

drugs potentially subject to generic competition, the basic patents on at least five of them have long expired. Their exclusive rights to market their drugs have long expired. Yet, there is no generic competition.

Drug spending rose at double digit rates between 1996 and 1999, and experts expect the growth in prescription drug spending to continue to outpace the growth in health care spending. Some of this increase is due to increased use of drugs. But experts agree that spiraling drug prices have accounted for almost two-thirds of growth in drug spending, especially the higher prices of new, aggressively promoted drugs.

Generic drugs are clearly part of the answer. Simply put, a 1 percent increase in generic use can decrease the Nation's yearly bill for drugs by a billion dollars.

These savings are easy to understand. For patients and health plans alike, the costs for a brand drug are four times higher than for a generic equivalent. That difference is even higher for the elderly and uninsured, who must often pay full price for their medicines. On average, a month's supply of a generic drug costs a patient \$4 and the health plan \$16; the costs for a brand drug are four times higher: \$16 for the patient, \$64 for the plan. For the uninsured, and seniors who lack prescription drug coverage, the full costs are either \$20 for the generic or \$80 for the brand drug.

Prozac is a clear example. This antidepressant recently went off-patent after generic companies challenged and defeated a Prozac patent. Today, you can buy 30 generic Prozac tablets for less than \$30, less than a third of what brand-name Prozac will cost you.

There are two key loopholes in the law that our legislation will end. The first is the practice of "ever-greening" patents, filing patent after patent, many of them entirely frivolous, to try to bar generic competition long after the basic patent on the medicine has expired. The second is the outrageous tactic used by some drug companies of buying off a potential generic competitor to prevent it from marketing its drug and using a quirk in the law to bar any other competitors from the market.

Those are the two loopholes and abuses. This legislation is targeted to the abuses. The abuses result in billions of dollars for drug companies, and that is why many of the major drug companies are so strongly opposed to this legislation.

Schumer-McCain closes the ever-green loophole by permitting only one 30-month stay to apply to each generic drug. For the other patents, the drug companies are free to defend its patents the same way any other company does.

A second tactic used by the drug companies is to collude with a generic drug manufacturer to block other generic versions of the drug from getting to consumers. Under the Hatch-Wax-

man Act, the first generic drug company which gets to market has that exclusive right for six months before any other generic can compete. In some cases, brand drug companies have bribed the generic drug company never to go to market. The clock on the six months exclusivity never starts to run, and every other generic competitor is locked out forever. But the ones who pay for these unconscionable sweetheart deals are American patients.

Those are the two abuses. Schumer-McCain prevents collusion between brand name companies and generic competitors by opening generic challenges to invalid patents. Closing those two loopholes will make an extraordinary difference.

Finally, Gov. Bill Janklow of South Dakota told our committee that the savings for his State's Medicaid Program would be enormous. He added:

That's a drop in the bucket compared to what the real costs are out there for the General Motors of this world, and Roy's Blacksmith Shop, and everyone in between. It's some individual or retired person that's paying for their own on Social Security, or a working person. The point is, they all pay more.

Madam President, we will all pay more until Schumer-McCain becomes law. That is what we are about with this legislation. That is why it is so important. It is going to have an important impact in calming down the increase in the cost of drugs for the American consumer, and we think the quicker we get on this bill the better.

There are other ideas that can also help us in getting a handle on the escalation of costs. Then, hopefully, we will have an opportunity to consider the issues of coverage as well. I know there has been a previous agreement for the lunch break.

I yield the floor.

Mr. REID. Madam President, I ask unanimous consent that I be allowed to speak for a few minutes.

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

Mr. REID. Madam President, at 2:15, or thereabouts, either Senator DASCHLE or I will offer a unanimous consent request to move on to the Military Construction Subcommittee appropriations bill. We have been working on this for more than a week. I have spoken to the Republican leader and I have spoken to the Senator who has been stopping this from going forward.

