

power to a single Senator that no single Senator should be able to exercise for a very long period of time, maybe in the purist way—but in the less pure way should not be able to exercise secretly because the public's business ought to be done in the public.

There is no good reason why a Senator should be able to singlehandedly block the Senate's business without public accountability. For several years now, as I have said, I have practiced using holds for various reasons, but I placed a statement in the RECORD of why I was doing it.

We must have transparency in the legislative process for the right of the public to know what we are doing but also to expedite the public's work. The use of secret holds damages public confidence in the institution of the Senate. I figure a secondary, subsidiary benefit of what we are doing is when people get the idea that we are not trying to do something secret, that the public's business is public, they are going to be less cynical about the institutions of Government generally. The less cynicism we have, the more confidence people are going to have in the institutions of Government and the better our Government is going to operate, the better the representative system of Government is going to operate.

But where does less cynicism start? It doesn't start necessarily with changing the rules. It starts with people such as Senator GRASSLEY, Senator WYDEN, and Senator WHITEHOUSE because when we do things in the way the public expects us to do them and more Senators do that all the time, Senator by Senator we are going to reduce the cynicism and enhance public respect for the institutions of Government.

The purpose of the underlying bill before the Senate is to provide greater transparency in the legislative process. Therefore, the amendment by Senator WYDEN and this Senator from Iowa is a natural extension of that purpose. It is quite appropriate that this underlying bill include disclosure requirements for holds that he and I have been working on for several years.

In the process, we have to compliment Senator REID for including this in the underlying bill and Senator McCONNELL, and I am not sure how they individually felt about this in the past. But I think it is very clear that with the vote we had last year—I think it was in the mid-eighties—of Senators who support what we are doing, it is a foregone conclusion that regardless of how leaders might feel about it, if they were on the other side, they were very much in the minority.

Realism finally comes through when we have consistency and determination, as Senator WYDEN has demonstrated and that vote demonstrates, and it is a tribute to our leaders that if they don't necessarily like what we are doing, that they have included it in their legislation. Obviously, I have to give thanks to them. I, also, give

thanks to Senator LOTT who, over a period of couple of years, has been working with us. I, also, wish to give credit to the President pro tempore, Senator BYRD, who a couple years back gave us some encouragement along this line.

I hope, now that everything is coming together, that within a few short weeks we can have a very open process of making holds public, bringing people together and producing results in the Senate because of one giant step we are taking here.

Doing away with holds might not sound like one giant step, but it is from the standpoint if you knew what the four-letter word "hold" does to the legislative process around here, it grinds everything to a halt—everything to a halt. Try to explain to your constituents back home that some Senator has a hold on a bill and try to explain that is why we can't get something done. They wonder what planet we come from. It is very difficult to explain.

We are still going to have holds, we still have to explain it, but at least I can say to people it is Senator SMITH or Senator Jones or Senator Wilson who has a hold on the bill, and I am going to talk with them and see what we can do about it and get something done.

I compliment the Senator from Oregon very much and hopefully the Senate is going to work better.

Mr. GRASSLEY. Mr. President, I wish to speak as in morning business for such time as I might consume, and for other Members, it will be in the neighborhood of about 25 minutes.

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

#### MEDICARE DRUG BENEFIT

Mr. GRASSLEY. Mr. President, I am back again tonight to talk about the Medicare drug benefit. As I said yesterday, the 110th Congress will consider legislation that would fundamentally change the benefit. The public and Medicare beneficiaries need to fully understand the proposed changes and how they would affect them.

When we talk about the public and Medicare beneficiaries, remember, for the most part, we are talking about the senior citizens of America and people who are on Social Security disability.

Yesterday I spoke about how the benefit uses prescription drug plans in competition to keep costs down and how well that has worked. Today I want to get to the crux of this debate, the so-called prohibition on Government negotiation with drugmakers.

