

continued to practice law during his career in the General Assembly and was a shareholder or partner in various firms, including Houston Harbaugh, where he practiced from 1984 to 1997. Fisher's law practice included civil litigation, commercial law, estate planning and real estate.

Mike Fisher was Pennsylvania's Republican candidate for Governor in 2002. During a hard-fought campaign, he raised key issues and helped shape current public debate on matters such as Pennsylvania's growing medical malpractice insurance crisis, the need to improve public education and the necessity of property tax reform.

Attorney General Fisher and his wife, Carol, an education consultant, have two children, Michelle, 27 an attorney in Pittsburgh, and Brett, 24, an information technology sales consultant in the Washington, D.C. area.

Mr. SPECTER. Mr. President, since Medicare was established in 1965, people are living longer and living better. Today Medicare covers more than 40 million Americans, including 35 million over the age of 65 and nearly 6 million younger adults with permanent disabilities.

Congress now has the opportunity to modernize this important Federal entity to create a 21st century Medicare Program that offers comprehensive coverage for pharmaceutical drugs and improves the Medicare delivery system.

The Medicare Prescription Drug and Modernization Act would make available a voluntary Medicare prescription drug plan for all seniors. If enacted, Medicare beneficiaries would have access to a discount card for prescription drug purchases starting in 2004. Projected savings from cards for consumers would range between 10 to 25 percent. A \$600 subsidy would be applied to the card, offering additional assistance for low-income beneficiaries defined as 160 percent or below the Federal poverty level. Effective January 1, 2006, a new optional Medicare prescription drug benefit would be established under Medicare Part D.

This bill has the potential to make a dramatic difference for millions of Americans living with lower incomes and chronic health care needs. Low-income Medicare beneficiaries, who make up 44 percent of all Medicare beneficiaries, would be provided with prescription drug coverage with minimal out-of-pocket costs. In Pennsylvania, this benefit would be further enhanced by including the Prescription Assistance Contract for the Elderly (PACE) program which will work in coordination with Medicare to provide increased cost savings for low-income beneficiaries.

For medical services, Medicare beneficiaries will have the freedom to remain in traditional fee-for-service Medicare, or enroll in a Health Maintenance Organization (HMO) or a Preferred Provider Organization (PPO), also called Medicare Advantage. These programs offer beneficiaries a wide choice of health care providers, while also coordinating health care effectively, especially for those with mul-

tipale chronic conditions. Medicare Advantage health plans would be required to offer at least the standard drug benefit, available through traditional fee-for-service Medicare.

We already know that there are many criticisms directed to this bill at various levels. Many would like to see the prescription drug program cover all of the costs without deductibles and without co-pays. There has been allocated in our budget plan \$400 billion for prescription drug coverage. That is, obviously, a very substantial sum of money. There are a variety of formulas which could be worked out to utilize this funding. The current plan, depending upon levels of income has several levels of coverage from a deductible to almost full coverage under a "catastrophic" illness. One area of concern is the so-called "donut hole" which requires a recipient to pay the entire cost of rug coverage.

As I have reviewed these projections and analyses, it is hard to say where the line ought to be drawn. It is a value judgement as to what deductibles and what the co-pays ought to be and for whom. Though I am seriously troubled by the so-called donut hole, it is calculated to encourage people to take the medical care they really need, and be affordable for those with lower levels of income. Then, when the costs move into the "catastrophic" illness range, the plan would pay for nearly all of the medical costs.

I am pleased that this bill contains a number of improvements for the providers of health care to Medicare beneficiaries. Physicians who are scheduled to receive cuts in 2004 and 2005 will receive a 1.5 percent increase over that time. Moreover, rural health care providers will receive much needed increases in Medicare reimbursement through raises to disproportionate share hospitals and standardized amounts, and a decrease in the labor share in the Medicare reimbursement formula. Hospitals across Pennsylvania will benefit from upgrades to the hospital market basket update and increases in the Indirect Medical Education. Furthermore, the bill will provide \$900 million for hospitals in metropolitan statistical areas with high labor costs due to their close proximity to urban areas that provide a disproportionately high wage. These hospitals may apply for wage index reclassification for three years starting in 2004.

