

March, Congress is quite likely to respond by granting the tools necessary to deal with whatever hypothetical crisis may emerge down the road.

Others of our friends say: You can't get rid of these facilities, and you can't terminate these facilities because there are industries that are failing in America. Let me be clear. It is true that there are industries that are in a world of hurt. We know what they are. The travel industry—much of the tourism and hospitality, which is generally the hotels and restaurants—and a lot of the entertainment venues have been devastated like we have never seen them before. That is a true fact.

I think you can make a strong argument that Congress ought to do something to respond to the circumstances that these folks find themselves in through no fault of their own, but they are in the situation they are in because, in many cases, their Governors closed their States. In other cases, it is because people are just prudently concerned about being in a crowded setting. So there is a problem there—there is a challenge—and we may very well decide we want to address it. Yet having the Federal Reserve lending money to fundamentally insolvent companies is not the role of these facilities. It never was. It is not contemplated in the underlying 13(3) statute, and it is not in the CARES Act. That is not what this program, what these facilities were meant to address.

Let's be clear about what the advocates for continuing these 13(3) facilities are really all about. What is going on here with regard to these programs—this massive, massive amount of money that is at the discretion of the Fed and the Treasury to lend—is they want to use political pressure on the Fed and the Treasury to lend these facilities to favored political constituencies at terms they find appealing or attractive depending on their circumstances. This is exactly the opposite of what a central bank should be doing—capitulating to political pressure to lend to preferred constituents at whatever terms the politics dictate. That could not be anything further from the role the central bank ought to be playing.

To my colleagues who are advocating that we do exactly that with these 13(3) facilities, I couldn't disagree more. If we want to be in the business of picking industries or sectors and subsidizing them or giving them money or treating them in some unusual way, we can have that discussion, but that is fiscal policy. That is a decision that, ultimately, needs to be made by the politically accountable branches of government—the Congress and the President—not by the central bank, which is supposed to be independent and apolitical.

The fact is that I think we deserve congratulations. Even more so, I think the Treasury Secretary and the Chairman of the Fed deserve congratulations for setting up the facilities that have

made it possible for our economy to begin a record recovery from a very, very deep trough that we hit in the late spring of last year.

We all know that we are not at the end goal in that we are not back to full employment yet. We have, as I said before, many companies that are in deep trouble and many that have gone out of business altogether. We have a lot of problems, and we need to deal with them, but we do know this recovery has been occurring at a faster pace than anyone projected. Most economists, including at the Fed, thought that we would be lucky if the unemployment rate dipped below 10 percent by the end of this year, but it was at 6.9 percent at the end of October. We have a long way to go before we get back to the barely above 3 percent unemployment rate that we were enjoying before this pandemic hit, and by all means, we need to stay at it until we get there, but we won't do that by turning the Fed into the allocator of credit based on political demands. That would be a very, very bad idea. It would lead to worse economic outcomes and all kinds of distortions, and it would erode the independence of the Fed.

As I say, I congratulate and commend the Treasury Secretary for making the right decision and the Chairman of the Federal Reserve for returning the unspent money. These programs have been remarkably successful. They have served their purpose. Their purpose is now behind us, and we need to continue the policies that will allow us to have the economic recovery we need without these programs continuing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

#### APPOINTMENT OF SPECIAL COUNSEL

Mr. CORNYN. Madam President, just as I came to the floor, I saw an announcement by the Attorney General of the United States that he was appointing U.S. Attorney Durham as a special counsel under the same provisions under which Robert Mueller was appointed as a special counsel. While, ordinarily, I am no fan of special counsel appointments, I think this one is important for a very simple reason.

With the election of a new administration and the peaceful transfer of power anticipated on January 20, it is important to the country that the Durham investigation—wherever it may lead—be concluded in a nonpolitical and nonpartisan fashion and that, with whatever is disclosed about the efforts made at the FBI under the direction of Mr. Comey—under his leadership—and the actions of his subordinates at the FBI, it is important to the country and to the ongoing reputation of the Department of Justice and the Federal Bureau of Investigation that the facts be known and not be swept under the rug.