Opponents of the Medicare drug benefit have twisted the law to come up with their absurd claim that Medicare will not be negotiating with drugmakers. They misrepresented the noninterference clause. The language does not prohibit Medicare from negotiating with drugmakers; it prohibits the Government from interfering in negotiations that are ongoing all the time.

So it is a prohibition on Government negotiating. It is not a prohibition on negotiation. It is very important because it is not the Government agency itself that is doing the negotiating. It is the private prescription drug plans that are doing the negotiation.

That may surprise some people who have heard about the so-called prohibition on negotiations. Of course, price negotiations occur on drugs provided to Medicare beneficiaries. Those negotiations occur between the prescription drug plans and the manufacturers. We have a precedent for this. The plans are run by organizations experienced in negotiation with drug manufacturers. They deliver prescription drug benefits to millions and millions of Americans—in other words, meaning millions and millions of Americans beyond senior citizens—and including this 50-year precedent of it being done for Federal employees through the Federal Employees Health Benefit Plans.

As I said yesterday, competition among the plans to get the best price is working. We have lower than expected bids and cost of premiums and lower than expected costs for the Government as a result. So not only is it saving the senior citizens money, as it has been saving Federal employees money for 50 years, but also lowering costs to the taxpayers because there is some subsidy for seniors in the Medicare prescription drug program.

Most importantly, we have lowered prices on drugs for beneficiaries. For the top 25 drugs used by seniors—so I am just taking the top 25 drugs used—the Medicare prescription drug plans have been able to negotiate prices that on average are 35 percent lower than the average cash price at retail pharmacies; 35 percent lower. The purpose of the prohibition on Government negotiation—in other words, getting back to what is referred to as the noninterference clause—is to keep the Government from undermining these negotiations that have been so successful and to keep the Government out of the medicine cabinet.

I have lost count of the number of times I have talked about this so-called prohibition that is not a prohibition on negotiations, because negotiations are going on every day. I am not easily discouraged and that is why I am here talking tonight on this subject. I prefer to debate more substantive issues, but unfortunately that is not the case. The debate that went on during the campaign, the debate that went on in some speeches on the floor in the last Congress, and the debate that will come here on the Senate floor in the next 3 weeks, is in fact a shell game. It is about distortion of the language of the law, it is about manipulation of beneficiaries and, in turn, the public, and it hinges on the convenient lapse in some people's memory about the history of this noninterference clause. What I want to do today is remind people about the history.

We are going to take a little trip down memory lane. For our first stop

on memory lane, let me take a second to read something to you. This is a quote from someone talking about their own Medicare drug benefit proposal.

Under this proposal, Medicare would not set prices for drugs.

Let me start over again because that first sentence needs to be emphasized:

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

The person who said this clearly wanted private negotiations with drug companies for Medicare benefits. He was proposing, and I want to quote again from this person—and I am soon going to tell you who that is—

... negotiations between private benefit administrators and drug manufacturers.

So I am taking that quote out of the previous quote for a way of emphasis.

Negotiations would go on between private benefit administrators and drug manufacturers.

In other words, not involving the Government. So it could not be more clear what this person had in mind when he was proposing legislation a few years ago. You are going to be shocked to hear who said this. For those who thought President Bush said it, they are wrong. 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. President Clinton had in his idea, when we were going to strengthen and modernize Medicare with a prescription drug program, that we ought to have negotiations done by the private sector, not by the Government.

President Clinton went on to say that under his plan:

Prices would be determined through negotiations between the private benefit administrators and drug manufacturers.

Quoting further:

The competitive bidding process would be used to yield the best possible drug prices and coverage....

And following the 50-year precedent I have been referring to, he went on to say:

... just as it is used by large private employers and the Federal Employee Health Benefit Plans today.

That is the end of the quote from President Clinton.

President Clinton also described his plan as using private negotiators because:

These organizations have experience managing drug utilization and have developed numerous tools for cost containment and utilization management.

