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Senate

The Senate met at 9 a.m. and was called to order by the Honorable ZELL MILLER, a Senator from the State of Georgia.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God is good all the time; all the time God is good! We say with the psalmist, "I would have lost heart, unless I had believed that I would see the goodness of the Lord in the land of the living."—Psalm 27:13.

What do we mean when we affirm that You are good? You have taught us, dear God, that Your goodness is Your impeccable consistency. We always can depend on You to be the same yesterday, today, and tomorrow. You do not play favorites; You treat all Your children the same. It is only humankind that withholds Your blessings of justice, mercy, and plenty from some of Your people. Or we tolerate customs, laws, or social prejudices that block Your goodness being offered to all.

If we say with the psalmist, "Blessed be the Lord, who daily loads us with benefits, the God of our salvation!"—Psalm 68:19, then help us, generous Lord, to be to others as kind, caring, and forgiving, just as you have been to us. May it be said of us, "He/she is good all the time!" Amen.

PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER. The Honorable ZELL MILLER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 13, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ZELL MILLER, a Senator from the State of Georgia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MILLER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. The Chair will shortly announce that the first hour of the Senate today will be morning business, until 10 a.m. The first half of that time is under the control of the majority leader. It is my understanding that Senator STABENOW will be here to talk about pharmaceutical products. The second half of the time will be under the control of the Republican leader.

At 10, we will begin consideration of the terrorism insurance bill. We have waited a long time to be able to have this measure on the floor. Industries all over America, for months, have been telling us this is necessary. I hope those people who don't want this legislation passed—and there are some—will offer their amendments and take whatever verdict the Senate renders and not try to stall and kill this legislation. If that is the case, I think the majority leader would have no alternative but to file a cloture motion.

There is ample time to amend this legislation. I think both leaders acknowledge the importance of this legislation and the need to move on. So if

there is an effort to stall, after a period of time the majority leader will again have to make a determination as to whether a cloture motion will be filed. I hope that is not the case and that it moves forward. We almost passed it by unanimous consent before the Christmas break. Since that time, things have gotten worse instead of better. We have construction projects that are coming to a halt because they cannot obtain terrorism insurance. It has become extremely important that we do something about this. I hope we as a Senate can move forward.

Mr. President, the chair has some business to conduct.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time shall be under the control of the majority leader or his designee.

The Chair recognizes the Senator from Michigan.

THE HIGH COST OF PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, it is a pleasure to be here again this morning speaking about one of the most important topics to touch American families, seniors, and businesses. The entire economy, right now, is struggling with the explosion of health care costs. Most of those relate to the crisis of prescription drugs.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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First, I thank the Senator from Georgia for his leadership, for bringing forward and fighting for Medicare and prescription drug coverage for seniors. I was pleased yesterday to join with the occupant of the chair, Senator BOB GRAHAM from Florida, Senator TED KENNEDY from Massachusetts, Senator HARRY REID, our distinguished assistant majority leader, and many others who have come together to put forward a voluntary, comprehensive Medicare prescription drug benefit for our seniors, one we can be proud of, one that people can choose to sign up for if they need it; and if they choose not to because of other coverage, that is good as well. But it will be there for everyone. It will finally keep the promise of Medicare by truly covering the way health care is provided today. We know that is long overdue.

As we all know, in 1965, when Medicare was constructed, it covered the way health care was provided. When you went in the hospital and had an operation, you might need penicillin or something else connected with your stay in the hospital. But today is different. Most people don't go to the hospital. Most people are able fortunately to receive some kind of assistance, such as medications that prevent problems. Some have high blood pressure or high cholesterol and many other things that they need to take medication to control. You also may be able to take a pill that stops open-heart surgery. A gentleman in Michigan tells me he takes one pill a month, and it stops him from having to have open-heart surgery. He said that is great, but the pill costs \$400 a month.

This is a gentleman who, fortunately, is a UAW retiree and is able to receive some assistance from an excellent benefit plan. But he said: What if I didn't have that? What if I was just on Medicare and didn't have that extra help that came from my job? That \$400 a month that stops open-heart surgery is a wonderful benefit.