So I congratulate the Attorney General for making that appointment, which ensures that the public, the

American people, will finally learn what the facts are and not have them filtered through the media, which, unfortunately, has taken on some of the partisan polarization that is reflective of our larger society in a way that, I think, has prevented the facts from being fully known.

Inspector General Horowitz, at the Department of Justice, has done a great service in his investigations, but the Durham investigation is, perhaps, the single most important investigation being conducted and one that, I hope, when it is concluded, will once again help to restore public confidence in those great American institutions known as the Department of Justice and the FBI.

#### CORONAVIRUS

Earlier this afternoon, the majority leader shared some good news in our ongoing effort to deliver an additional coronavirus relief package to the American people before we adjourn for the Christmas holidays.

Following discussions with Secretary Mnuchin and the White House Chief of Staff, there now seems to be a general agreement on a path forward that could gain bipartisan support in Congress and earn the signature of the President.

People sometimes forget, we are an important part of the process, but the person who signs legislation or would choose to veto it is an important partner in that legislative process as well. So the fact that President Trump has indicated he would sign such a bill is encouraging.

The majority leader is in the process of drafting this new language, which could finally break the gridlock which has put us in such a precarious position in terms of delivering the relief to the American people that they need, both from a public health and an economic standpoint. This may finally put us on a path to passing another relief bill before the end of this year.

We know we are going to have to do it, but we should not make the American people endure additional pain and anxiety and hardship as a result of political dysfunction by kicking it over into the new administration.

For months on end, my constituents in Texas and the American people have waited as political dysfunction has stood in the way of progress on COVID-19 relief. With case counts climbing in Texas and across the country, the need for action cannot be overstated.

It is clear that Republicans, both in the Congress and the White House, are prepared to make a deal, and I hope our colleagues across the aisle can bring themselves to stop blocking relief and to do the same.

(Mr. CASSIDY assumed the Chair.)

And as I see the Presiding Officer take his seat, I am reminded, too, there is an additional bipartisan bill, introduced by a group of Senators, including the Presiding Officer, that I think provide some other shape and contours to

what a potential bipartisan relief package will look like. So here in the waning days of this Congress, as we approach the Christmas holidays, I think the best Christmas present we could confer on the American people is to work together in a bipartisan way to provide both the public health relief and the financial support that they need during this challenging time.

#### BUSINESS BEFORE THE SENATE

With the work of one Congress drawing to a close and the start of a new one just around the bend, this time of year is typically as busy as it is productive. We still have a lot to do, including funding of the government. With the current continuing resolution expiring on December 11, we need to get the next and final version of the National Defense Authorization Act to the President's desk and, as I said, hopefully, agree on another coronavirus relief bill.

These priorities seem to dominate the headlines but represent only a fraction of what I hope we can accomplish in the waning days of this Congress.

Before the pandemic turned the work of Congress on its head, we were making serious progress on countless bills to help improve the lives of the American people, with a bipartisan focus on prescription drug pricing, for example.

A poll last fall found that the No. 1 healthcare item people want Congress to address is prescription drug costs. Since 2014, prescription drug prices have surged by 33 percent—more than any other medical product or service.

I am honored to sit on both the Senate Finance and Judiciary Committees, where we have been looking at these high costs and some of the behavior behind them. And, yes, some of this is caused by bad behavior.

There are pharmacy benefit managers who negotiate backdoor rebates—kickbacks, basically—which drive up out-of-pocket costs for consumers. And what I find seriously concerning is that there is anticompetitive behavior by some drug manufacturers to try to manipulate higher prices and to maintain their patent, even though, under ordinary circumstances, the time for that patent would have expired, and it would have gone to generic or biosimilar competition.

Some companies have figured out how to game the system to prevent those lower cost competitors from ever reaching the market. I think the most popular prescription drug in America is HUMIRA, which is, by all accounts, nearly a miracle drug. It is used to treat arthritis and a number of other conditions, and it has been available on the market for 17 years.

Now, you typically think of expensive drugs like those that come to the market that are patented to preserve the investment that has been made through the research and that has produced a lifesaving drug but not one that has been around for nearly two decades. Why is it that that hasn't gone from branded drug, protected by a

patent with exclusive rights to sell it, to a generic or biosimilar competition?