This is a President whom a lot of people would believe, because he comes from the Democratic Party, has great faith in big Government, that he would not be suggesting these things. But when you have a precedent of 50 years of it working for Federal employees, he believed it was good enough to use

when you offer prescription drugs to the senior citizens of America.

Does this ring any bells? It should, because it is the same framework used in today's Medicare prescription drug benefit—and I had a hand, as a conferee, in writing that. Private negotiations with drug companies—and it is based on a nearly 50-year history of the Federal Employees Health Benefit Plan.

Here is another interesting spot on memory lane—if I could digress for a minute for the benefit of Members who keep ringing up about a doughnut hole—separate from the issue of pricing drugs and negotiating. I thought it would be good to remind people. The Clinton plan had a coverage gap as well. It had a doughnut hole, as we refer to it, like the bill eventually signed by President Bush in 2003. Like many others, the new Speaker of the House has questioned why one would pay premiums at a point in time when you are not receiving benefits. In other words, when you are in the doughnut hole. It happens in the private sector, in a lot of different insurances. That is how insurance works. Go look at any homeowner's policy and auto policy or even the Part B of Medicare. You pay premiums to have coverage, and that is also how President Clinton's plan would have worked if it had been passed in 1999 instead of 2003.

In Sunday's Washington Post, Speaker PELOSI was quoted on her thoughts about having a doughnut hole. She said:

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

Maybe she was referring to President Clinton's plan. As I said, President Clinton proposed this plan in June of 1999. On April 4, 2000, in a bill that is listed as S. 2342, the Medicare Modernization Act introduced here in the Senate, S. 2342 from that year, 2000, would have created a drug benefit administered through benefit managers. It even had the same title as the Medicare law that is now law. The Medicare Modernization Act is the title in 2000. It is the title of a bipartisan bill that is now law. So, here again, we have private negotiations with drug companies. It sounds familiar. It is like today's Medicare drug benefit.

Here is another important stop down our memory lane. This bill, which I referred to as S. 2342 previously, included the following language. "Noninterference," nothing in this section or in this part shall be construed as authorizing the Secretary to:

require a particular formulary or to institute a price structure for benefits; (2) interfere in any way with negotiations . . . or (3) otherwise interfere with the competitive nature of providing a prescription drug benefit through private entities.

This is the first bill, the very first one where the noninterference clause appeared. You could say it is the second time it appeared because it ap-

peared as a suggestion of President Clinton, but it was introduced the first time, and this was the language. But S. 2342 was not introduced by Republicans. It was introduced by my esteemed colleague and friend, the late Senator Moynihan. One month later there was S. 2541 introduced. I will read some language of that bill. Here I go to the first chart I have. I have four charts coming up.

(B) Noninterference . . . 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 or wholesalers; or

(3) interfere with the competitive nature of providing a prescription drug benefit through private entities.

That wasn't a Republican bill, either. It was introduced by Senator Daschle, who was joined by 33 other Democrats, including Senators REID, DURBIN, and KENNEDY. For instance, 33 Senate Democrats cosponsored language for a bill that they now find not to their liking. I don't understand it. It turns out that the Democrats did not want Government interfering in the private sector negotiations, either. They recognized then that the private sector would do a better job. They recognized then what President Clinton recognized: something that had worked 50 years for Federal employees could be allied to senior citizens and Medicare as well and maybe do it better. And they didn't want the Government, some bureaucrat, messing it all up. At that time, they didn't want the Government in their medicine Cabinet, either.

In June 2000, two Democratic bills were introduced in the House of Representatives that also included the noninterference language. One was introduced by Dick Gephardt. That bill had more than 100 cosponsors, including then-Representative PELOSI, now Speaker of the House, but it also included Representatives RANGEL, DINGELL, and STARK. I want Members to know I worked very closely on some health issues with DINGELL and STARK, and I worked very closely with Congressman RANGEL on trade and tax issues.

That language included in H.R. 4770, introduced by Representative Gephardt and supported by more than 100 House Democrats, was almost identical to the language in Senator Daschle's bill. So we have 33 Senate Democrats, we have 100 House Democrats supporting the noninterference language.

