to go directly to Medicare which is, by the way, a Government-run program, one of the most successful in the U.S. Government.

They wanted us to be able to set up prescription drug coverage through Medicare. That wasn't done. Instead, we have this privatized system that was geared to making sure the industry would have the maximum amount of profit. That has been the focus, unfortunately, of this legislation, which