I would note that I do have concerns with this legislation with regard to oncological Medicare reimbursement and the premium support demonstration project for Medicare Part B coverage. Proposed reductions in the average wholesale price for oncological pharmaceuticals may have a grave effect on oncologists' ability to provide cancer care to Medicare Beneficiaries. Every Medicare beneficiary suffering from cancer should have access to oncologists that they desperately need. I will pay close attention to the effects

that this provision has on the quality and availability of cancer care for beneficiaries and oncologists' ability to provide that care. Further, the premium support demonstration project for Medicare Part B premiums poses a concern. Some metropolitan areas may face up to a five percent higher premium for fee-for-service care than neighboring areas. While these provisions remain troublesome, we cannot let the perfect become the enemy of the good with this piece of legislation.

The Medicare Prescription Drug legislation has been worked on for many years. I believe this bill will provide a significant improvement to the vital health care seniors so urgently need. I congratulate the members of the conference committee including Majority Leader FRIST, Senator GRASSLEY, Chairman of the Finance Committee, and the Ranking Member, Senator BAUCUS, for the outstanding work which they have done on an extraordinarily complex bill.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Nevada.

#### OMNIBUS APPROPRIATIONS

Mr. REID. Mr. President, people have to understand the process here. We are being criticized for not agreeing to this omnibus bill.

I first of all want the RECORD to be spread with the fact that the chairman of the Appropriations Committee, Senator STEVENS, has worked tirelessly to get this done. He has worked, not a matter of hours or days but weeks. I have spoken to him on this legislation at least 50 times. So my remarks are not in any way to criticize the distinguished President pro tempore of the Senate.

Here it is, November 25, and there have been no final papers filed. What does that mean? There is no final draft of the legislation. Yesterday was the first day that some selected staff people could look at the proposed bill. But even then there were open items. It certainly does not speak well of the legislative branch of Government, as to what is happening.

What do I mean by that? The Congress has agreed on these appropriations bills. The Congress, the House and the Senate, in conference have agreed on these bills. What has been the problem is the interference—and I say that word purposely—by the executive branch of Government.

What are some of the outstanding items in this bill that are causing problems? We have over here 15 holds on this bill if it ever came to me. Regarding the Federal Communications Commission, the House and the Senate have agreed. We had two votes in both bodies, overwhelming votes that determined what would happen. But the White House is not happy with that. They want that changed. They don't want to change it in the normal process, by having hearings, et cetera; they want to do it in the conference—even

though there have been two overwhelming votes in both the House and the Senate.

Another deals with outsourcing. There were overwhelming votes in the House and Senate dealing with outsourcing, privatizing. The White House doesn't like that, so they want it changed.

There were two overwhelming votes dealing with overtime pay. The White House didn't like the votes of the legislative branch of Government, so they, by fiat, want to change that.

Then we have other issues that are troublesome in this bill, not necessarily to this Senator but to other Senators. We have situations dealing with when the ATF destroys records of the instant check on guns. The legislation called for 90 days. It has been shortened to 24 hours.

There is a situation that has come up that has overtones of the abortion debate. This is dealing with cloning, human cloning. We thought it was so simple in the committee that we—people don't want to do cloning of human beings, but there is a protracted dispute as to how to write that.

This bill may pass when we come back in January. But we can come back next week, the week after—it is not going to happen. It is not going to happen, as important as this legislation is. And no one knows the importance of it more than the senior Senator from the State of Connecticut, Mr. DODD, who has fought for this legislation, making sure that we have fair votes across the country, that we have votes using the same pieces of equipment, basically, so we do not have the problems we had in the last Presidential election.

We understand the importance of this legislation, even though it is not the right way to do things. We would rather do appropriations bills. We accept the omnibus strategy. But here it is, November 25, 1 more day from the eve of Thanksgiving and we don't have a final draft of what they want us to approve, in addition to all of the things that have been interfered with by the White House.

I believe in the Constitution of the United States. Here it is. This is the second one. It was given to me by Senator BYRD. I wore the first one out. He gave it to me. I treasure the other one, although it is worn out. I asked him to give me another one.

The Constitution, among other things, calls for three separate but equal branches of Government. This is not a king's court. This is an Executive led by the President and a Congress that has two branches; the House and the Senate. Then, of course, we have the courts. The President can't just override by dictates what we have done here in a legislative body. I know there are crocodile tears being shed by people saying: Why can't we do the omnibus?