Here is a chart with the text of the noninterference clause included in what is now Part D, the prescription drug part of Medicare, referring to it again under its official title, the Medicare Modernization Act.

It says:

(B) 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 the drug manufacturers and pharmacies and PDP sponsors; and

(2) may not require a particular formulary or institute a price structure for the reimbursement of covered Part D drugs.

It sounds exactly like what was introduced in the Democratic bill. If we compare this language to the Gephardt-Pelosi language, the Medicare Modernization Act provisions have 26 fewer words. Compare it to the Daschle-Kennedy noninterference clause—the Medicare Modernization Act has 10 fewer words. It sounds as if sponsors of those bills were pretty concerned about the potential of Government interference.

Last week, the senior Senator from Illinois described the Medicare law enacted in 2003 as being written by the pharmaceutical industry. But the noninterference clause first appeared in legislation introduced by Democrats who now oppose the same provision that is law.

Since the opponents of the Medicare drug benefit always say that the noninterference clause is proof that the drug industry wrote the law, my question is, If that is what you think, did the pharmaceutical industry also write the bills that you had put in over the previous years going back to the bills I have referred to that were introduced by Democrats? I bet you wonder just how many Democratic bills contain that now infamous “noninterference clause”—the prohibition, in other words, on Government negotiating.

I have a timeline. As this chart shows, the prohibition on Government negotiation—the noninterference clause—has been in seven bills by Democrats between 1999 and 2003. That is in addition to the point I make clear of where the last Democratic President was on this subject: right where the law is today. Seven bills, including the bill introduced in the House on the same day as H.R. 1, which is now the law.

First it was in the Moynihan bill in 2000. There was a Daschle-Reid-Kennedy bill. That was followed in the House by a bill introduced by Representative ESHOO and then the Gephardt-Pelosi bill which has Representatives RANGEL, DINGELL, STARK, and our colleague who then was in the House, Senator STABENOW now, as a cosponsor. Representative STARK then had his own bill, and the senior Senator from Oregon introduced his bill in the Senate.

Finally, in the House, Representative Thomas introduced a bill. I know what the response will be. It will be that even though Democratic bills had nearly exactly the same noninterference language, practically word for word in seven bills over a long period of time, opponents now think that approach is no longer best for Medicare. It is sort of like we supported it before we opposed it.

Mr. DURBIN. Will the Senator yield?

Mr. GRASSLEY. Of course I yield for a question. We very seldom get a chance to debate. That is a welcome opportunity.

Mr. DURBIN. I notice that my friend and colleague from Iowa has been in

the Senate for the last several days talking about Medicare prescription Part D, which he played a major role in creating. I know he feels the program as passed into law should not be changed—or at least not along the lines many suggest. However, I ask this question: Does the Senator believe that the current program at the Veterans’ Administration which allows that agency to bargain for bulk discounts on behalf of our veterans to reduce the prices of the drugs they buy for our veterans is a good policy?

Mr. GRASSLEY. In the sense of what we can afford for veterans, we ought to think in terms of that we cannot afford enough for veterans who put their lives on the line.

When we have appropriated accounts, there are some limits, as opposed to an entitlement such as Medicare, but it is not as good as what seniors have under this because there are several therapies the Government will not pay for under the veterans program we pay for under Medicare. From that standpoint of the quality of the program, based upon the therapies that are available, it is not as good as what we have in Medicare.

Mr. DURBIN. Would the Senator acknowledge the fact, though, that the Veterans’ Administration, because it can bargain on behalf of all veterans and obtain bulk discounts, saves money not only for the veterans who are provided with these drugs but also for our Government; that the pharmaceutical companies, anxious to provide drugs to millions of veterans, will give bulk discounts that will benefit both the Veterans’ Administration and the veterans?

