



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, THURSDAY, NOVEMBER 5, 2009

No. 164

Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

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

Let us pray.

God of wonder beyond all majesty, You are worthy of our praise. Thank You for the marvel of creation that surrounds us and for Your creative presence that empowers us. Let Your presence unsettle and inspire us, as we seek to live lives of praise and thanksgiving.

Lord, unsettle us when our dreams come true because they are too small, as you inspire us to dare more boldly and attempt to accomplish great things in Your name.

Today, show Your glory, Your justice, and Your peace through the work of our lawmakers. Inspire their hearts to thirst for Your wisdom, preparing them to navigate through life's inevitable challenges and setbacks. Restore in them the wholeness that comes from seeking Your glory in everything they think, say, and do.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR 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 bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 5, 2009.

To the Senate:

Under the provisions of rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. PRYOR 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. REID. Mr. President, following leader remarks, the Senate will proceed to a period of morning business for 2 hours. During that period of time, Senators will be allowed to speak therein for up to 10 minutes each. The majority will control the first hour and the Republicans will control the second hour.

Following morning business, there will be 40 minutes of debate with respect to H.R. 2847, the Commerce, Justice, Science appropriations bill. Upon the use or yielding back of that time, the Senate will proceed to a cloture vote on the committee-reported substitute amendment to the bill.

A number of amendments are pending to the bill. If cloture is invoked, we would dispose of any pending germane amendments.

We also expect to reach an agreement today to consider the nomination of Andre Davis to be a circuit judge for the Fourth Circuit. That nomination, we are told, will require a rollcall vote.

We will begin consideration of the Military Construction Appropriations matter, which is important, upon completion of the Commerce, Justice, Science appropriations bill.

Senators should expect the first vote at around 12:15 or 12:30 today. That will be a vote on cloture on the CJS appropriations bill, and additional votes are expected throughout the day.

SENATE BIPARTISANSHIP

Mr. REID. Mr. President, one thing this body needs is more bipartisanship. The Presiding Officer has done a wonderful job in reaching out during his tenure as a Senator to other Senators, Democrats and Republicans. Legislation is the art of compromise, consensus building. The Presiding Officer certainly has filled that role very well. I want to spend a few minutes talking about this.

We have had some dramatic developments take place in the last several weeks. That is as a result of two men who are working very hard to come up with something that would be landmark legislation. We are working so hard on health care reform. It has been extremely difficult to arrive at the point where we are. But we are further now than we have ever been since 1948 in coming up with health care legislation that will make health care more available for all Americans.

Switching from health care to energy and the problems we have with the warming of the Earth, I have known JOHN KERRY for a long time. We were both Lieutenant Governors. We came to the Congress the same year. As a relatively new Senator, I was on a select committee he cochaired, dealing with prisoners of war and those missing in action. I noticed at that time what a fine leader and fine legislator JOHN KERRY was. As a result of his good work with others on that committee, including Bob Smith of New Hampshire, we came up with an outstanding work product in that committee. JOHN KERRY, as we all know, became the Democratic nominee for President of the United States and came very close to being elected President. But he put that aside and went on

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



Printed on recycled paper.

S11131

to become the fine Senator he is. He is filling that role now as chairman of the Foreign Relations Committee. He has worked so hard on doing something on a bipartisan basis to move forward on this most important legislation. With what he has done in reaching out to Republicans—I say that in the plural—we have had one brave Republican step forward to work with him, LINDSEY GRAHAM. I first saw LINDSEY GRAHAM in action when we had the impeachment trial of President Clinton. He was one of the impeachment officers from the House. He was very good. I learned at that time what an outstanding trial lawyer he had been in South Carolina. I recognized that from the presentation he made right in the well of this Senate.

As we learned with the work we completed dealing with unemployment insurance, net operating loss, first-time home buyers, it only takes one person to break from the pack, for lack of a better description, to develop bipartisanship. That was done along with Senator ISAKSON from Georgia. On this most important issue dealing with climate change, it is LINDSEY GRAHAM from South Carolina. He is bravely stepping forward.

What Senators KERRY and GRAHAM have done is quite remarkable. They have reached out to the coal interests. We have a number of coal Senators who have said: No way will we ever agree to anything, and they are working toward having them as part of the agreement. Nuclear power, which when this all started, I think it is fair to say, people on this side of the aisle wanted no part of that—most people on this side. Now that will be part of the mix. The production of oil in our country—people say, does that mean you have given up on all these great things we believe in? Legislation is the art of compromise. We need to have legislation that is bipartisan. I believe what LINDSEY GRAHAM and JOHN KERRY have done will allow us to move forward on this legislation. It is important that we do things on a bipartisan basis.

