



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, WEDNESDAY, APRIL 18, 2007

No. 62

Senate

The Senate met at 8:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Oh God, our Father, we thank You for all the bright things of life. Help us to see them, to count them, and to remember them even in the midst of perplexing, painful situations. Today, direct our Senators in their work. May they express their gratitude for Your gifts by serving You and our Nation faithfully. Deliver them from the temptation to please others, particularly at the expense of honor, honesty, and truth. Rule over this legislative body for the welfare of the Nation and Your glory.

And, Lord, this week we thank You for the life and legacy of Liz Jeffords. Comfort Senator Jeffords, Leonard and Laura, and all those who grieve her passing.

We pray in the Name of Him who is the resurrection and the life. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 18, 2007.

To the Senate:

Under the provisions of rule 1 paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARDIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, first I ask unanimous consent, and it has been cleared by the minority, that the time spent with the prayer and pledge and my statement not be taken away from the hour on cloture on the two votes.

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

SCHEDULE

Mr. REID. Mr. President, this morning there will be 60 minutes available to the Members to discuss the issues on which there will be cloture votes on the two motions to proceed. Time is equally divided and controlled between the two leaders or their designees. At approximately 9:30 a.m., the Senate will vote on the motion to invoke cloture on the motion to proceed to S. 3, the prescription drug bill. If cloture is not invoked on that motion, there will be 2 minutes of debate controlled equally by Senators LEAHY and SPECTER, after which time the Senate will proceed to a cloture vote on the motion to proceed to S. 378, the court security bill. If cloture is invoked on that motion, then I

hope the managers can work together for expeditious consideration of this measure. Later I will have more to say about the schedule for the remainder of the week.

STYMIEING LEGISLATION

Mr. REID. Mr. President, on the first cloture vote dealing with prescription drugs, I think probably I have said enough to indicate my displeasure and disappointment with what has happened this week, for our inability to proceed on something that is so basic to the security of this Nation, the Intelligence authorization bill, which deals with our espionage efforts, our ability to collect intelligence from around the world. That was stopped on a strict party-line vote because the Vice President didn't want that. So that is enough said on that.

On the prescription drug issue, when all else fails I think we should look at common sense. What we are asking is that Medicare be able to negotiate for lower prices in the purchase of drugs for senior citizens. This is opposed by the pharmaceutical industry, the insurance industry, and HMOs because they have a sweetheart deal. They can negotiate for lower prices but Medicare can't.

You can throw around all the statistics you want, it is not going to lower prices. I call upon our common sense. Doesn't it make sense that Medicare should be able to compete with these HMOs and negotiate for lower price drugs? Of course. That is why AARP and dozens of other organizations that care about seniors, not about profits, are on the side of moving forward on this legislation. I hope there will be Senators on the other side of the aisle who will step up and allow us to move forward on this legislation.

Finally, it is hard to comprehend, but in addition to not being able to move forward on the issues relating to intelligence, and probably on prescription drug negotiations, we have been

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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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