Mr. GRASSLEY. The answer is yes. But you get back to the person who came to one of my town meetings and said: The doctor said I ought to have this prescription. Why won’t the Veterans’ Administration pay for it? I have to have this one, according to the Veterans’ Administration, and there is some way it affects me that the other one wouldn’t.

We have to take that into consideration as well. Yes, bulk discount gets drugs cheaper, but the Government is not going to pay for every drug. You are going to have the bureaucrat in the medicine cabinet of the veteran, and the bureaucrat is not today in the medicine cabinet of the senior citizen.

You also have to realize that, in addition to the VA having a limited formula, they also do not have the availability of the drug in the pharmacies the way we provide in this Medicare Program.

Mr. DURBIN. Would the Senator from Iowa acknowledge the fact that under the current Medicare prescription Part D, if a senior citizen in Iowa or Illinois signed up for a specific program, there is no guarantee the formulary they signed up for today will be available to that senior next month or even next year? So if the Senator from Iowa is concerned that the VA can’t guarantee all drugs, the current Medi-

care prescription drug Part D Program does not guarantee the formulary. The formulary can literally change by the month, and a senior can find that a valuable and important drug they signed up for is no longer covered.

Mr. GRASSLEY. If you want to say for a period of a year or beyond a year, the answer is yes, but for 12 months, no. But also remember that every year the Secretary of Health and Human Services has to approve these plans, and there are certain basic needs they have to meet. One of those basic needs that is in the law that is not in the VA program is a requirement that every therapy be available.

Mr. DURBIN. I say to the Senator from Iowa, it has been my experience, working with my seniors, that every plan does not offer every drug.

Mr. GRASSLEY. That is true, but every therapy is available.

Mr. DURBIN. That is the same situation the VA faces. The VA may say to that veteran: We believe you should have a generic drug. The veteran may prefer a brand-name drug which is more expensive, but the plan provides the therapy through a generic drug. So in that way, it parallels what the Senator is describing under Medicare prescription Part D.

What I am suggesting, what we are suggesting on this side of the aisle, is not to foreclose the possibility that private plans will continue to offer options under Medicare prescription Part D. What we are trying to add is something that was debated at length and rejected when the bill was written; that is, to allow Medicare as an agency, as a program, to offer its own prescription drug program for seniors, to bargain with pharmaceutical companies to find the lowest prices possible and then allow the seniors to make the choice: either take the Medicare approach or take a private approach. It gives more choices, not fewer.

Mr. GRASSLEY. Mr. President, I say to the Senator, I want to comment on the first part of what he recently said; that is, that what you say is true in regard to plans changing what drugs can be offered. We require that every therapy be available, but you are right, not every drug is available. And you want what the VA has because it might be better.

Now, let me point out then why our program is better. In the VA, 30 percent of drugs are covered, 70 percent not covered. In our program, if a senior finds him or herself in a plan where at the end of the year it has changed, they have choices of several plans to go to. The VA does not have that choice. There is no place a veteran can go. There is no place my constituents could go when they came to me and said: Why don’t you cover this drug? My doctor says I need it because of what it does to me that the other one won’t—or just the opposite.

Mr. DURBIN. If I could say to the Senator from Iowa, I have found my veterans to be very happy with the VA

program. It is a very affordable program.

Mr. GRASSLEY. I have, too, so I agree with the Senator.

Mr. DURBIN. It is growing dramatically in size, which suggests more veterans are using it. But going back to Medicare Prescription Part D, we are not suggesting that Medicare offering its own program as an option is going to be mandatory on seniors. It is still their decision whether they want to use the Medicare approach—which we are supporting on this side of the aisle, which allows for these discounted drugs—or if they feel a private plan is better for them, better for their needs, better for their pocketbook. It is just a consumer choice. But that choice is not available today.

Medicare cannot offer to the seniors, under Medicare Prescription Part D, an option. What is wrong with Medicare offering that option and competing with these private insurance companies?

Mr. GRASSLEY. Well, can I ask a question without answering the Senator's question?

Mr. DURBIN. Certainly. Of course.

