

In closing, I implore the SEC once again to act urgently to fulfill its core mission: protecting investors. The reason protecting investors is so important is that by doing so, the SEC ensures the credibility of the financial markets. If the SEC refuses to restore a level playing field to rebuild investor confidence in our market, then we in Congress will have to step in and do it ourselves.

Protecting investors is too important to the Nation, to the integrity of our financial markets, and to our economic recovery. I say again that legitimate capital markets and arbitrage functions have value, like legitimate short-selling has value. But exploiting an unequal playing field only skims our Nation's wealth. It doesn't create wealth or value, except for a privileged few. That harms the integrity of our financial markets and, by doing so, threatens the very foundation of our economic well-being.

As Americans, we must have faith in our institutions, both the markets and government, and we must believe that if we work hard and play by the rules, all will be treated equally. That is what is at stake. Our financial industry and capital markets can be a powerful engine for the American economy. But the SEC and Congress must work together to restore investor quality, integrity, and credibility of our financial markets.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I thank Senator KAUFMAN for his bold advocacy on behalf of consumers and investors and for a better financial system.

Mr. KAUFMAN. I thank the Senator.

HEALTH CARE REFORM

Mr. BROWN. Mr. President, last week I spoke on the Senate floor about the importance of the health care reform bill that passed the Senate in the Health, Education, Labor, and Pension Committee.

I spoke about how the legislation would reduce costs for families and businesses, how it would protect consumer choice of doctors, hospitals, and insurance plans, and how it would assure health care stability and security for all Americans.

I spoke about how the bill's public option would increase competition in the insurance market, spurring private insurers to offer better premiums and better coverage.

I explained how the bill's insurance market reforms would prevent insurers from dodging and weaving to avoid paying claims—an experience most of us have had.

Today, I am here to talk about a provision in the HELP Committee bill that I am not proud of—a provision that none of us should be proud of. The committee adopted an amendment that would discourage medical innovation

and perpetuate inflated prices for the medicines that millions of Americans need. This provision locks taxpayers into paying extraordinarily high prices for medicines covered by Medicaid and Medicare, covered by the VA system, and covered by the military's TRICARE system. The provision also means huge payments by corporations and small businesses that insure their employees, and the provision locks patients into paying astronomical out-of-pocket costs for medicines they cannot do without. The medicines I am talking about are known as biologics. They are medicines used to treat conditions such as multiple sclerosis, arthritis, Alzheimer's, diabetes, and cancer. Spending on brandname biologics is growing faster than spending on any other type of medicine.

All too often, the pricetag for this type of drug is simply too high for the patient who needs it. For instance, annual treatment for breast cancer with the brandname biologic drug Herceptin costs \$48,000. Even if you are lucky enough to have health insurance and you are paying 20 percent copay, that is \$9,600 a year. More than 192,000 American women will be diagnosed with breast cancer in 2009. How are they going to afford that kind of drug?

Annual treatment for rheumatoid arthritis with the brandname biologic called Remicade costs \$20,000. Again, even if you are lucky enough to have insurance—pretty good insurance—you will probably have a copay of 20 percent, which is \$4,000 a year. That is \$80 every single week, in addition to all your other health care expenses, and maybe the fact that you don't have income because you are going through rheumatoid arthritis treatment. At least 1.3 million Americans suffer from rheumatoid arthritis.

Annual treatment for colon cancer with the brandname biologic Avastin costs \$100,000. Again, if you are lucky enough to have good health insurance, and you are paying a 20 percent copay, that is \$20,000. That is \$400 a week just for your copay, on your drug, in order to deal with your colon cancer. This is far too expensive for many of the 112,000 men and women in America who are diagnosed with colon cancer each year.

The typical household income in Ohio, which is not too much different from the State of the Presiding Officer, Colorado, is \$46,000 a year.

We are talking about a drug that costs \$20,000, another drug that costs \$48,000, and another drug that costs \$100,000 a year, and you are trying to pay with an income of \$46,000 a year? Even if you have good insurance, your copay alone will break the bank. You get the picture.

More than two decades ago, in response to consumer outrage over the traditional price of drugs, Congress passed the Drug Price Competition and Patent Restoration Act of 1984, known as the Hatch-Waxman Act. That act created a generic pathway for tradi-

tional medicines. Prior to that bill, the FDA had no approval process to get generic drugs, competitive drugs, similar drugs after they have gone off patent, identical drugs that can cure you just like brandname drugs can, but there was no allowance to bring those generic drugs to market.

