

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

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

The result was announced—yeas, 96, nays 3, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—96

Akaka	Domenici	Lugar
Allard	Dorgan	McConnell
Allen	Durbin	Mikulski
Baucus	Edwards	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Boxer	Graham	Reed
Breaux	Gramm	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden

NAYS—3

Feingold	Kyl	McCain
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NOT VOTING—1

Helms

The bill (H.R. 5011) was passed, as follows:

Mrs. FEINSTEIN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The Presiding Officer (Mr. BINGAMAN) appointed Mrs. FEINSTEIN, Mr. INOUE, Mr. JOHNSON, Ms. LANDRIEU, Mr. REID, Mr. BYRD, Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, and Mr. STEVENS conferees on the part of the Senate.

### PRESCRIPTION DRUGS

The PRESIDING OFFICER (Ms. LANDRIEU). The Senator from Missouri is recognized.

Mr. BOND. Madam President, I rise today to comment on the overall policies we are working on today. While this bill we are debating, the underlying bill, is a generic drug bill that came out of the Committee on Health, Education, Labor, and Pensions, we all

know that ultimately we are going to be talking about Medicare and prescription drug coverage.

We all recognize the lack of prescription drug coverage demonstrates clearly Medicare has not kept up with the rapid advances in medical care, placing ultimately the health care security of too many seniors at risk.

When Medicare was created in 1965 to provide health care for our Nation's elderly and disabled, prescription drugs were not included as part of the program's benefits. At that time, that made sense because pharmaceuticals played an extremely minor role in the world of medicine. In the last 35 years, medical practice has changed dramatically and prescription drugs have become a vital part of health care. In the last decade or two, we have seen a pharmaceutical revolution. Hundreds of amazing new drugs have been developed to treat and manage all different kinds of diseases and medical conditions. Those of our population who suffer from these diseases have benefited greatly.

More and more these days prescription drug are keeping Americans of all ages out of hospitals, enhancing the overall quality of life and, yes, keeping people alive. Hundreds of drugs that were unknown decades ago play a critical role keeping our seniors healthy, active, and alive. Yet many of our most vulnerable citizens are seniors who have trouble affording prescription drugs because their Government-provided Medicare coverage has failed to keep pace with medical progress.

In addition to being exposed financially to the cost of needed drugs, seniors without prescription drug insurance do not benefit from the lower prices that most third-party buyers—such as insurers, hospitals, and pharmacy benefit managers—are able to negotiate with pharmaceutical manufacturers. As a result, seniors without drug coverage must pay the highest retail price for needed medication.

That is a situation we must change. It is time to modernize our Medicare system and to add a prescription drug benefit to protect the health care security of our seniors. The Medicare Program needs to be updated to reflect the past 35 years of medical progress. The millions of Americans who rely on Medicare for their health care deserve no less.

Fortunately, over the past few years the debate in Washington has shifted from whether or not to provide a prescription drug benefit to how to best craft a program to provide seniors with the best prescription drug coverage possible. Now is the time to act to include prescription drugs as part of an overall health security package for our seniors.

An issue this important deserves debate and serious consideration. How can we consider a serious import issue such as this without the benefit and ex-

pertise of the Finance Committee? I have heard the structure and process of this debate described aptly as one of mutually assured destruction, or "mad." This issue is too important to too many seniors for this debate to be treated in this manner. Because of the terms of this debate, any drug proposal that passes ultimately must have strong bipartisan support, because 60 votes will be needed to pass it. Is that truly "mad"? I hope not. But I sense that, without the benefit of the Finance Committee working on this, we may be in a very difficult situation.

Some watching may ask how did we get into the situation where a prescription drug bill will require 60 votes to pass rather than a simple majority. The answer is simple. The first reason is because the majority leader has decided to bring a bill straight to the floor and bypass the committee process entirely. This is a troubling pattern. The farm bill, the energy bill, the trade bill all bypassed the committee structure—a mad process.

This action is troubling to me because I understand there was one proposal with the votes to pass in the Finance Committee, the so-called tripartisan bill. But the committee was not allowed to act on this important issue. That is a shame.

How in good conscience can we consider the largest addition to Medicare since its inception without the thoughtful input of the committee with jurisdiction over the Medicare Program? That does not make any sense. That is mad.

The second reason 60 votes are necessary is because we have no budget. For the first time since 1974 we have no budget in the Senate. This is one of the consequences of not having passed, or even, for that matter, considered a budget on the floor. Because there is no budget, we are operating under the budget guidelines passed last year that would spend about \$300 billion over 10 years to add a prescription drug benefit to Medicare. Therefore, any prescription drug plan brought to the floor must be within the \$300 billion or it is subject to a budget point of order.

This is another problem with the scheme under which we are operating. We will be considering shortly the largest expansion of an entitlement program in the history of our Nation. We bypassed a committee, we have not had a hearing on it, we have not had a markup, the Congressional Budget Office has not scored it, and we will be bringing the bill straight to the floor. Mutually assured destruction. This is mad. It is a recipe for disaster and inaction.

What is most troubling to me is the real losers. If the Senate is unable to pass a prescription drug benefit, it will be our seniors. The seniors are the ones who will be forced to endure another year without the safety net that a Medicare prescription drug benefit could and should provide.

Enough about my concerns about the process. As we look forward to this debate, there are a number of fundamental principles that need to be outlined as we consider various prescription drug options. These are fundamental elements to any serious, responsible, bipartisan prescription drug benefit.