We celebrate the fact that that drug was created. But too many people would either not be able to afford that, would be sitting at the kitchen table, like a lot of people today, saying: Do I eat today? Do I pay the utility bill? Am I able to pay the other things that will allow me to live independently or do I get my medicine?

So I am very pleased to be a part of the effort that is building in the Senate to pass a real Medicare prescription drug benefit, which we intend to do.

I thank our leader, TOM DASCHLE, for making a commitment that we are going to bring this issue before the Senate for a vote in a matter of a few weeks.

There are those around the country who are listening today and saying, Sure, we have heard this before, but is it really going to happen? Are we really going to be able to move the ball forward?

The answer is, with the help of people who are watching and listening today,

we will. The reason this has been so difficult an issue is that, unfortunately, we see an industry doing very well by diverting a lot of the current rules, by getting around a lot of the rules. The current system works well for the drug industry. There are six drug company lobbyists for every Member of the Senate. So their voice is heard here every day.

I was pleased yesterday to join with about 30 different health care consumer groups to launch an effort to get the people's voice into this debate. Not only are we asking people to write their Senators, their House Member, and the President and say, now is the time to act—it is past the time to act—but we are also asking people to join us in an effort called fairdrugprices.org. Fairdrugprices.org is a new action center. We are asking people to log on—maybe this is your first time on a computer; if you do not have a computer, ask a family member, ask somebody else, and if, like so many of us, you are learning all this, just type in “fairdrugprices.org” and go to this site.

You can sign a petition to send two messages to Congress: Pass a real Medicare prescription drug benefit and lower prices for everybody. We have a plan on how to do both. If you go to fairdrugprices.org, you can sign up to be a part of this process. You can also communicate with your Member of Congress through this site, as well as directly going to their site.

Also, we are asking you to share your story. If you are a small business, the senior premium for health care went up 30 percent last year, and insurance companies said most of that was the explosion in prescription drug prices. Or if you are an 85-year-old woman with breast cancer struggling to buy tamoxifen or a 65-year-old man who is struggling with high blood pressure and other ailments and struggling to get the medicine you need, sign up, share that story, and we will bring that story to the floor of the Senate. We will make the people's voice a part of this process in a very real way because when the people are engaged—and, Mr. President, you know this—the right things happen.

When people are involved in telling what is real—they are not making this up; this is not a made-up problem; they are not just trying to talk the talk—they want action. They want action from Senators. They want this to be bipartisan. They want the President to embrace this. They want us to solve the problem.

There are a lot of other issues we can talk about around here, but we want to get this done. This effort is beginning to really get up steam. We want to invite everybody to go to fairdrugprices.org and engage in this issue.

We also ask for some help to take a serious look at other proposals that are coming forward from other places that do not do the job. There are a lot of

proposals that are being called Medicare prescription drug coverage. There are those who provide coverage that is affordable. We are pleased that our plan would be a \$25-per-month premium and would provide comprehensive coverage with no gaps. It would not cut home health care to do it. It would not cut our hospitals or nursing homes to do it.

We have a real plan. I regret to say that our colleagues on the other side of the aisle, on the other side of the Capitol, through the Speaker and the Republicans in the House, have not yet put forward a real Medicare plan. Unfortunately, what they put forward covers very little of the prescription drug bill, and they are talking continually about including cuts to hospitals and other providers to pay for it and setting up new costs for home health care.

I know in my own family and friends' families, often when you are struggling with that prescription drug bill, you also need some home health care help. Those frequently go together.

Today we are very proud of the home health care industry, our visiting nurses, and our other small businesses that set up shop to help people live in dignity at home. We know it is good from a quality-of-life standpoint. We know it saves money. It is good on all accounts. Home health care makes sense.

My fear is that what is being talked about by our House Republican colleagues is charging copays. One will have to pay on the front end for visits. On the one hand, while saying we want to help with prescription drug coverage, on the other, we are going to create new costs for you, we will save a little money in this pocket and take a little more out of this pocket. In the end, that will not be helpful to people.

I call upon my colleagues on the other side of the aisle and the other side of the Capitol, in the House of Representatives, to join with us in a real effort. Do not add costs to home health care. Do not cut our providers who have already been cut enough. Join with us in something that is real and makes sense.