A quarter century ago, Congress took care of that. We need a similar generic pathway for biologics. But legislation granting 12 years of "exclusivity"—a better term is 12 years of "monopoly"—protection, on top of the 20 years of patent protection—so these companies already have patents, and I understand sometimes several years of their patents are used up, and several years of the 20-year patents are used up during the approval process—maybe even 10 years. But on top of that, we are going to give them 12 years of monopoly protection, 12 years of exclusivity—the way we talk here—12 years of monopoly protection, the way that most people understand it. That gives a drug company a monopoly that no other drug in the market enjoys and no other product on the market enjoys.

What we have done is taken these drugs that cost \$12,000 a year, \$20,000 a year, \$40,000 a year, or \$100,000 a year, and set them in a different category to protect them—a protection that nobody else in our entire economic system of protection, monopoly protection, and nobody else in our economic system enjoys. These are drugs that save people's lives. These are treatments for people they cannot get any other way.

Why do we carve out monopoly protection for these drug companies, when we don't do it for any other kinds of drugs—so-called orphan drugs—or any other consumer product? Why do we do it? It could not be because the biotech companies are really good lobbyists, could it or because of the campaign contributions they make to my colleagues—it couldn't be that, could it? I don't know the explanation.

Americans are worried that their employer will drop their health care coverage because of the cost of biologics. A 12-year biologic monopoly balloons the cost of employee-sponsored health care. Consumers worry that they won't be able to afford individual coverage. You will see, in some cases, some employers totally ending their health care coverage overall—the insurance they have for employees—because of the cost of biologics. Imagine you are a company with 100 employees, and you are a generous employer and you pay your people pretty well, and you are doing OK in this economy—not great but you have insurance for everybody; and of these 100 employees you have, say 4 or 5 get really sick. Say one takes Herceptin and one takes Remicade and one takes another one of these drugs—say, the \$100,000 drug, Avastin. Do you know what that employer is going to have to do because of the cost? They are probably going to have to end health care coverage for all of their

employees because they have three or four employees taking these drugs.

We must fight back for Kyl and his family from Franklin County in central Ohio. Kyl's sister nearly lost her house because of the costs of fighting a series of immune-related diseases. Kyl's father works 50 hours a week in a food service job, with no health care benefits. Yet he has diabetes and heart trouble. Kyl writes that his father had to stop taking medications because he cannot afford the cost.

We are asking them to wait 12 years so that biotech companies can make even more—give them 12 years of monopoly protection.

I want these companies to do well. That is why I support more NIH funding. A lot of these companies get started by using taxpayer dollars for their research. Taxpayer-funded research is a good thing. It means inventions. And biologics are wonderful. I want them to be profitable and to innovate and to have incentive to do that. But 12 years of extra monopoly protection that nobody else in our system has?

We must fight for Laura and her family, from Lake County, OH. She is an 80-year-old mother of two sons who have struggled with serious medical conditions. One son is a brain cancer survivor, who cannot afford medicine or health insurance. He cannot get it because of his preexisting condition. Her other son has battled years of illnesses, mainly rheumatoid arthritis. His existing insurance coverage doesn't cover Remicade, which is the drug I talked about earlier. Remicade costs \$20,000 a year, about \$2,000 a month. If you have some insurance, maybe you can get it for a little less. But this employer wouldn't cover the brandname drug. Laura writes that her sons' health care costs far exceed their ability to pay.

Remember that traditional medicines receive only 5 years of monopoly protection. I am not the only one on the floor who thinks 12 years of unchecked monopoly protection is an irresponsible and inefficient pathway to biologics. President Obama has recognized the need to create an approval process for generic biologics with 7 years of market exclusivity.

Consumer groups, patient safety advocates, insurance companies, labor unions, and medical professionals, and many companies, because they are paying the freight, want a safer and more efficient pathway to generic biologics. They suggest 5 years, as my legislation originally did.

Groups from AARP to Families USA, to the National Organization for Rare Disorders, to the Service Employees International Union, to Blue Cross/Blue Shield have called for 7 years or less of monopoly protection.

