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Senate

The Senate met at 9:46 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Master of our hopes and dreams, who constantly works for the good of those who love You, teach us to strive for integrity. Remind us that You call us not to success but to faithfulness. Inspire our lawmakers today with a commitment to be true to You and to serve Your purposes. Let not discordant notes mar the melody of their labors as they seek Your counsel and wisdom. Bless their families and all who come within the circle of their influence. Prosper the works of their hands, until the kingdoms of this world become the springboard for Your eternal reign. Guide our great Nation. Help it to be a lighthouse to a dark and turbulent world. Protect our military in its arduous work. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK 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. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 2, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from the great State of Arizona is recognized.

SCHEDULE

Mr. KYL. Mr. President, this morning, the Senate will conduct a period of morning business for up to 60 minutes, with the Democratic leader or his designee in control of the first 30 minutes and the majority leader or his designee in control of the final 30 minutes. Following morning business, the Senate will resume consideration of the Department of Defense authorization bill.

Chairman WARNER and Senator LEVIN will be here all day, working through amendments. As the leader announced last night, we were able to lock in a finite list of first-degree amendments to the bill, and Senators are encouraged to work with the bill managers so we can finish this bill this week or early next week.

On behalf of the leader, I remind Senators that the Senate will stand in recess from 12:30 p.m. to 2:15 p.m. to accommodate the Democratic policy luncheon, and that at 5 p.m. there will be a reception honoring Senators AKAKA, HOLLINGS, INOUE, LAUTENBERG, STEVENS, and WARNER, who are all veterans of the Second World War. We will devote the hour prior to the reception for speeches honoring their service.

ORDER OF PROCEDURE

I now ask unanimous consent that there be a period of morning business

today from 4 to 5 p.m., with the time equally divided between the two leaders or their designees.

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

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from the great State of Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that for the time the Chair will shortly announce dealing with morning business, Senator DAYTON be given 15 minutes and then I will yield 10 minutes to Senator STABENOW.

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

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 for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

Under the previous order, the Senator from Minnesota is recognized.

COST OF PRESCRIPTION DRUGS

Mr. DAYTON. Mr. President, when I was in Minnesota last week, I read a very disturbing news report about the

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



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cost of prescription drugs in this country. The American Association of Retired Persons Public Policy Institute looked at the prices charged by the manufacturers of 197 brand-name prescription drugs most widely purchased by Americans. Last year, their average price increase was 6.9 percent, over three times the overall inflation rate of just 2.2 percent. From December of 1999 to December of 2003, for 155 of those drugs on the market during all 4 years, their prices increased by a cumulative average of 27.6 percent compared to the general inflation rate of just over 10 percent. That is a price increase of over 2.5 times the overall inflation rate during the past 4 years.

It is not as though those drug prices were low at the beginning. Last summer, my staff compared the retail prices of 52 leading prescription drugs in the United States and Canada. For exactly the same drug, same amount, same strength, made by the same company, prices in Canada were one-third, one-fifth, even one-eighth the prices in the United States. That was after factoring out the different values of the U.S. and Canadian dollars. So in an apples-to-apples comparison, prices for the exact same medicines in the United States were three times, five times, even eight times higher than prices in Canada. My study shows that Americans are being gouged by exorbitant prescription drug prices, and AARP's study shows that it is getting worse.

Those excessive and rapidly increasing prices afflict all Americans, not only senior citizens. This year, almost 12 percent of all the money Americans spend for their health care will go for prescription drugs. That is almost one out of every eight health care dollars. Over the past 6 years, prescription drug costs have been the fastest growing part of total health care spending in this country.

So if Americans are getting ripped off by the drug companies, and if the problem is getting worse, then certainly President Bush and Congress would do something about it, right? Well, last year, the President and a majority in the Senate and House did something, but they made things worse, not better. Let me restate that. President Bush and a majority in Congress made sure prescription drug prices could keep going higher and higher and hurt most Americans, which means more money and larger profits for the drug companies. President Bush and his friends in Congress helped the rich get even richer, while making the rest of America poorer.