First and foremost, a prescription drug benefit must be permanent, it must be affordable, and it must be immediate. Seniors need help now. With the high cost of prescription drugs, they cannot continue without that assistance. They are hurting today. Seniors often make painful choices between buying food and buying prescription drugs. Seniors need action and results on this issue—not an election year issue in November. Seniors want, need, and, quite frankly, deserve the stability of a permanent drug benefit.

One of my most serious concerns with the majority leader's bill is the fact it will sunset after only a few years. A prescription drug benefit that sunsets after 2010, just a few years after it finally begins, is simply not good enough. Medicare is an entitlement program and seniors deserve permanent benefits they can count on today, tomorrow, 10, 12, 15 years from now. A hollow benefit, with temporary relief that sunsets after 5 or 6 years, does not provide adequate health care security for seniors.

Think about the lunacy of the situation we are in. We seem to be unintentionally on a track of telling seniors they had better die in 2010. We passed elimination of the death tax, but we did not make it permanent, so we tell seniors, you had better die in 2010 or the tax rates are going to jump back up and the death tax is going to spring from the grave. Now we are saying, you can be protected on prescription drugs through 2010, but you had better move on because in 2011 this program sunsets.

Somebody is not thinking. Somebody is not realizing what they are doing. Let's get serious. We need to make the death tax repeal permanent, and we need to make prescription drug benefits for seniors permanent.

Seniors should have the right, also, to choose the prescription drug plan that best meets their needs. They should not be told what they need by a politician or a Washington bureaucrat. I fear the majority leader's bill dictates a one-size-fits-all, Government-run benefit for all seniors and puts the Government in the position of determining what drugs would be covered under the plan. We must protect our seniors from a Government-run drug program that delays, restricts, or denies access to the newest and most effective drugs available on the market.

Seniors should have the right to choose a benefit that best meets their needs and does not restrict access to the newest and most effective drugs. I fear that the majority leader's bill leaves no room for innovation and

flexibility in terms of plan design, no choice for seniors, and could limit access to breakthrough drugs. A prescription drug benefit must address the high cost of prescription drugs and attempt to restrain the skyrocketing cost of prescription drugs which cannot be sustained long term.

All existing drug benefits make manufacturers compete to reduce prices and pass along the savings from price competition as larger discounts and lower premiums for beneficiaries. That is the only proven way to keep a drug benefit affordable. The majority leader's bill locks in copayments and premiums for beneficiaries and prevents competition that could lower drug prices.

According to the Congressional Budget Office, bills that rely on public-private-sector partnerships and an element of competition, such as the tripartisan bill, will help manage the cost of drugs. Sadly, the CBO found that bills similar to the bill of the majority leader, because of the lack of competition and inflexibility of the benefit, would in fact increase drug costs. Given the current climate, I simply cannot support a plan that increases drug costs or one that sunsets at the end of 2010.

Finally, a prescription drug benefit should be fiscally responsible and sustainable long term. The best guess we have, without the CBO's scoring, is that the proposal by the majority leader and some of his colleagues would cost at least \$600 billion over the next 8 years. In a time of deficit spending and a tight economy, such a benefit would ultimately require cuts in other fields, such as education, Social Security, or national defense, and place a heavy burden on the current generation receiving benefits, the generation paying for those benefits, and the next generation.

Seniors have a right to demand a drug benefit now, but I believe most of them will tell you they do not want to mortgage their grandchildren's future in the process. Seniors must be protected from catastrophic drug costs. No senior should face financial ruin because of an illness that triggers catastrophic drug costs. Our Nation's health care system has changed significantly since Medicare was first created. To make it effective, we must change Medicare as well.

We must work to bring affordable prescription drug coverage to every Medicare recipient. The Senate has the opportunity to pass a bipartisan—tripartisan permanent Medicare prescription drug plan this year. The House has already passed a bill. The President has indicated repeatedly that he wants a prescription drug benefit for America's seniors. With this kind of momentum, the time should be now. I hope we will move forward with an honest and open debate that will produce a responsible, bipartisan bill consistent with the principles I have outlined that fulfill Medicare's promise of health care security for all seniors.

I yield the floor.

Mr. REID. Madam President, I 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. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

#### GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Reid (for Stabenow) amendment No. 4305 (to amendment No. 4299), to clarify that section 1927 of the Social Security Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the Medicaid program.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I am going to send a modification to the desk very shortly, but I want to comment briefly on the statements of my friend from Missouri that were just made. He talked about lunacy of what is going on here. I will use his exact term—lunacy. Talk about the death tax, that is, the estate tax, at the same time you are talking about Medicare prescription drugs, the vast majority of people, the vast, vast majority—over 98 percent—of the people on Medicare have no relevance to the estate tax. Why he would bring up the estate tax at the same time we are talking about Medicare prescription drugs is beyond my ability to comprehend.

I would also say he talks about why we bring up some of these bills without going through the committee. We do not do that very often, but we have done it. When we were in the minority, it was done all the time. We have seen a number of these measures being brought up because of what has gone on after September 11.

Take terrorism insurance. We passed that. It was really good legislation. The President told us how much it was needed. It took us a long time to get the bill up because they objected to it. Now they will not let us go to conference on this bill. It is interesting to note, the majority leader said we should have a 3-to-2 ratio and we had a 3-to-2 ratio. They said no, we want 4-to-3 or we will not go to conference. We gave them 4-to-3, and they still won't go to conference. This is terrorism insurance. That is stopping construction