The FTC released a report which found that lengthy periods of exclusivity will actually harm patients, diminish innovation, and delay access to affordable generic biologic drugs.

That is the only argument these biologics have, as they spread campaign

contributions around. They lobby the halls of Congress and have spent literally millions already, and it is only July of 2009, but they spend millions of dollars lobbying. The only argument they have is they need 12 years of monopoly protection because, otherwise, they are not going to innovate.

The FTC said if they have 12 years, they will get fat and lazy. They won't innovate for 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, or 11 years, because why innovate if they are getting \$20,000, or \$48,000, or \$100,000 a year for their drug? The FTC explodes the only argument they have.

Interestingly, the FTC study is the only study out there examining this that is not paid for by the industry. The industry studies say one thing; the study paid for by the government and taxpayers, which doesn't have a dog in this hunt, says something very different.

I find myself disagreeing with every issue from Medicare, to trade, to the Iraq war, to everything else. Even the Post today said:

With a name like the Affordable Health Care Choices Act, you would think the Health, Education, Labor, and Pensions Committee this month would have made an effort to provide affordable health choices. But, instead, the bill includes a provision that would create a 12-year market exclusivity period [monopoly protection] for brand name biologic drugs. This would drive costs to consumers above even current levels [like the biotech companies aren't making enough with \$100,000 dollars a year drugs] making the title little more than a mockery.

This is a very important issue. I hope when the health care reform bill comes to the floor, Congress will get involved on behalf of the Americans they serve, the patients and taxpayers, and on behalf of American business.

Let's hope Ohioans from Paulding to Preble, from Montgomery to Morrow, from Gallia to Guernsey—Ohioans suffering from MS, arthritis, Alzheimer's, cancer, diabetes, and Parkinson's—can afford these medicines. Let's hope Congress will shake off, will ignore the pleas from lobbyists and recognize a 12-year monopoly reserved exclusively for biologic manufacturers is more than a bonus—it is a boondoggle.

Let's hope that we in Congress take a stand for fiscal responsibility, for common sense, and for the Americans we serve by ratcheting down the 12-year monopoly sweetheart deal that the big drug companies are peddling.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate

proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

HONORING OUR ARMED FORCES

Mrs. BOXER. Mr. President, I wish to pay tribute to CDR Duane G. Wolfe, a sailor from my home State of California who paid the ultimate price in service to our country in Iraq.

Commander Wolfe, of Los Osos, CA, died on May 25, 2009, from injuries suffered when his convoy was hit by a roadside bomb southeast of Fallujah, Iraq.

He is the oldest Californian to have lost his life in either Iraq or Afghanistan to date, electing to continue to serve as a member of the U.S. military despite having the option to retire.

Commander Wolfe enlisted in the Navy in 1972 shortly after graduating high school and served on Active Duty for 5 years. In 1978, he joined the Navy Reserves, where he served until his death. He also worked for 24 years as a civilian employee at Vandenberg Air Force Base, rising to the position of civilian deputy commander for installation support for the 30th Mission Support Group.

As a member of the Navy Reserves, Commander Wolfe deployed to Iraq in December 2008 for a 6-month assignment. He served as the officer in charge of the U.S. Army Corps of Engineers Al Anbar Area Office, leading a team that oversaw nearly \$300 million in construction projects including many that provide essential services to the Iraqi people. He was due to return home on July 10, 2009.

In addition to his military service, Commander Wolfe was a longtime deacon for the Los Osos Church of Christ where he taught Bible classes and occasionally filled in as a substitute preacher. He was a skilled lifelong athlete who loved golfing and playing basketball, and a talented mechanic, with a particular aptitude for both construction and car repair.

At the age of 19, Commander Wolfe met his wife Cindi, to whom he was married for 34 happy years. He and his wife have three children, Carrie, Katie and Evan, who remember their father for his kindness, warmth, and dedication to his family and country.

Commander Wolfe will be posthumously awarded the Bronze Star with "V" Device for Valor, the Purple Heart, the Navy Combat Action Ribbon, the National Defense Service Medal with Service Star, the Iraqi Campaign Medal, the Armed Forces Reserve Medal with "M" Device for Mobilization, and the Overseas Service Ribbon, commemorating his courage and extraordinary sacrifice in service to our country.

Nothing can fully account for the loss suffered by Commander Wolfe's family and all those who loved him.