These are only some of the reasons. Some people badly want to pass this

omnibus bill, and the reason is quite clear. My friends have come to me and indicated that they agreed to do this in the Energy bill, or in this bill we just passed, because they were told they would get things in the omnibus. I understand the legislative process. I have no qualms about arrangements being made. I believe legislation is the art of compromise. That is how we work with different legislation. There is nothing wrong with that. It is not illegal or immoral doing that. But you have to understand that it will be a difficult time.

I favor the omnibus. I want to get it done. I have worked very hard on the omnibus. The Senator from New Mexico and I added money in our energy and water bill. There was no problem at all. We have worked with Senator BYRD and Senator STEVENS to make sure we were part of the deal. We didn't want to interfere with getting a bill. We were told there were certain things that needed to come out of our bill and which could only come from our part of the omnibus. We agreed to do that.

But I repeat: If we only had appropriations matters in this bill, this thing would whip out of here in a second because the chairmen and the ranking members of the appropriations committees are Members of the Senate who are appreciated and respected. They know we wouldn't jam things into those bills. I speak for all of the other 12 appropriations subcommittees on the Democratic side.

But we don't have that situation. We have a situation that these two legislative bodies agreed to overwhelmingly. But the White House won't leave them alone. That is why the House hasn't given us a bill because the White House won't leave them alone. They keep wanting other things stuffed in it.

When we come back in January, I hope this is the first bill we take up. I hope the second bill we take up is the highway bill. I hope we get to this bill. It is too bad we are not going to do something for the months of December and January. It would be better for the American people, and it would be better for my State. But we can't agree to this because we have so many problems dealing with FCC and outsourcing. We swallow hard and take the across-the-board cuts that Senator STEVENS said we have to do. That is fine. There are issues such as dealing with guns, abortion, and overtime. People don't have to come and tell us what is in this bill. We know what is in this bill. We know how important the bill is. Go down 16 blocks from here and tell them to leave us alone and let us go back to the constitutional basis of this country and have a Congress that does what it wants. If the White House doesn't like it, let them veto the bill. But they have no right, in my opinion, to start stuffing things in the bill that the House has overridden—overtime, FCC, outsourcing, for example.

I want this omnibus bill to pass. We want the omnibus bill to pass. But we are not going to under the constraints we have.

Remember, it is November 25 and they still haven't filed the papers. We are asking for unanimous consent to pass this. A legislator would have to have rocks in their head to agree to something they haven't yet read.

The PRESIDING OFFICER. The Senator from New Mexico.

#### THE ENERGY BILL

Mr. DOMENICI. Mr. President, I rise to make a few observations for the Senate and for our people regarding the Energy bill that is still pending as we leave.

First, I hope and pray that during the ensuing months without an Energy bill we don't have high spikes in natural gas prices and the people of our country asking: What have we done about it? Our answer is nothing. I hope that doesn't happen. But I think there is a chance it will happen.

I hope there isn't another blackout. I am not sure there will be but there could be. If there is, the American people are going to ask why and we are going to tell them because we did nothing. There was something that was in that bill that would have solved the problem, according to the experts, and the answer will be, if you have a blackout, we did nothing.

For all of those who have projects that will be finished in wind, energy, solar energy, and renewables, they will be looking around and asking: Where is my next project? The answer will be there is no next project. The question will be: Why? And the answer will be because we haven't provided laws that will give to those kinds of projects the tax relief to which they are entitled and which they have been receiving that will keep wind energy going and solar energy going and geothermal energy going.

When these projects stop and thousands of people who are working in the industry have no jobs, when there are no new projects, the question will be asked: What happened? The answer will be simple. We didn't pass an Energy bill. I can go on with many more such as this.

In closing, I hope the Federal Energy Regulatory Commission does not act with the full power that the Federal Energy Regulatory Commission now has. I hope the Federal Energy Regulatory Commission will understand that we were that close to deciding we did not want the Federal Energy Regulatory Commission to have the single and sole power to regulate electricity interests in this country.

But when the first electric-generating plants and generating systems are mandated by the Federal Energy Regulatory Commission to join in organizations that they don't want to be in, and they ask the question why, the answer is going to be clear.

For those Senators who represent them who are upset because their utilities are being forced to conduct themselves in a manner that the Federal