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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, October 20, 2009, at 12.30 p.m.

Senate

MONDAY, OCTOBER 19, 2009

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

O God, You are our refuge. When we are exhausted by life's efforts or bewildered by life's problems or wounded by life's sorrows, we come to You for shelter.

Strengthen our lawmakers for their challenging work. When their tasks are beyond their power and duty calls for more than they have to give, renew them with Your might. Help them to believe in Your power and to be certain that You are able to do for them above all that they can ask or think. Strong Deliverer, be for each of them a strength and shield in these momentous times.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER 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, October 19, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

HEALTH CARE REFORM

Mr. REID. Mr. President, fixing a system so badly damaged by decades of mismanagement and manipulation is not an easy task. It is no secret that health care is no exception.

We are not doing it simply to keep us busy; that is, legislate on health care. We have a bevy of other backbreaking problems that have piled up over the past 8 years—everything from energy, to education, to Wall Street abuses—only to be passed on to this Congress and the Obama administration.

Nor are we doing it because the health insurance industry wants us to do it; just the opposite. In fact, they

are doing all they can to protect their reckless policies and raging profits.

We are doing this legislating on health care because the American people demand that we do it. Families of all backgrounds and from every State are counting on us to act. Last November, it was one of the primary reasons they called on Democrats to correct our country's course.

The American people are closely watching this debate. They are listening to the policies being proposed, and they can see the strategies employed toward those ends. They are watching, and here is what the American people are saying in response: Nearly two-thirds of them know Republicans are not working in good faith with Democrats to reform America's broken health insurance system.

They are right. While we have made every effort to create a good bill that can earn the support of as many Senators as possible, Republicans have made every effort to stop any bill, regardless of what is in that bill.

How do we know this? We know this because Republicans have offered no ideas for reform. We know this because while they talk in the abstract about proposals, they have yet to offer any of their own. But, most of all, we know this because Republicans say it themselves.

In August, the junior Senator from Arizona predicted that almost all Republicans would oppose health insurance reform, regardless of any concessions Democrats made.

Then the senior Senator from Oklahoma said—and I quote—

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



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I don't have to read it, or know what's in it. I'm going to oppose it anyways.

Then I opened this morning's Roll Call newspaper—this newspaper that covers Congress—and read a disturbing headline, one that confirms what nearly two-thirds of the American people already know and should convince the rest. It reads: "GOP Launches Strategy to Trip Up Health Bill."

If Republicans truly want to legislate, shouldn't this headline read "GOP Launches Strategy to Improve Health Bill"? Wouldn't we all benefit from the GOP launching a strategy to strengthen the health bill? Wouldn't it be better for the millions who fear losing their health insurance, and for the millions who do not have any to begin with, if we would open the morning newspaper and read even this: "GOP Launches Strategy to Contribute to Health Bill"? But, no, none of that.

The truth is that they have no interest in improving or contributing to health reform and strengthening it or contributing to its improvement in any way. Instead, Republicans have one strategy—and one strategy alone—support the broken status quo.

Republicans want to "trip up" our plan to protect what works about the system, fix what does not, and help the middle class get ahead. That is because they do not mind the fact that insurance companies can deny you coverage when you need it the most or because you have a preexisting condition, defined as anything from high cholesterol to hay fever to heart disease to diabetes.

Republicans want to "trip up" our plan to stabilize health insurance for those who have it and help secure it for those who do not. That is because they think it is OK for insurance companies to raise your rates just for getting old or because your dad had prostate cancer or because you are a woman.

Republicans want to "trip up" our plan to keep the insurance industry honest and to protect Medicare. That is because they support a status quo that forces families fortunate enough to have health insurance to pay an extra \$1,000 or more every year to cover all other families who have none.

Republicans want to "trip up" our plan to lower costs for families and make sure every American can afford good quality care that can never be taken away. That is because they simply do not have any ideas for helping the American people—even people in their own States—who are suffering so desperately.

Republicans will do everything in their power to stop reform this time because for many on the other side, there will never be a good time to reform health insurance.

That is not what our constituents sent us here to do, and that is not how to legislate.

I spent this past weekend in Nevada and heard firsthand from people who are suffering. Today we learned our State's unemployment rate rose again.

One example: It is not a bunch of people out of work or people who do not have good jobs who are complaining about health insurance. I did an event in a hotel in Reno, NV—the largest and I think probably the most successful resort in northern Nevada. Of course, when I asked for questions, a number of the questions dealt with health care.

As I walked out, the owner of the property walked alongside of me and said: Senator, I want you to know that other than my cost for personnel—my wages for my employees—health care is the one issue that is so hurting my business, health insurance for my employees. I am going to keep it, but it is so difficult for me to do so.

