

The rebate program hasn't worked as designed. Some drug companies have been able to game the system to boost their bottom line, and they do so at taxpayers' expense. Some drug companies have paid smaller rebates to the government. When that happens, that means taxpayers are footing a bigger burden.

One example, in particular, highlights the main issues we aim to solve with this legislation.

During the Obama administration—it could have been a Republican administration as well—because of the problems in this program, Iowans regularly contacted me by phone, email, and at my annual 99 county meetings about the difficulties they faced paying the rapidly rising prices of EpiPen. EpiPen is an emergency medicine used to treat severe, life-threatening allergic reactions. EpiPen is distributed by a company called Mylan. In 2007 a pack of two EpiPens cost \$100. By 2016, the cost of that two-pack of EpiPens exploded to more than \$600. That is a very substantial price increase. Nobody is going to argue with that. Many would argue that it is an unjustified price increase, especially considering the gut punch to taxpayers who foot the lions' share of the Medicaid bill for families. They happen to be families in need. I listened to the concerns of my constituents and began an investigation about how the drug rebate program was working.

In a nutshell, Mylan had classified the EpiPen as a generic drug in the Medicaid Program, when it should have been classified as a brand drug. That means Mylan misclassified EpiPen, and CMS let it happen.

Because of this incorrect classification, Mylan paid a much smaller rebate than it should have. I asked the Health and Human Services inspector general to look into these classification practices. The inspector general found that taxpayers may have overpaid for the EpiPen by as much as \$1.3 billion over 10 years because of the incorrect classification. Eventually, Mylan settled a False Claims Act case with the Justice Department for \$465 million.

Now, don't ask me why the Justice Department didn't go after the other probably \$700 million. I don't know, and I haven't found out why, but upon learning of that settlement, I expressed my disappointment that it didn't seem that taxpayers had been made whole. That is quite obvious, right?

We shouldn't have had to depend on lawyers and lawsuits to get the taxpayers' money back. This deception should never have happened in the first place. That is common sense. Government Agencies should have, as an initial matter, been responsibly overseeing the programs they are in charge of.

Because of insufficient attention to the problem by the Center for Medicare and Medicaid Services—or CMS, as I have been using—Mylan escaped accountability for a long period of time,

costing taxpayers hundreds of millions—eventually billions—of dollars.

But it is not just Mylan, and it is not just EpiPen. In a December 2017 report, the inspector general found that 885 drugs may have been potentially misclassified. Specifically, the inspector general found that, from 2012 to 2016, Medicaid may have lost \$1.30 billion in rebates for 10 potentially misclassified drugs with the highest total reimbursement.

So where do we go from here? It is clear that the law must change to provide clarity. So let's establish clear lines of authority to hold the government bureaucracy and also the private sector accountable. Taxpayers demand and deserve accountability. Simply said, accountability will bring cost savings.

The Right Rebate Act, which Senator WYDEN and I introduced, will shut down this loophole used by drug companies. This legislation will prevent the misclassification of drugs in the first place and protect taxpayer dollars. It does this by requiring CMS to enforce penalties on drug companies that knowingly misclassify drugs in the Medicaid Program.

The legislation also provides remedies for States that are shortchanged by drug companies. It requires an annual report to Congress by CMS to make sure the Agency is doing all it can to protect taxpayer dollars and to keep drug expenditures down.

This is commonsense legislation. It would close a loophole used by drug companies to keep prices artificially high—much higher than they should be—and it grants the Secretary of HHS the authority to properly enforce the law.

The Right Rebate Act is only one step in the fight against high prescription drug costs, but it is the right step, and there are a lot of other steps that must be taken. I look forward to working with Senator WYDEN in the 116th Congress on many issues important to Americans, including the high cost of prescription drugs.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Pennsylvania.