Mr. GRASSLEY. Because I was very joyful the Senator was coming out here. I saw him come out. I probably irritated him or something.

Here is what I was hoping we would be debating. Because the whole point of the last 2 days is: From President Clinton in June 1999, all the way through bills that the Senator's party introduced in 2003, we had the noninterference clause in it. I want you to know I felt very comfortable adopting a Democrat noninterference clause in my bill that is now law, and I was hoping the Senator was going to come out and give some justification why his party—mostly in his party; there were some on our side who would agree—why his party would change its mind after President Clinton thought that what we have been doing for 50 years was working so well in the Federal Employees Health Benefit Program that he wanted to do it. And he said you get lower drug prices by doing it that way.

Several bills—I think I said seven bills—introduced by Democrats had the same principle in it. And now you don't like it. I don't understand why. I was hoping that was why the Senator came out to debate.

Mr. DURBIN. Mr. President, I would say to my friend from Iowa, that is why I was asking the questions because I think the questions get beyond the word "noninterference" into the reality of the choice we are suggesting.

I do not believe it is an interference to the rights of seniors eligible under Medicare Prescription Part D to give them an additional choice. And that is all we are asking: Allow Medicare to offer to the seniors another choice. They can reject it. They can accept it. I do not think that is mandatory or interfering.

I think, frankly, that a free-market Republican such as my good friend

from Iowa would grasp that as a good option. It means the private insurance companies would then have to do their best to compete with Medicare. If Medicare offers a better plan, seniors can take it. If it does not, they can take private insurance options that are currently available.

Mr. GRASSLEY. If it is a good idea, I think the Senator from Illinois would do the consumers more good by offering a Government program to compete with Wal-Mart, maybe.

Mr. DURBIN. I would say, when it comes to the Medicare program, we know this was created by the Senator's committee. And I salute him for his leadership. But it is in fact a Government program. In fact, it is a program that is subsidized by our Federal Government. It is not just allowing little, private entities to compete. We provide a subsidy to them. We have constructed a plan which has a doughnut hole where there is a period of no coverage. We have constructed an approach that some seniors find very hard to understand. But regardless, it is a Government creation. What we are suggesting is a Medicare option is not unreasonable. It still leaves the final choice in the hands of the seniors. They make the final choice what is best for them, what is best for their family, and what is best for their budget.

Mr. GRASSLEY. Mr. President, I think I have to give a bottom line and say it is working. Or if that is not good enough for you—after 2 years—that it is something that is working, it is something that is needed, it is something that Republicans got passed. And we did not get it passed without Democratic help, thank God—it was bipartisan—otherwise we would not have gotten it done. But for 4 years we were waiting for something to happen on your side of the aisle. It did not happen.

So could I end by saying one thing? In case my word is not so good, I would quote from the LA Times. It is in response to what the Senator said about the VA program. And I do not have any problems with the VA program. But it says here:

VA officials can negotiate major price discounts because they restrict the number of drugs on their coverage list. In other words, the VA offers lower drug prices but fewer choices.

Now, do we want to give the seniors of America fewer choices? I think you do. The route you are going, that is where you are going to end up.

Mr. DURBIN. Mr. President, I would say to the Senator from Iowa, it is true that the VA formulary for eligible drugs is a more restrictive list. I do not know if that will be the same case when Medicare—if they are allowed to—offers an option. But ultimately the choice is in the hands of the seniors. If they think the formulary that is offered by Medicare is too restrictive, they do not have to choose it. It is their ultimate decision. It is the con-

cept of freedom. And I know the Senator from Iowa embraces that concept. I hope he will consider our approach.

Mr. GRASSLEY. So I cannot attribute this specifically to the Senator from Illinois, but the Senator is talking about choice now, and if there is anything people have choice on, it is all the plans that are available. But from your side of the aisle, starting in 2004, all I heard was there was too much choice, too much choice, too many plans.