How did they do that? Well, on the prescription drug bill that was passed last year, the final version that most of my Democratic colleagues and I voted against, Federal health care officials are expressly prohibited from negotiating or in any way affecting the prices being charged for prescription drugs. When prescription drug coverage, inadequate as it will be, fully begins in the year 2006, the people on Medicare will

be buying over half of all the prescription drugs purchased in America. Most of those bills will be paid at least in part by the Federal Government with taxpayer money at whatever prices are charged.

Imagine if you had to pay whatever someone else decided to charge you. You couldn't negotiate. You couldn't refuse to pay above a certain price. You would have no say; you would just pay. And you would pay and pay and pay.

No wonder a bill that was supposed to cost taxpayers \$400 billion over the next 10 years is already projected to cost over \$541 billion, a \$141 billion increase, and the program has not even begun yet. I guarantee the program's cost will run even higher than that, as long as that prohibition against price negotiating is in law. It is a license to exploit Americans, all Americans, since all Americans will have to pay those higher prices.

Conversely, if Federal officials negotiated lower prices for Medicare beneficiaries, some, most, or even all of that price reduction would affect the prices the rest of us have to pay for those medicines. Drug company lobbyists and their friends in Washington call this price fixing and claim the Federal Government would destroy profitability, end research and development, and even cause bankruptcies. Nonsense. The Federal Government can't force any vendors to sell their products or services below prices acceptable to them. It can't legally—except in a national emergency—it doesn't try to, and it should not want to.

Take the Pentagon, which is often the only legal buyer of many of its products or services. It doesn't dictatorially set some price and require some company to make a product and sell it at that price. The Pentagon or the service branch purchaser might put the contract out for competitive bids or, if there is only one suitable provider, the Pentagon or military officials would sit down with the company officials and they would negotiate, truly negotiate, a mutually agreed-upon price.

Is that price as high as the company might charge if the company could set the price as high as it would like? No, probably not. Would the company agree to a price so low as to be unprofitable? No, definitely not. Does the Pentagon even want that low price? No, because if that company doesn't make a profit, it won't be around to keep producing that product or other products.

Those national defense projects frequently require extensive research and development, then testing, then modifications, and then more testing, requiring often several years before the actual production and sales can begin. Those costs—research and development, testing—are made part of the contract, usually paid in advance of production, and often revised upward if

unforeseen circumstances develop. The Federal Government is a partner in those endeavors and vested in their positive outcomes while still being, hopefully, a responsible purchaser, assuring that taxpayers get their money's worth.

Would anybody here believe the Pentagon should be prohibited from negotiating the prices it will pay for what it needs, that it should be required to pay whatever prices its suppliers decided to charge? That would be ridiculous and scandalous, as it should also be for prescription drugs.

That part of the new law would be bad enough for most Americans just by itself. But the Bush administration and its congressional allies were not done helping their friends in the pharmaceutical industry. In our economic system, if the price of something becomes too high, you can shop around for a lower price elsewhere.

I come from a retail family. My great-grandfather opened a department store in Minneapolis in 1903. My father and uncles and thousands of Minnesotans and other Americans built the company into Target Corporation, now the country's second largest retailer after Wal-Mart. Retailers, especially discount retailers, understand competition. They expect their customers to be looking for lower prices, better deals, and higher value elsewhere. They don't go to the President or to Congress and say: Make Americans buy from us at whatever prices we charge and prohibit them from buying anywhere else.

That is what the drug companies wanted. That is what President Bush and a majority in Congress gave them. They banned what is being called drug reimportation, which is actually a bit of a misnomer because many prescription drugs are made outside of the United States and then imported into this country. In fact, over \$14 billion worth of those prescription drugs were imported legally into the United States last year and sold to us at the manufacturer's prices. Neither the FDA nor the companies objected as long as that massive drug importation was occurring at their high prices. But many Americans objected to paying those prices, and many other Americans couldn't even afford to pay them.

So they want to do what Americans can do in almost every other situation in our economy—shop around for lower prices and buy them where they can find them. Lower prescription drug prices can be found in Canada and in other countries. The prices are much lower in Canada, as I said earlier, for the same product made by the same company.