Well, AbbVie, the company that makes HUMIRA, has demonstrated how to game the system so that no competition can ever enter the market and bring those drug prices down as a result, and they remain the sole provider of this ubiquitous drug.

What they have figured out, through, I am sure, a lot of smart lawyers and others, is how to weave an intricate maze of overlapping patents, which make it nearly impossible for a competitor to come to market.

To date, there are five competitors to HUMIRA available in Europe, but all are blocked from being sold here in the United States until 2023. How is that possible? Well, they have effectively found loopholes that allow them to create a monopoly. And without any action from Congress, patients will continue to pay higher prices for drugs like HUMIRA that should cost a fraction of the current sticker price.

Now, to be clear, patents themselves are not the enemy. It is important that we protect the intellectual property of people who create new lifesaving or life-extending drugs, like HUMIRA. But patents and exclusivity periods are designed for a purpose; that is, to allow these drug manufacturers to recover their cost and maybe, just maybe, make a profit.

The problem is not the patent. The problem is the abuse of those patents by some of the pharmaceutical companies. This, of course, is driven by a desire to increase their bottom line, which is understandable, but it is no excuse for manipulating or gaming the patent system.

As a result, it is becoming more and more difficult for patients to continue to be able to afford the drugs they need. And for folks who have lost their jobs or healthcare during the pandemic, it has made many of these drugs simply unaffordable.

Last year, I introduced bipartisan legislation with our colleague from Connecticut, Senator RICHARD BLUMENTHAL, to take aim at these corrupt practices.

Our bill is called the Affordable Prescriptions for Patients Act, and it streamlines the litigation process by limiting the number of patents these companies can claim, so companies are spending less time in the courtroom and, hopefully, encouraging the transition from branded, patented drugs to the lower cost generic or biosimilar competition.

Our bill would allow competitors to resolve patent issues faster and bring their drugs to market sooner. And, of course, more competition means lower prices for patients.

This legislation was specifically designed not to stifle innovation. It doesn't limit patent rights, and it doesn't cost taxpayers a dime. In fact, the Congressional Budget Office estimates it would actually lower Federal spending by more than half a billion

dollars over 10 years—and that is just for the government reduction cost, not the cost savings to consumers or private health plans. We know there would be significant savings for consumers with private health insurance as well.

So what happened to this bill we introduced last year? Well, it passed unanimously in the Judiciary Committee last June. Not a single Senator on a famously contentious committee like the Judiciary Committee, where we have a lot of very talented Democrats and Republicans—not a single Senator opposed it in the Judiciary Committee because it made so much sense.

With no concerns over the policies laid out in the bill, I came to the Senate floor last fall to ask unanimous consent that it be passed. But in the runup to the November 3 election, the Democratic leader blocked the legislation. He singlehandedly stopped this commonsense, bipartisan legislation from advancing to the House.

To make matters worse, he didn't just do it once; he did it twice. The Democratic leader went so far as to call my attempt to pass this commonsense bill “a manipulative charade” and “a little game.”

This is far from a game. It is a downright shakedown of patients who are struggling to afford the drugs they need to improve their quality of life or to survive.

I continue to hear from my constituents back home in Texas who feel burdened, confused, and downright frustrated by rising out-of-pocket costs at the pharmacy. Medications they have been taking for years just keep getting more and more expensive, with no explanation behind the increase.

Another famous example is the cost of insulin, a drug that has been around, I don't know—the Presiding Officer would know better than I would—maybe 50 years or longer. You would think low-cost alternatives would be available, but the cost of insulin just keeps going up and up and up as manufacturers learn how to game the system to maintain the maximum price, and, in the meantime, it results in less affordability by the consumers who need it who may ration their insulin. As we heard from one witness at the Finance Committee, as the Presiding Officer will remember, a woman—I believe she was from Indiana—talked about her son continuing to live at home, putting off life-changing experiences like perhaps getting married or buying a house because he was worried about his ability to continue to pay the deductible and the copay for the insulin that was important for him to survive.

As COVID-19 continues to create new stresses for the American people regarding their health, this is a bill whose time has clearly come. It is clear that the problem won't go away without action by Congress, and so I would hope that now that the election is over,