Everybody should be aware, as I have told the Republican leader and the Senator who is objecting to this, we are going to do this this afternoon. I hope that during the Republican conference they will work things out so that we can move to this legislation.

I was in the White House this morning. The President wants us to move forward on the appropriations bills, especially MILCON. This will be our first appropriations bill. I think it is a shame there are issues that normally are not handled in this bill, and it

should not hold us from moving forward. Under the agreement we will propose, we will finish the bill in a little over an hour and have an appropriations bill sent to the conference committee and we can wrap it up quickly. In the next week, this bill could go to the President.

I think it is too bad we are being held up from moving forward on this bill. The two leaders of the committee, Senator BYRD and Senator STEVENS, have worked extremely hard to get us to this point. I repeat that, this afternoon, we are going to ask unanimous consent to move forward on this. I hope there is no objection to it.

Madam President, I simply say this. I have been listening to the debate this morning, and if this were a jury, like I used to have when I practiced law, this would be a quick verdict. We have the merits on our side. The American people support what we are trying to do, and I want the RECORD spread with how much I appreciate and applaud the leadership of the Senator from Massachusetts. This is something he has been working on not for days, weeks, or months but years. It is too bad we are being prevented from moving forward.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate now stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as in morning business for no more than 1 minute.

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

EXPLANATION OF VOTE

Mr. CRAIG. Mr. President, I was absent yesterday during that most important vote that was cast on S. 2673. Friday morning I spoke to the importance of that legislation and the importance that we move it rapidly. I was extremely pleased that happened. I knew I would be in Idaho yesterday. The Secretary of Energy was with me in Idaho Falls to announce a new mission for our National Laboratory, the INEEL, so I was unable to make that vote.

Had I been here, I would certainly have been with the unanimous majority who supported that very important piece of legislation. It is time we restore within the American people confidence that corporate America is doing all it can to manage its affairs appropriately and honestly for the integrity of the stock in which the citizens of our country invest.

That is important legislation. I hope we can move quickly now to get it to

the President's desk after a conference with the House so that the American people know that it is law, know that there are penalties for the bad actors and the criminal activity that has occurred in certain instances at the corporate level.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

UNANIMOUS CONSENT REQUEST—
H.R. 5011

Mr. REID. Mr. President, as I indicated this morning, we are tremendously anxious to move to our first appropriations bill. I repeat, the President has been pushing us on these bills. We marked up in the Defense Appropriations Subcommittee today the largest Defense appropriations bill in the history of the country.

We have already reported out of the subcommittee and the full committee the military construction appropriations bill, and we have not been able to get it to the floor. There has been an objection on the other side to moving forward.

Mr. President, some have suggested we just bring it to the floor. We cannot just bring it to the floor because then we get into the cloture process and that takes many days. We are now trying to go forward on the prescription drug bill, and we are in a cloture situation there, having filed cloture on the motion to proceed, and we are going to vote on that tomorrow unless something comes in the meantime.

I am basically going to propound the same unanimous consent request I did before. The majority leader was on the floor. The Republican leader has been on the floor. The Republican leader, to his credit, has said he thinks we should move forward with this. Today, I spent some time with him and indicated what we can do to move this forward. He had just finished a meeting with the President.

We want to move forward with this bill. We are doing everything we can to move forward. We were told the last time the reason we are not moving forward—and I spoke with the junior Senator from Arizona, and I know how strongly he believes we have to do something about the firefighting problems. I am from the West. We have two big fires burning in Nevada right now. I am concerned about them, but the firefighting problems of our country have never been funded in the military construction appropriations bill.

We are going to have the ability in the supplemental where it should be done. It is an emergency. We have been blocked from doing that by the administration, but it will be done, as it has always been done during my tenure, if not in a supplemental, in the Interior appropriations bill, chaired by Senator BYRD, the President pro tempore of the Senate. I hope they will allow to us move forward on this.

