



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 149

WASHINGTON, TUESDAY, JUNE 24, 2003

No. 94

## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable NORM COLEMAN, a Senator from the State of Minnesota.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Father Richard S. Dalton, of Christ Our King Mission Church, Rochester, MI.

### PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Mighty God,

We thank You for the gifts You have bestowed on our Nation: the gift of freedom, the gift of plenty, the gift of community, and the countless gifts of beauty You have given this land.

Awaken this land and its people to our accountability before You and our responsibilities to one another. Make us aware of both the gifts and stewardship granted to us, that each person in this Nation will discover their gifts and embrace their callings for our common benefit and to Your glory.

Lord, may Your grace and kindness abide with this Senate, the Senate staffs, and each related family. We pray Your protection and blessing on the mothers, fathers, grandparents, children and all, both young and old, associated with this United States Senate.

May Your care be upon all these gathered and may this Senate body labor during these days as Your ministers for our good.

I pray these things, as Your servant for Jesus' sake.

God may You now bless these Senators, Thy servants.

Amen.

### PLEDGE OF ALLEGIANCE

The Honorable NORM COLEMAN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Repub-

lic 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. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 24, 2003.

To the Senate:

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

TED STEVENS,  
President pro tempore.

Mr. COLEMAN thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, the Senate will immediately resume consideration of S. 1, the prescription drug benefits and Medicare bill. There are approximately 33 pending amendments from last week and yesterday. We continue to make good progress. Under the order from last night, we have two consecutive votes this morning at 11 o'clock on the Rockefeller amendment No. 976 and the Bingaman amendment No. 984. Also, last night we reached an agreement to vote at 2:25 this afternoon in relation to the Dodd amendment No. 969 on open enrollments. This morning, the two managers will be working through the pending amend-

ments and will attempt to set up additional votes for this afternoon.

I reiterate once again we will finish this bill this week, possibly Thursday night. It could be a very late Thursday night. I predict it will be a late night tonight, Tuesday night, Wednesday night, and Thursday night. If we spill over to Friday or even Saturday, we will finish this bill before the recess. I do encourage Members to come forward with their amendments as soon as possible and make those available to the managers if you plan on offering those amendments. We have a lot of work to do. The cooperation of Members will be very much appreciated over the next 2, 3 days.

### PASSAGE OF S. 1157 AND S. 239

Mr. FRIST. Mr. President, let me just make one final comment. In wrapup last night, we had two very important pieces of legislation pass through the body. We are debating throughout each day the prescription drug benefits and Medicare bill, yet we have other important matters.

Last night, we passed S. 1157, which establishes a National Museum of African American History. Senator BROWBACK has been working on getting this bill cleared for full Senate action since its introduction on May 23 of this year. I publicly thank him for his efforts and attention on this important issue so that the Senate was able to pass it expeditiously.

Also last night, the Senate passed S. 239, the Trauma Care Systems Planning And Development Act, which I introduced in January of this year. This bill directs the Secretary of Health and Human Services to collect, compile, and disseminate information regarding trauma care and emergency medical services, and, in so doing, takes into special consideration people in rural areas who might not otherwise have access to that care.

I mention those two very important pieces of legislation because I want our

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



Printed on recycled paper.

S8385

colleagues to be aware we did pass them late last night.

#### RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant Democratic leader is recognized.

Mr. REID. Mr. President, if I could say through the Chair to the leader, as the leader indicated, we have more than 30 amendments. To vote on those would take 12 hours, or something like that. The two managers last night indicated they thought two-thirds of the amendments that are pending could be accepted by the two managers.

We have on our side probably no more than six more amendments to offer on this legislation. Senator BOXER is here to offer her amendment. We have several more that could follow that. Then we have an important amendment that Senators CONRAD and LINCOLN offered. Senator LINCOLN offered it on Friday, but she withdrew it, and she wants to reoffer that today.

I think if we do not have some flareup as a result of someone wanting to change the basic components of the bill, it is very likely we can finish this bill in a reasonably short period of time. I hope the two managers, who were meeting after we adjourned last night, have been able to make headway in working through the money we have left over that has created so much interest. Anytime there are a few dollars—and this is more than a few dollars—left on the table, so to speak, there are a lot of people who are after that money. I hope that can be resolved in some fair manner. But if that is the case, then I think you, the distinguished Republican leader, can complete this bill in a reasonably short period of time.