Some Americans can actually travel to Canada because they live near the United States-Canadian border. I donate all but \$1 of my Senate salary to the Minnesota Senior Federation for bus trips into Canada to buy those lower cost medicines.

The Canadian Government allows pharmacists in that country to fill

only prescriptions signed by Canadian doctors, and that takes an appointment and time and then more time to get the prescription filled. Thus, when I went on one bus trip from central Minnesota into Canada and back, the entire round trip took us 19 hours—from 7 o'clock in the morning to 2 a.m. the following morning. That is what I call a long U-turn.

The average savings among the 40 seniors who were on the trip was over \$250. Almost all of them bought more than one medicine, and most bought a 2 or 3-month supply so they would not have to make the trip so often. However, even a 19-hour round-trip bus ride is not an option for most Minnesotans and other Americans who live too far from Canada and are not able to make such a trip. The Internet is their ticket, and many more Americans are discovering that possibility. They are discovering they can save hundreds, even thousands, of dollars when buying prescription drugs over the Internet. Thus, many Americans—especially our senior citizens—can then afford to buy medicine they would otherwise have to forego at the higher U.S. prices.

You would think our Federal Government—which, after all, is supposed to be a Government of, by, and for the people—you would think the people elected, appointed, or hired to serve the people, and being paid by the people to do so, would want to help the people save lots of money. But, again, that would mean less profits for the drug companies—still very high profits, but less very high profits.

Yet, incredibly, inexcusably, for this administration and the majority in this Congress, higher drug company profits are more important than everyone else in America. So they made it illegal to buy prescription drugs outside the U.S. and bring them into this country, unless the Secretary of Health and Human Services guarantees their safety—which he already said he will not do. If the Secretary of Transportation had to guarantee in advance every commercial airplane trip would be safe, it would put an end to air travel as well.

President Bush and Congress could have written the law to require the Secretary and his huge agency to help people make safe purchases over the Internet, as, to his credit, the Governor of my State of Minnesota, Tim Pawlenty, has instructed our State Department of Health to do. Hopefully, he will not be arrested by the Federal Government for providing that help. If he is, I promised to help him make the bail.

But with this administration and with the majority in this Congress, there is no help for Americans with the overpriced prescription drug costs, except for another drug discount card, which, in Minnesota, is now a choice of 1 out of 48 possible cards for a discount on some drugs we now learn from AARP have increased a total of over 27 percent in price over the last 4 years,

which means they can offer a discount and still make more money.

When this bill was passed by a majority in the House and Senate last year, after the Bush administration and the industry lobbyists had written a bill in conference committee so very different from the earlier Senate version—which I supported—I was left with two questions:

First, how could people vote for a bill they knew did not represent their constituents' best interests? Secondly, how did they assume they could do so and still get reelected?

Americans don't deserve the highest, by far, prescription drug prices in the world—allowed to go even higher and higher. Americans should not be forced to pay those exorbitant prices and be prohibited from buying their medicines at much lower prices elsewhere. America's senior citizens don't need another 48 discount cards to choose from. They all need, and deserve, to be able to go to their neighborhood pharmacies everywhere in their country and buy prescription medicines at prices comparable to the rest of the world.

That is what governments of other countries assure for their citizens. That is what our Government should do for our citizens. When Government officials don't serve the best interests of the people, they should no longer be Government officials. That is why we have elections.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Michigan is recognized for 10 minutes.

Ms. STABENOW. Mr. President, I first thank my colleague and friend from Minnesota for his eloquent remarks today. I certainly agree with the sentiments he has expressed. I personally thank him for his personal commitment and willingness to help fund ways for people in Minnesota to be able to lower their prescription drug prices. I think that speaks to his personal dedication and willingness to do whatever he can to help.

Ronald Reagan asked the question back in 1980, "Are you better off than you were 4 years ago?" When it comes to the issue of prescription drugs and the cost of medicine today, certainly the answer to that is no.

I rise today to discuss the new Medicare Drug Card Program, as my colleague and friend from Minnesota has done. Yesterday, Tuesday, was the first day these cards could be used. But by any measure, this attempt to lower drug prices has been a complete failure. We can do much better. We can give our seniors real savings if we make the commitment to do that. Simply put, when it comes to Medicare, we need to do it again and we need to get it right.