One of my other concerns about what the House is talking about is that it would not be a benefit under Medicare. They are saying let private insurance cover prescription drugs with prescription-only policies. I suggest that if the insurance companies wanted to do that, they would have already done that. The reason they do not is that it is very expensive to provide a prescription-only insurance policy, outside of Medicare or outside of a standard policy.

Ironically, if you go back and look at the debate prior to 1965 when Medicare came into being, it came into being because the only thing that older adults had at that time was to try to find insurance in the private sector, and about half of them could not find any or it was not affordable because it is

less profitable to cover older adults or to cover the disabled or to cover people who are likely to begin to have more health ailments. So those policies were not there.

Medicare came into being to make sure that everybody had access to health care; that our older citizens, our disabled citizens would be able to get the same care that other citizens received. That was a promise we made in 1965.

Now, instead of making sure that promise is real by covering prescription drugs, which is the way health care is provided today, we have our colleagues on the Republican side of the aisle saying: Let's go back to what did not work before 1965. Let's go back to the system that does not work.

We are saying that is not good enough. More importantly, the people of the country are saying that is not good enough. I believe people are watching and are holding us accountable. They are holding us accountable as to whether or not we are going to get past the talk and start walking the walk.

Are we going to make this happen or continue to set up straw men that sound good, get people through an election, but, in the end, do not create the ability for one senior to buy one pill? That is the challenge we face, and we have an opportunity because of the leadership in the Senate by our Senate majority leader, Senator DASCHLE, and Senator HARRY REID, and others who have said this is so important, we are going to make this a priority now, that this summer we are going to act on this issue; we are going to bring this up.

It is so important we now engage people and invite people to join us to make sure we are successful. This is not just about getting a vote or bringing up a bill, this is about fixing the problem. It is about creating a Medicare prescription drug benefit for everyone who needs it and making sure they then have the ability to get the health care they need.

Frankly, I am excited about what is ahead in the next few weeks and want to invite people to join us to be a part of this effort—again, fairdrugprices.org.

I want to also invite people from Michigan, if those from Michigan are listening, to visit my own Web site. We are asking people as well to come and join us and check out what is happening through my Senate Web site: Stabenow.Senate.gov. At this Web site, we are asking people to take a look at what we are doing and share the stories through our Web site as well.

I also mention this morning the important efforts to cut prices for everyone. As I said in the beginning, we have two goals. We have the goal of updating Medicare so it really provides health care and meets the promise that was made in 1965, but we also know that this issue affects everyone. As I said before, if one is a business owner,

a farmer trying to get health care coverage for their family, a young working family, or an older working family, right now we have a very unfortunate situation in our country. In fact, in some cases we are paying for all of the initial research on these new lifesaving drugs into the billions, over \$23 billion.

We have been increasing the research through the National Institutes of Health every year. As of this year, I believe, we have doubled in the last 5 years the funding for NIH, a very important thing to do. It is something we have had support for on both sides of the aisle. It is very important that we be able to move forward on this funding. That is good.

We then have a situation in our country where we allow companies to take that information that you and I pay for, and begin to develop these new drugs. As they do that, as a further incentive, we allow them to take deductions on their taxes for the research. We give them a new 20-percent tax credit on new research. We also allow them to write off their advertising, marketing, and sales costs. We give them up to a 20-year patent. We say it is so expensive to create these new drugs that we are going to make sure their name brand cannot be challenged and they cannot have competition for that formula for up to 20 years. So we protect that for them through a patent.

When all is said and done, after all this investment and all of this effort to support creating these new drugs, what do we have? Unfortunately, we have, as Americans, the highest prices in the world. That makes absolutely no sense.

What I fear is that we are seeing more and more an industry that is less focused on new breakthrough drugs and more focused on how to create more profit by slightly changing the drug to keep the patent going, making it a purple pill instead of a red pill, changing the box, promoting it, changing the name, keeping the patent going so there is no competition, and keep raising those prices right through the roof.

I was very interested in watching a program that Peter Jennings put forward on ABC a couple of weeks ago. I commend ABC and Peter Jennings for coming forward with something that was very comprehensive but, unfortunately, extremely disturbing. It indicated that about 80 percent of the new patents, the new drugs that are going on the market, the new patents approved by FDA on what is called standard drugs—that is a category that means there is very little difference between the drug that was already there and the new drug—80 percent are not drugs that have changed the formulas in a way that would improve health care.