Here is a man who has probably 1,500, 2,000 people who work for him. Think what it is like for someone who has 25 or 50 or 75 or 100 people. If someone who has the buying power of a couple thousand is having difficulty, think what it is like for people who do not have that buying power.

So this past weekend in Nevada, I really did hear from people who are suffering. Today, we learned that our State's unemployment rate rose again—another tenth of a percent. That tells me we do not have time to waste with people looking to "trip up" recovery. Instead, we need legislators willing to work with us toward solving problems.

Here is an opportunity. Republicans can show they are willing to do more than simply stand in the way. We are working this week to protect seniors' relationships with their doctors. One of the biggest fears of seniors is that their doctors will drop them, which is why we are proposing a bill to make sure doctors will continue to see their Medicare patients.

This is a very serious issue. It is not one that is made up. There are ads running around the country today. There is one that says: "If You Don't Pass S. 1776, Seniors Will Lose."

Seniors count on their doctors to get the care they need to stay healthy. The Medicare Physician Fairness Act (S. 1776)—

That is the legislation I am talking about—

preserves the doctor-patient relationship and protects seniors' access to their doctors. AARP is fighting to ensure that doctors will continue accepting patients on Medicare.

Ninety percent of AARP members agree with this. This is a real problem. Because of some of the things done with Medicare legislation in the past, a number of doctors have decided they cannot afford to take Medicare patients. This will drive another 40 percent of the doctors away from Medicare. It will destroy Medicare. So it is important we work together to get something done to take care of this. That is because the status quo simply will not work.

We are working, as I said, this week to protect seniors' relationships with their doctors. One of their biggest fears is that their doctors will simply drop them, which is why we are proposing

this bill to make sure doctors will continue to see Medicare patients.

Republicans have come to the Senate floor numerous times in recent weeks to demand that Congress protect seniors. This so-called doctors fix that AARP is running the ads about is an opportunity for Democrats and Republicans to work together to improve Americans' health. This time it is seniors' health.

The AARP has 40 million members. Nine out of 10 of them support this legislation—90 percent of them. I hope Republicans will listen to the very people whom they claim to defend and support—seniors.

While, generally speaking, the Republican strategy is disappointing, to say the least, it is not entirely surprising. After all, one Republican Senator—I do not know if he is speaking for the entire Republican Senate—is on record hoping health insurance reform will be President Obama's "Waterloo." Nor is it inconsistent with the obstructionist tactics that have denied and delayed so many other important efforts to address so many of our critical challenges.

Democrats have been consistent in our efforts to reach across the aisle. In April of this year, just as the health care debate was beginning, I wrote my counterpart, Leader McCONNELL, to express my great hope that Republicans would work with us in this important and historic endeavor. We have an opportunity this week to fulfill that request I made. Here is what I wrote on that occasion:

In order for this bipartisan process to take root, Republicans must demonstrate a sincere interest in legislating. Rather than just saying no, you must be willing to offer concrete and constructive proposals.

I concluded the letter by writing:

I hope your conference will recognize that this issue is too important to be manipulated for political purposes.

So it is now about a half a year later. It is clear Republicans have not heeded our gesture. It is equally clear to the American people, two-thirds of whom readily recognize that Republicans have no interest in returning the favor—not in the least.

As former Senate Majority Leader Bob Dole said a few days ago—and I quote—

Sometimes people fight you just to fight you.

That might be true, but it will not be tolerated. Congress will not be sidetracked by those who devise strategies only to "trip up" progress, rather than to contribute in good faith. This country has no place for those who hope for failure.

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

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

HEALTH CARE WEEK XIV, DAY 1

Mr. MCCONNELL. Mr. President, I don't know of a single person who wants to see reimbursements cut to doctors who treat Medicare patients, but if Congress is going to step in and prevent it, we shouldn't do it by racking up more debt on the government's credit card.

On Friday, the Treasury Department announced that the government ran a deficit of \$1.4 trillion in the fiscal year that ended just a few weeks ago—a deficit about three times the size of the previous alltime high. This should have been a wake-up call but, instead, within days of the sobering proof of Congress's chronic inability to live within its means, Democrats in Congress want to borrow another \$¼ trillion to keep doctors from getting a pay cut. Republicans want to fix this problem as well, but there are ways to pay for it. When this matter comes before the Senate, Republicans will offer ways to pay for it without asking taxpayers to take on another \$¼ trillion in debt.

It is perfectly obvious why Democrats want to resolve this issue outside the larger debate over health care. They are doing it so they can say their health care plan doesn't add to the deficit. It is a gimmick and a transparent one at that.