So I do not know for sure if you and your party know where you are coming from, whether choice is OK, how much choice is OK. Maybe you are leading us down the line where we are going to end up, if you get too much Government interference, we will not have choice.

Mr. DURBIN. I would say to my colleague, when it comes to this issue, my experts are pharmacists. Just like so many towns in Iowa, there are many towns in Illinois where the drugstore pharmacy is a community center, and people come to trust their druggist, trust their pharmacist. What I did, as Medicare Prescription Part D came on line, was to visit those drugstores and sit down with the pharmacist. And I will tell you quite candidly, many times they were dealing with seniors who had reached a point in life where a lot of information was difficult to evaluate, and they had to work with their pharmacist to find the best option.

So if there was a criticism on our side, it was the fact that there was so much information being given to seniors with a limited amount of time to make a decision. I think the Senator from Iowa would concede that some seniors needed the help of family members or pharmacists or counselors at senior centers to help them make this decision.

But on the final analysis, I hope the Senator will be open to the concept that if Medicare offers an option, it is just another choice for seniors. Take it or leave it. It is still ultimately their decision.

Mr. GRASSLEY. Mr. President, let me suggest to you that the committee that has jurisdiction over it, which I am no longer chairman of, has a tradition of trying to work through things. I want you to know I am committed to looking if there are better ways of doing it. But I think it is pretty difficult to argue with a program that has come in with senior citizens, by 80 percent in more than one poll, saying they are satisfied and, secondly, a program—what Government program have you ever seen come in without big cost overruns?

This one has come in now with the latest projection by CBO that it is going to cost \$189 billion less than we anticipated it would cost. And we got lower Federal costs. We got lower premiums for the seniors. We got 35-percent lower drug prices for the 25 drugs most used by seniors. We got lower

State costs, because the States do not have to pick up the dual eligibles as they used to.

There is something good coming out of the discussion the Senator and I are having. If we would have had this discussion 3 years ago, you would have said what we were doing was going to bring holy hell and not do any good and it would never work. At least now there is some acceptance of the program. So maybe with a little bit more dialog we will come around to the point where you are saying: Maybe, Senator GRASSLEY, you were right.

Mr. DURBIN. Mr. President, I am always—in fact, I have been quoted in your campaign literature sometimes saying nice things about you.

Mr. GRASSLEY. I noticed you have not said that so I can quote you again.

Mr. DURBIN. I am being very careful this time around. And I would be happy to acknowledge you are my friend and a great leader, and you have done a great job here. And put it in your next brochure if it will help.

But I want to close by saying thank you for this dialog. It is rare on the floor of the Senate, and we need more of it. I would say, when it comes to perfect laws, I think aside from the Ten Commandments, most laws could stand an amendment or two. So I hope you will be open to the possibility of improving Medicare Prescription Part D.

Mr. GRASSLEY. Remember, the bill you want to amend is a bipartisan bill. Remember that.

Mr. DURBIN. I thank the Senator.

Mr. GRASSLEY. I thank you.

Mr. President, I want to finish my remarks. I am not sure finishing my remarks can be more valuable than what we just had here in this sort of discussion. But I think when the Senator came in, I was kind of needling the other party a little bit with a statement like all of this business of Democrats introducing this noninterference language, and my copying it, thinking that was the right thing to do, was the bipartisan thing to do, that now they are backing off of it, as you can see by the recent exchange I had with my friend from Illinois, that it is sort of for the Democrats like: We supported it before we opposed it.

But I want to recap. When Democrats controlled the Senate, their bills took the same approach and had basically the same noninterference language—the same prohibition on government negotiations. Looks like my colleagues across the aisle yielded—and perhaps against their own better policy judgment—to take the opportunity to make political hay by demagoguing what seems like a reasonable proposition. That proposition was that Government, with all those Medicare beneficiaries in the Medicare program, should negotiate lower prices for drugs. In reality, it is nothing but an appealing sound bite.