I compliment and applaud and recognize the good work these two brave men are doing in setting an example for the rest of us in moving forward on legislation that will be dramatic not only for our country but for the world.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE REFORM

Mr. MCCONNELL. Mr. President, the last 2 years haven't been easy ones for the American people. Millions have lost jobs and homes, and many have had the bitter experience of watching years of savings disappear. Unemployment stands at a 25-year high, and in many States it is worse. Just to take

one example, in Kentucky unemployment rose in all 120 counties from June 2008 to June 2009. A lot of Americans are hurting. A lot of them have been struggling for a long time. And despite the occasional piece of good news, the situation doesn't seem to be getting a whole lot better for most people.

This is the situation now, and this was the situation when the White House announced its plan to undertake health care reform. Throughout this debate, the need to do something about the economy has never been far from our minds.

Indeed, from the very outset of this debate, the administration has rested its case for reform on the need to do something about the economy. The economy was in bad shape, the argument went. And reforming health care would make it better.

All of us agree that health care costs are unsustainably high, and alleviating the burden of these costs on American families and businesses is something we should work together to do. But somewhere along the way, the administration got off track. The original purpose of reform was obscured. And now we are hearing from one independent analysis after another that a bill which was meant to alleviate economic burdens will actually make these burdens worse. And the most significant finding is this: A reform that was meant to lower costs will actually drive them up.

Americans are scratching their heads about all this, and rightly so. Business owners can't believe a reform that was meant to help them survive will end up costing them more in higher taxes. Seniors can't believe a bill that was meant to improve their care will lead to nearly half a trillion dollars in cuts to their Medicare. And families can't believe that they are going to have to pay higher health care premiums and taxes at a time when so many of them are already struggling to make ends meet.

Higher taxes, higher premiums, cuts to Medicare. These are three of the major blows this legislation would deal to the American people. And any one of them would be bad enough on its own. But let's just look at one of the unexpected consequences of the Democrat health care plan for a moment—let's look at the tax hikes.

The Senate bill we've seen targets individuals and businesses with a raft of new taxes, fees, and penalties. It imposes a 40-percent tax on high value insurance plans for individuals and families. It imposes billions in fees on health plans that will inevitably be passed along to consumers. It imposes fees on the costs of medical devices and life-saving drugs, fees that would be paid by consumers.

Millions of taxpayers managing chronic conditions and facing extraordinary medical expenses will be faced with even higher out of pocket costs because the bill makes it more difficult to deduct these expenses. And small

businesses with as few as 50 employees would be required to buy insurance for all workers whether they could afford it or not, or pay a substantial tax for each of them.

Taken together, the health care plan we have seen would impose roughly half a trillion dollars in new taxes, fees, and penalties at a time when Americans are already struggling to dig themselves out of a recession. What's worse, an independent analysis by the Joint Committee on Taxation suggests that nearly 80 percent of the burden would fall on middle-class Americans.

So a reform that was meant to make life easier is now expected to make life harder. If you have insurance, you get taxed. If you don't have insurance, you get taxed. If you're a struggling business owner who can't afford insurance for your employees, you get taxed. If you use medical devices, you get taxed.

This is not the reform Americans were asking for, Mr. President. And that's precisely why more Americans now oppose this health care plan than support it.

The administration didn't listen to the American people when it put this plan together, but it can listen now, and the message it is going to hear is this: Put away the plan to raise premiums, raise taxes, and cut Medicare. Get back to the drawing board and come up with a commonsense, step-by-step set of reforms. That is what people want, and that is what they should get.

Mr. President, I yield the floor.

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 now be a period of morning business for 2 hours, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from North Carolina.

HEALTH CARE REFORM

Mrs. HAGAN. Mr. President, the United States spends \$2.3 trillion each year on health care—the most per capita of all industrialized nations. Yet we still have higher infant mortality and lower life expectancy than many of the other industrialized nations. Moreover, medical errors kill 100,000 patients per year and cost the system tens of billions of dollars, and \$700 billion is spent each year on treatments that do not lead to improved patient health.

Today, my freshman Senate colleagues and I are going to speak about