There are military projects that will have to wait until we pass this bill. So

here I go: I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate may proceed to the consideration of Calendar No. 486, H.R. 5011, the military construction appropriations bill, and that it be considered under the following limitations:

That immediately after the bill is reported, all after the enacting clause be stricken and the text of Calendar No. 479, S. 2709, the Senate committee-reported bill be inserted in lieu thereof; that debate time on the bill and substitute amendment be limited to a total of 45 minutes, with an additional 20 minutes under the control of Senator MCCAIN; that the only other amendment in order be an amendment offered by Senators FEINSTEIN and HUTCHISON of Texas, which is at the desk; with debate limited to 10 minutes on the Feinstein-Hutchison amendment; that upon the use or yielding back of time on the amendment, without further intervening action or debate, the Senate proceed to vote on adoption of the amendment; that all debate time not already identified in this agreement be equally divided and controlled between the chair and ranking member of the subcommittee or their designee; that upon disposition of the Feinstein-Hutchison amendment, and the use or yielding back of all time, the substitute amendment, as amended, be agreed to; the bill, as amended, be read three times; that section 303 of the Congressional Budget Act be waived; and the Senate then proceed to a vote on passage of the bill; that upon passage of the bill, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona.

Mr. KYL. Reluctantly, I must object at this time on behalf of a group of other Senators and myself, not to the terms of the unanimous consent agreement as has been outlined by the Senator from Nevada, but rather to bringing up the bill until there has been an agreement reached on how to deal with the supplemental funding for dealing with these wildfires.

I think the Senator from Nevada is absolutely correct that that funding should be on the supplemental appropriations bill. Unfortunately, it has not been put on that bill so far. There are a lot of different reasons alleged to exist for that. It seems everybody is willing to do it but somehow or another they cannot all get together to make it happen, and if it does not happen on that bill, the only other alternative is to try to do it on the military construction bill.

The Interior Department appropriations bill is not likely to be able to

come before us in a timely fashion so the money that is needed for replenishing these Forest Service accounts can be replenished before the end of the fiscal year, and that is the reason we have to retain this option.

I hope that within the next several hours an agreement can be reached and these funds will be put on the supplemental appropriations bill, as the Senator from Nevada suggests, and then we can move on with this important legislation. Until then, we do need this as a possible way to move forward with the funding that it seems everybody is for but they just cannot find a way to make happen.

The PRESIDING OFFICER. The objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, I think this is too bad, for lack of a better way to describe things. This bill is not the proper place for this type of funding. With all due respect to my friend from Arizona, this does not create any pressure, holding up the Military Construction Subcommittee bill.

We have to understand that if we are going to take care of the men and women who are defending our country, we need to take care of the bills that fund them.

I have indicated I am concerned about firefighting in Nevada. We have fires burning as I speak, but never in the history of this country, that I am aware, have we funded firefighting through the military construction bill, and we are not going to do it in the future. Holding up this bill creates a false illusion that we are accomplishing something regarding firefighting in this country.

I hope that in the next couple of hours, as my friend from Arizona said, more deliberation can come and that we can move forward on this bill.

I am terribly disappointed we do not have more things declared emergencies. It is hard to believe, but the terrible disaster that occurred in Oklahoma where a barge ran into part of our interstate freeway system, dumped more than a score of cars in the river, killed at last count about 14 people, that is not deemed an emergency to fix that road. Now if that is not an emergency, I do not know what is. I do not know what we are trying to accomplish with the numbers game, but that is an emergency, if anything ever was an emergency.

Those fires that are burning, those are emergencies. They are not in the next fiscal year, they are in this fiscal year. The fires are burning right now. The fires in Arizona are not even out yet. They have them under control, but they will be burning for weeks into the future. They have large crews making sure they do not blow up again. I think books will probably be written about that fire in Arizona, if not articles. They were blowing out fireballs for miles, not a few hundred feet or a thousand feet but, by some accounts, up to 3 miles. They were blowing out big