MR. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

ROBERT MUELLER

MR. CASEY. Mr. President, I rise today to talk about not the Mueller investigation as much as I want to talk about Robert Mueller himself because of the substantial responsibility that he has, and I think it is important for us to remind ourselves, as well as to remind our country, about his service at a time when he has often been attacked by folks in Washington.

When I think of an individual like Robert Mueller, I think of two words: "public service"—or maybe just one word: "service." He was inspired, as many people know, to become a marine

by one of his friends from the college lacrosse team he was on. This man's name was David Hackett, and he later died on the battlefield of Vietnam.

Mr. Mueller said in a speech:

One would have thought that the life of a Marine, and David's death in Vietnam, would argue strongly against following in his footsteps. But many of us saw in him the person we wanted to be. And a number of his friends, teammates, and associates joined the Marine Corps because of him, as did I.

So said Robert Mueller about his friend David Hackett.

To paraphrase the words of President Kennedy, Robert Mueller didn't join the Marine Corps because it was easy; he joined because it was hard. While many of his peers were seeking to avoid the horrors of the Vietnam conflict and the combat in Vietnam, Robert Mueller volunteered to face those horrors. That sense of duty is the essence of public service.

Robert Mueller enlisted in the Marines just a few weeks after graduating from Princeton in 1966 and went through the demanding programs of the Army's Ranger School and Airborne School. He then spent a year in combat on the ground in the jungles of Vietnam, leading an infantry platoon. The Washington Post described the conditions the regiment faced as a "hellscape" of "bloody jungle warfare." It was under these difficult circumstances that Mr. Mueller received the Bronze Star for "heroic achievement" after leading his fellow marines through an 8-hour battle where, under enemy fire, "Second Lieutenant Mueller fearlessly moved from one position to another, directing the accurate counterfire of his men and shouting words of encouragement to them. . . . [H]e then skillfully supervised the evacuation of casualties from the hazardous fire area."

Just 4 months later, he was shot in the leg when he responded to an ambush by enemy forces. He received the Navy Commendation Medal with a citation praising him for rushing to save his fellow marines while "completely disregarding his own safety."

That sense of serving a cause larger than himself is what led Robert Mueller to enlist in the Marines and what led him later to apply to law school so he could continue serving the country through our system of justice. He served in the U.S. States Attorney's Offices and the Justice Department for years, working his way up the chain of command and earning a reputation as a dogged and fair prosecutor committed to enforcing the rule of law.

In 2001, he was confirmed unanimously by this body to serve as FBI Director and subsequently led the FBI's response to the September 11 attacks. In 2011, as his 10-year term was set to end, we in the Senate at that time voted 100 to 0 to extend his term until 2013.

Mr. Mueller has not only earned the respect of public officials he has worked with, he has maintained that

respect throughout decades of public service. There is no one better qualified to lead this Russia investigation in terms of intellect, experience, or character than Robert Mueller. A lot of Americans are glad he is leading this effort to find out what happened, how the Russians were able to interfere in our election. Robert Mueller and his team have already produced results, and their work has sent a powerful message to Russia—and to any other foreign or domestic entity that would interfere with our elections—that the United States will not tolerate any attack on our democracy.

Mr. Mueller's investigation is critical to our national security, and it must be protected from interference by the President or anyone else. It is now more important than ever that the Senate pass legislation to protect the investigation and Mr. Mueller's job from interference of any kind. I call on the Senate once again to take a vote on the Special Council Independence and Integrity Act.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. MORAN. Mr. President, I ask unanimous consent that the vote scheduled for 1:45 occur now.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the Kraninger nomination?

Mr. MORAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from North Carolina (Mr. TILLIS).

The PRESIDING OFFICER (Mr. PERDUE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 255 Ex.]