What we see happening instead is this movement of sales and marketing and advertising, and now, unfortunately, in the last 5 years—in fact, since 1996—the FDA has changed the rules so that drug consumer adver-

tising is allowed. They have loosened the rules, and we have seen an explosion in the amount of direct consumer advertising.

Anyone listening today, anyone listening in the Chamber, all we have to do is turn on our television set, and if not every ad, every other ad is a beautiful picture, a beautiful ad, for a prescription drug. That is great if they want to do that, but unfortunately we now see two and a half times more being spent on advertising than on research. The latest numbers show there was more spent on advertising Vioxx than Pepsi, Coke, or Budweiser.

As I have said so many times before, someone can decide not to have a Coke today, although I am pretty addicted to Diet Coke, but if someone is a breast cancer patient, they cannot decide not to take Tamoxifen without very serious consequences. So this is not the same and should not be treated the same.

So one of the bills that we put forward—and I appreciate the Presiding Officer's support and cosponsorship with me—is something called the FAIR Act, the Fair Advertising and Increased Research Act. It is a bill that would simply say we will allow the companies to write off advertising and marketing and sales from their taxes. In other words, we will subsidize that as taxpayers but only to the level we subsidize research. It makes sense to me. We will allow advertising, and certainly they can do as much as they want, but we just do not want to pay for it. So we are saying we will pay for as much or help subsidize as much on advertising as we do on research; beyond that, they are on their own.

I hope we will get a vote on that bill, that we will be able to cap those excessive advertising costs, because it is overdue and we know it is part of the explosion. It is not only the advertising costs, it is that increased utilization that comes from promoting medications and the top name brand rather than one that may be exactly the same that is not advertised.

That leads me to another very important issue, and that is the question of unadvertised brands. We know that at least half of the medications out today have another drug that is exactly the same or extremely close, that is just not advertised. It is called a generic. We know that if someone uses that unadvertised brand, they can cut their costs 35, 50, 75 percent. I have seen quotes of savings up to 90 percent. So there is a major effort now happening. I commend Blue Cross/Blue Shield of Michigan, which is working with our Chamber of Commerce and others, in a coalition, and I know it is happening across the country, to close the loopholes in the law.

Senator JOHN MCCAIN and Senator CHUCK SCHUMER have a bill, which I am pleased to be cosponsoring, that would close the loopholes which right now allow the drug companies to stop these unadvertised brands from going on the

market. So we want to address that as well.

We want to have the opportunity to do away with excessive advertising, use more of the unadvertised brands and drop the prices for people. We also want to open the border to Canada where right now one can buy prescriptions at half the price.

The final thing on our agenda is to support those States that are creatively looking for ways and acting to lower prescription drug prices for their citizens. About 30 different States, including my home State of Michigan, are developing ways to lower prices, some very creatively.

In Maine, for example, they have developed a policy where if someone is doing business and they have a Medicaid contract for prescription drugs, then they are requiring that same discounted price be provided that is provided to the State through Medicaid to those who do not have insurance but are not on Medicaid. So they are using their clout as purchasers to be able to lower prices, and they are being sued. Not surprisingly, a drug company lobby is suing all of the States that are doing that.

The final bill I have introduced is called the RX Flexibility for States bill, which would make it clear that States have a right to develop innovative programs to lower prices for their citizens and to use the Medicaid purchasing power as a part of that.

In conclusion, let me say we have a plan. As the Presiding Officer knows, because he is one of the key leaders on our Medicare plan, we have a Medicare plan. We have proposals to lower prices. We have a plan that will make sure our seniors and our disabled have what they need in lifesaving medicine. We will make sure small businesses can count on us to do something to lower prices for our farmers, our families.