Americans are tired of gimmicks and tired of Congress putting everything on the national charge card. We are not teenagers. Our parents aren't going to pay our bill at the end of the school year. The American people—our children and grandchildren—are the ones getting stuck with the bill. It is time we act as if we are aware of that.

Higher debt is just one aspect of the Democrats' health care plan that concerns Americans. At the outset of this debate, everyone agreed on one thing: Any reform would have to address the primary problem with health care; that is, cost. Yet every day we hear about some accounting gimmick that is being used to conceal the true cost of this bill, and now we are hearing it will drive up premiums as well.

The Director of the independent, non-partisan Congressional Budget Office, Doug Elmendorf, indicated in recent congressional testimony that parts of the Finance Committee proposal would lead to higher premiums; in other words, that health care costs would go up, not down. As a result of the Democrats' latest health care proposal, that is exactly what will happen. This is a proposal that is only going to get more expensive as the process moves forward in closed-door discussions between a handful of Democratic lawmakers and the White House. This is what the American people have feared all along, that lawmakers would lose sight of the purpose of reform and end up making problems worse, not better.

The Finance Committee bill includes a new tax on health insurance that most experts, including the CBO, agree would be passed straight to consumers, leading to higher premiums. One estimate suggests this new tax on insurance plans will be passed on to families, costing them nearly \$500 per year in higher premiums starting next year, long before any of the purported benefits of reform would take effect. The Oliver Wyman Group, an international management consulting firm, has also looked at how the Finance Committee bill would impact premiums in a number of States. This is important because every State has different insurance laws. In States such as Kentucky, Arizona, and Virginia, which have flexible insurance laws and generally lower premiums, the impact would be dramatic.

Currently, the average family premium in those States is about \$9,500 a year. Under the Baucus plan, that premium is expected to rise to nearly \$17,000. That is \$7,500 more that the government is telling families they have to spend on health insurance. That is \$7,500 these families can't use for the college fund or to plan for retirement. While the Baucus plan may subsidize some insurance plans, the subsidies likely will not be enough to offset these massive new costs imposed on many of these families.

The bottom line is this: The Finance Committee bill has now been out for a few weeks. The experts are starting to estimate what it would mean for insurance premiums. What we have seen so far isn't good. This is precisely why Americans want us to debate these bills out in the open. This is why they want us to take our time until the true cost is known. This is why they should have ample time to look at proposed changes before Congress acts.

We knew this proposal would raise taxes. We knew it would slash Medicare. Now we know it will raise health insurance premiums. Americans support reform, but higher premiums, higher taxes, and cutting Medicare, that is not reform.

GAG RULE

Mr. President, the administration made a noteworthy admission over the weekend. In a late afternoon memo on Friday, the Department of Health and Human Services said health plans could now communicate with seniors about pending legislation that affects them. By lifting its prior ban on communicating the impact of Democratic plans for health care, the administration was admitting—admitting—the ban amounted to a gag rule, a gag rule that has no place in a society that prizes free speech and open debate. The administration's reversal is certainly welcome and, frankly, not unanticipated. However, many questions remain about the initial order itself and about the administration's willingness to constrain the free flow of information to seniors about their health care. The administration has admitted its

error, though its proposed solution, frankly, needs further review.

The fact is, what health plans were telling seniors is precisely what the Congressional Budget Office also said; namely, that Democratic health care plans could cause seniors with Medicare Advantage to lose benefits—the absolute truth.

Americans believe strongly in the importance of the first amendment. I am glad to see the administration has recognized the error of its ways and rescinded this gag rule in the midst of such an important national debate.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate will be in a period of morning business until 4:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The Senator from Arizona is recognized.

START TREATY

Mr. KYL. Mr. President, I wish to speak to an issue that is very timely because the United States and Russia are beginning today their seventh round of negotiations on the so-called START treaty. This is a treaty that could limit the number of nuclear warheads and delivery vehicles by both countries and provide an extension of various compliance and verification procedures that are currently followed by both countries.

It is interesting to me that the Russians do not appear to be in much of a hurry to complete the negotiations before the treaty expires, and it expires on December 5 of this year. According to Assistant Secretary of State Richard Verma, in a letter to me and several fellow Senators, I quote:

Russian views with respect to the meaning of these two terms—

And he is specifically talking about the definitions of "strategic delivery vehicle" and "associated warheads," both of which are obviously key to the treaty, in any event—

Russian views with respect to the meaning of these two terms have not yet been fully explained by the Russian Federation.

We are in the seventh round of negotiations, as I said. When these two fundamental terms have not yet had an