After the Medicare law was enacted, opponents distorted the meaning of the language and vowed to change it. They

have now demagogued on this issue for 3 years. They had all that time to prepare their proposals. What has been introduced to date? The bill introduced in the House to address the so-called prohibition has been described as “not as far-reaching as the new majority intended before taking power.”

The Senate bill is a nonbinding sense of the Congress resolution as a placeholder with no details. I understand that some bills are introduced as markers pending further development. I have done that myself. But 3 years of talking about this issue, talking about what is wrong with the noninterference clause, and there still is no more substance behind the proposal than that?

One of the questions I should have asked the Senator from Illinois is, please describe to me how it is going to work if you take out the noninterference clause. I have never had anybody tell me that. Something like, let’s do it a little bit like the VA, but the HHS is not the VA. So how is it going to be done? Somewhere along the line they are going to have to tell us.

In fact, the USA Today editorial page recognized the lack of substance when they wrote in November that House Democratic aides couldn’t provide any details on their party’s proposal. This is after 3 years of their finding fault with what is law.

It makes me wonder if people who led the charge against the so-called prohibition on Government negotiation truly ever did change their minds about this provision. There was actually a surprising level of agreement among Democrats and Republicans that the private sector would be able to do a better job of tough negotiation with drug companies than the Government could ever do. We had all seen the same history of the poor job Medicare does setting prices on almost anything, whether it is hospitals or whether it is wheelchairs. Everyone from President Clinton to Mr. Gephardt to Speaker PELOSI to the senior Senator from Oregon, recognized that at the time when they put their names on legislation.

The same USA Today editorial referred to opponents’ plans to change the law as “more of a campaign pander than a fully baked plan.” Maybe the opponents finally realized that themselves.

I believe beneficiaries and the public deserve more than that. That is what the debate is going to be all about. But they are going to have to sell their point.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for a period of up to 10 minutes each.

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

#### ANTONIO POMERLEAU, AN AMAZING VERMONTER

Mr. LEAHY. Mr. President, one of the most amazing citizens of our remarkable State of Vermont is Antonio Pomerleau. Most people know him as Tony Pomerleau. My wife Marcelle and our children know him simply as Uncle Tony.

Tony and his wife Rita have been among the most generous contributors to the well-being of families in Vermont of anyone I know, and he did not come from a wealthy background. His parents, my wife’s grandparents, came as immigrants to the United States from the Province of Quebec in Canada. Nonetheless, he and his wife Rita raised a family of 10 and also faced the tragedy of losing two beautiful daughters. Throughout it all, he has retained his position as a leading citizen of our State but even more so as an example to all of us.

Shortly before Christmas, Tony was named Vermonter of the year by our State’s largest newspaper. With pride, I ask unanimous consent that the editorial about our Uncle Tony be printed in the RECORD so everyone throughout our great country can know about him.

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

[From the Burlington Free Press, Dec. 24, 2006]

#### TONY POMERLEAU, VERMONTER OF THE YEAR

He’s 89 years old and still going like the Energizer bunny, his family says.

Tony Pomerleau.

People know his name in this state. And those who know the man consider themselves fortunate.

He is Santa Claus to countless children, the festive, white-haired gentleman who has thrown a big party every Christmas since 1982 for hundreds of children and their families who might not be able to afford a celebration of their own.

He is Mr. P, the delightful, generous soul who added a holiday party for families of the Vermont Army National Guard in 2004. It was a huge lift for the 800 or so people who attended, and he did it again in 2005—and again this year, opening the doors to all Guard families, with special attention paid to the families of about 120 Guard members who are still deployed.

Everyone is welcome. Everyone has a seat at Antonio (Tony) Pomerleau’s table.

It’s Pomerleau’s giving spirit that makes him so deserving of the honor of Vermonter of the Year. His steadfast commitment to Vermont and the people of this state make him a fine choice.

As Robert Perreault of Hardwick said in his nomination letter, “He is extremely generous with his time, ideas and money, to implement programs that have helped people, especially the children and our Vermont Guardsmen and their families.”