From the beginning, the drug card was designed for the pharmaceutical companies and not for our seniors. That is one of the reasons why there is an estimate that the drug companies

will receive over 8 years \$139 billion in new profits because of the new Medicare law.

That doesn't add up if the purpose is to lower prices for our seniors. Obviously, \$139 billion in new profits demonstrates this is not about lowering prices. First, because the law provided no guarantee and no guaranteed savings for seniors, drug companies were free to inflate their prices before the discount cards were issued. Therefore, companies were free to raise their prices in the last year or two in excess of any possible discount seniors might receive from these drug cards. In fact, the prices of 14 of the top 30 brand-name drugs rose more than 5 times faster than the rate of inflation from 2003 to this year, virtually wiping out any discount a senior might receive from one of these Medicare cards. That is like a department store taking up its prices 50 percent and then putting a sign out front that says 25 percent off. If you think about it, you are not going to save any money; you are actually paying more.

Second, the new law gives the companies that distribute the Medicare cards complete flexibility to change their prices every 7 days but forces seniors to lock into one card for an entire year. That means you might pick a particular card because it offers you a lower price on medications that you take, and then in 7 days, maybe even before you use the card, the price of that drug has gone up or two or three of the drugs you are taking have gone up. That might make the card absolutely useless, even though seniors may have to pay up to \$30 to sign up for the card.

Also, we know that every 7 days the discounted drugs can be changed. So you wade through all of these cards, over 70 cards, to figure out the one that covers the most medicines you use and provides you some kind of help with lower prices. You purchase that card. You spend \$30. You purchase a card, you lock yourself in for a year, and then you find out 7 days later the drugs you use are no longer on the list. Who does that benefit? Who is better off under this Medicare bill? Certainly not our seniors. We can do much better. We need to do it again and do it right. This new Medicare bill needs a complete overhaul.

There are two ways we can lower prescription drug prices for seniors and all Americans if we do this right. We have two ways right now we can fix this situation. First, we simply need to pass bipartisan reimportation legislation supported by people on both sides of the aisle in both the House and the Senate. We have a very strong bipartisan coalition to allow Americans to buy American-made FDA-approved drugs from other countries such as Canada. All of us could then save much more on prescription drugs than the small savings from the Medicare drug cards.

Second, we can and should allow Medicare to negotiate directly with the

drug companies on behalf of our seniors and the disabled to get the lowest possible price.

Why on Earth wouldn't that be the first thing we would do? Right now States, Fortune 500 companies, large pharmacy chains, and the Veterans' Administration use their large bargaining clout to obtain low drug prices. Common sense says Medicare should be doing it.

Regrettably, the only entity in this country that cannot bargain for lower group prices is Medicare. Why? Who benefits from that? Who benefits from locking in up to 40 million people forced to pay the highest prices? Certainly not our seniors and the disabled.

Because the supporters of the drug industry in Congress at the eleventh hour inserted into the final Medicare bill a special interest provision that strictly prohibits Medicare from getting group discounts, our seniors are paying top dollar.

We know the drug companies are powerful. We know they have over six lobbyists for every one Member in the Senate. We can do better, and people expect us to do better than this new law and these cards.

If we want, we can provide real savings for Americans. I wish to point to charts to demonstrate with a couple of medications what the differences are.

Right now for Lipitor, which lowers cholesterol, if we were to do a group discount, such as the Veterans' Administration does, our seniors would pay \$40.55 for a month's supply. If we were to open the border to Canada and allow trade, as we do for everything else, back and forth between Canada and the United States, we would be able to get that price down to \$35, from \$40.55 to \$35.04. However, if we continue with this current Medicare card, the low end is \$64.67 up to \$74.77. This makes no sense.

Right now people are being told to go out and sign up for a Medicare prescription drug card that will require them to pay more than we could get for them if we simply negotiated group prices or open the border to Canada.