I call upon colleagues to join as quickly as possible to put this plan in action. Again, I invite all citizens listening today to join www.fairdrugprices.org. Get involved. Put the people's voice in this debate. I know we will be able to get something done.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent I be allowed to use the remainder of the time in morning business. I see no one here from the minority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REMEMBERING DR. BARNETT SLEPIAN AND CONDEMNING ANTI-ABORTION VIOLENCE

Mr. REID. Mr. President, after the attacks against our country on September 11th and with ongoing violence in the Middle East, we have taken steps to remind Americans that not all Arabs and not all Muslims are terrorists. And it is important to remember that not all terrorists are Arabs or Muslims.

Terrorism is not an ideology linked to any particular religion, race, or nationality; rather it is a tactic, a method deliberately chosen by those who reject peaceful means of promoting their cause and instead turn to violence. Obviously not all terrorists share the same goals—indeed, there are many cases where terrorists with diametrically opposed views are fighting against one another.

But terrorists seem to hold in common a belief that they are above the law and a common disregard for human life.

Unfortunately, we have homegrown terrorists right here in America:

People like Timothy McVeigh who bombed the Federal building in Oklahoma City and whoever is responsible for the anthrax attacks of last year.

America has also been plagued by numerous acts of violence by extremists in the anti-abortion movement. One of their victims was Barnett Slepian, a husband and a father of four. He was killed in his family's home in Buffalo, New York 3½ years ago shortly after returning from synagogue where he had gone to mourn his father's death.

Barnett Slepian was a gynecologist and obstetrician. He provided health care to women and delivered babies. And he also performed abortions at a downtown clinic, because he wanted to make sure that even poor women had access to safe, legal procedures. Because of this he was killed.

I didn't know Dr. Slepian, but I learned after his death that he was the uncle of a woman from Reno, Nevada who worked for me here in Washington.

Dr. Slepian's killer is not only a cold-blooded murderer, but should also be seen as a terrorist. The man police have identified as responsible for killing Dr. Slepian was recently extradited from France where he had fled. His name is James Kopp.

Kopp has been indicted for the shooting of a doctor in Canada and is a suspect in 3 other shootings of doctors who provided abortions. While Kopp alone might have pulled the trigger and fired the shot that killed Dr. Slepian, we have learned that he was part of an organized network of violent extremists, including a group that calls itself the Army of God. (Imagine that a group would invoke the Lord's name and believe that God sanctions their lawless violence. And this group of murderers professes a respect for life!)

This group and others similar to it have engaged in a long campaign of harassment, intimidation, and vio-

lence. Their crimes include kidnaping, bombing, arson, assault and murder. They have targeted health clinic employees, judges and other officials. And not only have they attacked and killed doctors, but they have also threatened the doctors' children. These groups have hosted Web sites that post the names, addresses, license plate numbers of doctors and others on hit lists and even put up pictures of their targets' family members and identify where their children catch the school bus.

Fortunately, the 9th Circuit Court of Appeals ruled just last month that targeting specific doctors in this way constitutes an illegal threat, and found those responsible for the Web sites in violation of the Freedom of Access to Clinic Entrances Act. I applaud the court's ruling, and I am pleased that the FACE legislation we passed has helped protect Americans. But we must remain vigilant and continue to take appropriate action to prevent extremist groups from terrorizing victims. Their intention is to intimidate and threaten, and sometimes they succeed as some doctors have given up their practice due to the emotional stress and constant fear they faced.

Dr. Slepian courageously endured threats for over a decade before he was murdered. We must have the courage to condemn the violent extremists in the anti-choice movement. Those who kill and commit other heinous acts to express their opposition to abortion do so with the support of many others people who fund their crimes, aid and abet them, harbor fugitives. Others help create a climate that encourages this violence through their hateful speech or by remaining silent.

We cannot remain silent. We must say loudly and unequivocally that murder is wrong.

America is a nation of laws. I believe in following the law. You might not always agree with the law or how it is interpreted. But that does not entitle you to willfully violate it without consequences. America instead offers you an opportunity to seek to change the law through peaceful means.

We express policy differences civilly through discourse and resolve them through the political process, not through violence. Here in the Senate we debate passionately, but in a manner of respect and civility, and attempt to persuade others of the merits of our positions.

Those who resort to violence are violating not only our laws but our American principles and values.

We in the Senate must identify them as terrorists. The American people must recognize them as terrorists. And law enforcement officials must treat them as terrorists—for that is what they are.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the role.