

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. Under the previous order, there will be a period for the transaction of morning business until 11 a.m., with the first half of the time under the control of the minority, and the second half of the time under the control of the majority.

The Senator from Iowa.

MEDICARE DRUG BENEFIT

Mr. GRASSLEY. Mr. President, I welcome the new Presiding Officer to the Senate. I look forward to working with him as a new Senator. I hope he enjoys his time in the Senate.

I am back here again today, as I was yesterday, to talk about the Medicare drug benefit. Yesterday I spoke about how the benefit uses prescription drug plans and competition—with emphasis upon competition—to keep costs down for our senior citizens. I spoke about how well that system of competition that is in the prescription drug bill has been working for the last 2 years of its operation. Today I want to get to the crux of this debate and a debate that is going to take place a few days from now in this Chamber, the so-called prohibition on Government negotiation with drugmakers.

Opponents of the Medicare drug benefit have misrepresented what we call the “noninterference clause” language. That language doesn’t prohibit Medicare from negotiation with drugmakers. It prohibits the Government from interfering in negotiations that are actually taking place.

Much of this debate hinges on a convenient lapse of memory that I am going to emphasize during my remarks about the history of the noninterference clause. So today I want to take my colleagues on a little trip down memory lane. For our first stop on memory lane, I would like to read something. This is a quote from someone talking about their very own Medicare drug benefit proposal:

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

The person who said this clearly wanted private negotiation with drug companies for a Medicare benefit, not Government negotiations. The person I quoted was proposing—and I will quote again what he said—“negotiations between private benefit administrators and drug manufacturers.” I don’t think that person could be more clear in what he was attempting to accomplish with his proposal.

You are going to be shocked to hear who said this. 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 for the 21st century. President Clinton went on to say that under his plan “prices would be determined through negotiations between the private benefit administrators and drug manufacturers.”

I quote further:

The competitive bidding process would be used to yield the best possible drug prices and coverage, just as it is used by large private employers and by the Federal Employees Health Benefits Plan today.

President Clinton also described his plan as using private negotiators as opposed to Government negotiators, because “these organizations have experienced managing drug utilization and have developed numerous tools of cost containment and utilization management.”

Does this ring any bells? It should because it is the same framework used in today’s Part D Medicare prescription drug benefit, private negotiations with drug companies, and it is based on the nearly 50-year history of the Federal Employees Health Benefits Program.

I would like to refer to another part of Medicare history for memory’s sake as well. This is another interesting spot on memory lane for history buffs. The Clinton plan had a coverage gap that we refer to in the Senate as the doughnut hole, just like the bill eventually signed into law in 2003.

Like many others, the brandnew Speaker of the House has questioned why one would pay premiums at a point in time when you are not receiving benefits, as is the case with the doughnut hole. Well, that is how insurance works. We all know how the insurance industry works. Go look at your homeowner and auto policies and Part B Medicare. You pay premiums to have coverage. That is how President Clinton’s plan was meant to work, if it had become law.

In Sunday’s Washington Post, the new Speaker of the other body, PELOSI, was quoted about having a doughnut hole. She said:

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

Was she referring to President Clinton’s plan proposed in 1999? As I said, he proposed his plan in June of that year. On April 4, 2000, S. 2342 was introduced in the Senate. S. 2342 would have created a drug benefit administered through private benefit managers. So here again would be private negotiators negotiating with the drug companies to save seniors money on their prescription drugs. Does that sound familiar? It is just like today’s Medicare Program that is law.

Here is another important stop down our memory lane. That bill, S. 2342, introduced in 2000, included language on noninterference:

Nothing in this section or in this part shall be construed as authorizing the secretary to

authorize a particular formulary, or to institute a price structure for benefits, or to otherwise interfere with the competitive nature of providing a prescription drug benefit through benefit managers.

This is the first bill—the very first one—where the noninterference clause appeared. This is the first prohibition in present law on Government negotiation that was introduced. But S. 2342 wasn’t introduced by a Republican; it was introduced by my esteemed colleague, the late Senator Moynihan. One month later, there was a bill, S. 2541, introduced. I will read some of the language that was in that bill. That bill said this; I have it on the chart:

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, and wholesalers; or (3) otherwise interfere with the competitive nature of providing a prescription drug benefit through private entities.

I will make it clear that this wasn’t a Republican bill, either. It was introduced, as you can see, at that time by Senator Daschle, who was joined by 33 other Democrats, including 3 who are still prominent in the Senate—REID, DURBIN, and KENNEDY. That is right. I want you all to know that 33 Senate Democrats cosponsored a bill with a noninterference clause in it. You see, it turns out that the Democrats didn’t want the Government—nor did President Clinton—interfering in the private sector negotiations either. They recognized then that the private sector would do a better job, and they didn’t want some Government bureaucrat messing it up.

I will go to another chart. In June 2000, two Democratic bills were introduced in the House of Representatives that also included noninterference language. H.R. 4770 was introduced by then-Democratic leader Dick Gephardt. That bill had more than 100 Democrats cosponsoring, including the new Speaker of the House—then not speaker—NANCY PELOSI, and Representatives RANGEL, DINGELL, and STARK. RANGEL, DINGELL, and STARK are people whom I have worked closely with in Congress recently on a lot of health legislation or tax legislation—or trade legislation, in the case of Congressman RANGEL.

The prohibition on Government negotiation included in that House bill was almost identical to the language Senator Daschle had in his bill. Here is the text of the actual noninterference clause included in the bill signed by the President in 2003, present law—what we refer to as Part D now:

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 drug manufacturers and pharmacies and PDP sponsors; and (2) may not require a particular formulary or institute a price structure for reimbursement of covered part D drugs.

Well, that sounds a bit like what was sponsored by Democrats over the last several years. Last week, the senior