Another demonstration: Norvasc, which controls high blood pressure. Again, with the VA, for a little over \$25, you can get a month's supply; Canada, \$28. But under the so-called discount card, it is anywhere from \$41 to \$49. These numbers just do not add up, and the seniors of this country, as well as all Americans who would benefit by opening the border and allowing us to do business across the border, are saying to us: Do it again, and do it right.

One more example: Protonix, which treats ulcers and other stomach conditions. If we were to negotiate a group price, as does the VA, the individual out of pocket would pay \$26.83, and through Canada, \$41.60. Under these new cards, they would pay from \$86 to \$108. It just does not add up. These numbers do not add up for our seniors or for anyone who is struggling to purchase medicine or to keep up with the

incredibly high and rising prices of their health insurance because we know this is a major driver.

In conclusion, are you better off than you were 4 years ago under this Medicare law? We need to change it, and we need to get it right.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Michigan has been a leader on this prescription drug issue for the entire time she has been in the Senate. The country owes a debt of gratitude to her for being unrelenting in pointing out the need to reform prescription drug availability, especially as it relates to seniors.

I yield the remainder of the time to the Senator from Washington, Ms. CANTWELL.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, how much time remains?

The PRESIDING OFFICER. There is 3 minutes 45 seconds.

MARKET MANIPULATION AND ENERGY CONTRACTS

Ms. CANTWELL. Mr. President, I rise today to talk about something I have tried to address many times before in this body, and that is the issue of market manipulation and energy contracts specifically by the Enron company that have gouged my constituents for millions of dollars.

We have seen in the last couple of days as my own home public utilities district, Snohomish County PUD, was successful at getting audiotapes from the Enron company that showed exactly what people thought was happening: That people were talking about market manipulation, that people were talking about schemes, that people were making jokes about \$250 megawatt costs and prices that were gouging my constituents on energy prices. Now we know this company has already been cited by the Federal Energy Regulatory Commission as having manipulated the markets; now we are hearing in their own voices, in their own words, among their own employees, that this manipulation was going on.

The question is, what are we going to do about the market manipulation that has happened and for which my consumers have been gouged? My own home, my own personal utility has had a 50-percent rate increase since the energy crisis took place. That means my constituents have been paying higher energy costs on Enron-manipulated contracts and other contracts during this time period.

One would think that once market manipulation had been admitted, once market manipulation had been documented that we would do something about the market manipulation. In

fact, yesterday, the President said we must pass the Energy bill and we must protect consumers. I have a message for the President: This Energy bill does not protect consumers. In fact, it guarantees that the market manipulation which was done by Enron will continue because it basically says that manipulated contracts can be the standard for today. I think that is absolutely wrong. My constituents, in reports and analyses by California, Washington, and Oregon economists, have probably lost 100,000 jobs directly and indirectly from the energy crisis. We have lost a big percentage of our GDP. And we have had a huge increase in rates throughout the State.

So what does that mean? That means my constituents are still paying on those Enron contracts, and when our utilities said they were not going to pay, what happened? Enron turned around and sued utilities in my State. Enron is suing my consumers saying: You still have to pay on manipulated contracts.

Well, here is my check to Enron. Here is my \$370.00 check that will still have to go to pay for that Enron contract in which they have admitted market manipulation.

I have already personally paid them hundreds of dollars on manipulated contracts. So have my constituents. The question is whether this body and this administration are going to do anything about market manipulation, whether they are going to stand up and say that the Enrons of the world have taken the consumer to the cleaners and are going to let my constituents out of these manipulated contracts.

So while the President would like to have an energy bill, I would like to have an energy bill that protects consumers. I would like to have an energy bill that passes both the House and the Senate where Members of this body and the other body stand up and say market manipulation is wrong and we do not condone any contract as just and reasonable or any contract as in the public interest if, in fact, it has manipulated, schemed, and put people out of their homes at a huge cost to many of the consumers in my State.

I yield the floor.

The PRESIDING OFFICER. The minority's time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry. Are we now on the Republican morning business time?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. How much time do we have?

The PRESIDING OFFICER. Thirty minutes.

Mr. DOMENICI. I have told those who follow me, I will try to get finished in 7 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

ENERGY SECURITY

Mr. DOMENICI. Mr. President, over the weekend, the world witnessed the