On our side, we have done our best to have amendments ready to offer. Senator BOXER is in the Chamber. She will not take a great deal of time on her amendment. We have the other key amendments we believe are ready to be offered and can be done in a short period of time.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. FRIST. I thank the Chair. In brief response, through the Chair, I think it is a very accurate assessment of where we are. The managers continued to meet last night and will continue to meet this morning as we put together the various amendments. So I am very satisfied with the continued progress we are making and appreciate Members on both sides of the aisle coming forward with their amendments. With that, I think we will be able to stay on schedule, giving good, adequate time for debate and amendments.

I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### PRESCRIPTION DRUG AND MEDICAL CARE IMPROVEMENT ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1) to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

#### Pending:

Graham (FL) amendment No. 956, to provide that an eligible beneficiary is not responsible for paying the applicable percent of the monthly national average premium while the beneficiary is in the coverage gap and to sunset the bill.

Kerry amendment No. 958, to increase the availability of discounted prescription drugs.

Lincoln modified amendment No. 934, to ensure coverage for syringes for the administration of insulin, and necessary medical supplies associated with the administration of insulin.

Lincoln amendment No. 935, to clarify the intent of Congress regarding an exception to the initial residency period for geriatric residency or fellowship programs.

Lincoln amendment No. 959, to establish a demonstration project for direct access to physical therapy services under the Medicare Program.

Baucus (for Jeffords) amendment No. 964, to include coverage for tobacco cessation products.

Baucus (for Jeffords) amendment No. 965, to establish a Council for Technology and Innovation.

Nelson (FL) amendment No. 938, to provide for a study and report on the propagation of concierge care.

Nelson (FL) amendment No. 936, to provide for an extension of the demonstration for ESRD managed care.

Baucus (for Harkin) amendment No. 967, to provide improved payment for certain mammography services.

Baucus (for Harkin) amendment No. 968, to restore reimbursement for total body orthotic management for nonambulatory, severely disabled nursing home residents.

Baucus (for Dodd) amendment No. 969, to permit continuous open enrollment and disenrollment in Medicare Prescription Drug plans and Medicare Advantage plans until 2008.

Baucus (for Dodd) amendment No. 970, to provide 50 percent cost sharing for a beneficiary whose income is at least 160 percent but not more than 250 percent of the poverty line after the beneficiary has reached the initial coverage gap and before the beneficiary has reached the annual out-of-pocket limit.

Baucus (for Cantwell) amendment No. 942, to prohibit an eligible entity offering a Medicare prescription drug plan, a Medicare Advantage organization offering a Medicare Advantage plan, and other health plans from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements.

Rockefeller amendment No. 975, to make all Medicare beneficiaries eligible for Medicare prescription drug coverage.

Rockefeller amendment No. 976, to treat costs for covered drugs as incurred costs without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs.

Akaka amendment No. 980, to expand assistance with coverage for legal immigrants under the Medicaid Program and SCHIP to

include citizens of the Freely Associated States.

Akaka amendment No. 979, to ensure that current prescription drug benefits to Medicare-eligible enrollees in the Federal Employees Health Benefits Program will not be diminished.

Pryor amendment No. 981, to provide equal access to competitive global prescription medicine prices for American purchasers.

Bingaman amendment No. 984, to carve out from payments to Medicare+Choice and Medicare Advantage organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care.

Bingaman amendment No. 972, to provide reimbursement for federally qualified health centers participating in medicare managed care.

Bingaman amendment No. 973, to amend title XVIII of the Social Security Act to provide for the authorization of reimbursement for all Medicare Part B services furnished by certain Indian hospitals and clinics.

Baucus (for Edwards) amendment No. 985, to strengthen protections for consumers against misleading direct-to-consumer drug advertising.

Baucus (for Lautenberg) amendment No. 986, to make prescription drug coverage available beginning on July 1, 2004.

Murray amendment No. 990, to make improvements in the Medicare Advantage benchmark determinations.

Harkin amendment No. 991, to establish a demonstration project under the Medicaid Program to encourage the provision of community-based services to individuals with disabilities.

Dayton amendment No. 957, to provide that prescription drug benefits for any Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, may not exceed the level of prescription drug benefits passed in the 1st session of the 108th Congress.

Dayton amendment No. 960, to require a streamlining of the Medicare regulations.

Dayton amendment No. 977, to require that benefits be made available under Part D on January 1, 2004.

Baucus (for Stabenow) amendment No. 992, to clarify that the Medicaid statute 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.

Baucus (for Dorgan) amendment No. 993, to amend title XVIII of the Social Security Act to provide for coverage of cardiovascular screening tests under the Medicare Program.

Grassley amendment No. 974, to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs.

Durbin amendment No. 994, to deliver a meaningful benefit and lower prescription drug prices.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent the pending amendments be set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing none, it is so ordered.

AMENDMENT NO. 1001

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.