YEAS—50

Alexander	Flake	Murkowski
Barrasso	Gardner	Paul
Blunt	Graham	Perdue
Boozman	Grassley	Portman
Burr	Hatch	Risch
Capito	Heller	Roberts
Cassidy	Hoeven	Rounds
Collins	Hyde-Smith	Rubio
Corker	Inhofe	Sasse
Cornyn	Isakson	Scott
Cotton	Johnson	Shelby
Crapo	Kennedy	Sullivan
Cruz	Kyl	Thune
Daines	Lankford	Toomey
Enzi	Lee	Wicker
Ernst	McConnell	Young
Fischer	Moran	

NAYS—49

Baldwin	Cardin	Duckworth
Bennet	Carper	Durbin
Blumenthal	Casey	Feinstein
Booker	Coons	Gillibrand
Brown	Cortez Masto	Harris
Cantwell	Donnelly	Hassan

Heinrich	Menendez	Smith
Heitkamp	Merkley	Stabenow
Hirono	Murphy	Tester
Jones	Murray	Udall
Kaine	Nelson	Van Hollen
King	Peters	Warner
Klobuchar	Reed	Warren
Leahy	Sanders	Whitehouse
Manchin	Schatz	Wyden
Markey	Schumer	
McCaskill	Shaheen	

NOT VOTING—1

Tillis

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid on the table, and the President will be immediately notified of the Senate's action.

The PRESIDING OFFICER. The majority leader.

LEGISLATIVE SESSION

Mr. McCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 1046.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Justin George Muzinich, of New York, to be Deputy Secretary of the Treasury.

CLOTURE MOTION

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Justin George Muzinich, of New York, to be Deputy Secretary of the Treasury.

Mitch McConnell, Chuck Grassley, Jerry Moran, Lisa Murkowski, John Barrasso, David Perdue, Ron Johnson, Shelley Moore Capito, John Cornyn, Marco Rubio, Tom Cotton, Steve Daines, Michael B. Enzi, Cindy Hyde-Smith, Lamar Alexander, John Kennedy, Deb Fischer.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

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

The Senator from Tennessee.

U.S.-CHINA FENTANYL AGREEMENT

Mr. ALEXANDER. Mr. President, there is uncertainty reported in the news about the trade agreements and discussions that the President of the United States and the President of China had last weekend, but one thing is certain: The agreement that President Trump and the President of China made last Saturday concerning fentanyl—a deadly synthetic opioid which is mostly produced in China and which is the largest growing contributor to opioid deaths in the United States—will save thousands of American lives.

Last Saturday evening, President Trump and President Xi announced that China will designate all fentanyl-like substances as controlled substances, which will make the selling of fentanyl subject to the maximum penalty under Chinese law.

Fentanyl is a synthetic opioid. It can be 100 times stronger than opioid prescription pills. It is the source of the greatest increase in opioid overdoses in our country.

According to our Drug Enforcement Administration, one way or another, almost all of the fentanyl that is used in the United States comes from China. Here is how: Traffickers in China modify the chemical makeup of fentanyl to bypass the authorities. Scheduling all fentanyl-like substances as a class, which is what President Xi agreed to do, is the single most important step that could be taken to stop the flow of deadly fentanyl from China into the United States.

Let me tell you a story about one action that helped us get to that point. About 4 weeks ago, I led a senior delegation of five Senators and two Members of the House of Representatives to Beijing to meet with Chinese leaders. They, of course, expected us to talk about agriculture, energy, and trade issues, which are sources of major disagreement between China and the United States, and we did, but at the urging of the U.S. Ambassador to China, former Iowa Governor Terry Branstad, we made fentanyl and the opioid crisis the primary point of our visit.

President Trump had already mentioned fentanyl to President Xi a few months earlier, and China had already taken steps to help the United States by stemming the flow of fentanyl into our country. China announced that it was controlling 25 different substances of fentanyl. The Drug Enforcement Administration told us while we were in China 4 weeks ago that after China took those steps, there was a dramatic decrease in the amount of fentanyl available in the United States.

In other words, while we were there, we asked China to do more of what it was already doing—instead of controlling just 25 types of fentanyl, to control it all, make it all illegal. Controlling all of it allows China's narcotics agents to go after anyone in China who