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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Eternal God, the source of peace on Earth, good will toward humanity, we feel delight because You are sovereign, causing all things to work together for good to those who love You, who are called according to Your purpose.

Help our lawmakers to see that each difficulty is an opportunity to see You work and that in Your time You will

bring them to a place of abundance. May they face waiting tasks and challenges with Your gifts of understanding, kindness, civility, and self-control. Lord, astound them with new insight and fresh vision they could not conceive without Your blessings. Give them the faith to believe that if they listen to You, You will give them answers they cannot find by themselves.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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 assistant legislative clerk read the following letter:

NOTICE

If the 111th Congress, 1st Session, adjourns sine die on or before December 26, 2009, a final issue of the *Congressional Record* for the 111th Congress, 1st Session, will be published on Thursday, December 31, 2009, to permit Members to insert statements.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-59 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Wednesday, December 30. The final issue will be dated Thursday, December 31, 2009, and will be delivered on Monday, January 4, 2010.

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman*.

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



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U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 23, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico 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 resume consideration of the health reform legislation. The time until 10 a.m. is equally divided between the two leaders or their designees. From 9 a.m. until 2 p.m. today, there will be 1-hour alternating blocks of time, with the majority controlling the first hour. The time between 2 p.m. and 2:13 p.m. will be equally divided and controlled between the two leaders, with the majority leader controlling the final half. The Senate will then proceed to a series of five or six rollcall votes in relation to the health care bill.

I note the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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.

Mr. REID. Mr. President, I note the absence of a quorum. No one is here.

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

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. 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, the leadership time is reserved.

SERVICE MEMBERS HOME OWNERSHIP TAX ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3590, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3590) to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

Pending:

Reid amendment No. 2786, in the nature of a substitute.

REID (for CARDIN) amendment No. 2878 (to amendment No. 2786), to provide for the establishment of Offices of Minority Health.

Reid amendment No. 3292 (to amendment No. 2878), to change the effective date.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. will be equally divided between the two leaders.

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I just received this morning—and I am sure it is on the CBO Web site, the Congressional Budget Office Web site—an analysis of the health care bill we are considering today. That analysis is crystal-clear and confirms what CMS has told us; that is, the proponents of the legislation before us have been double-counting—double-counting—the savings from Medicare, and as a result, it cannot be said that this bill is going to create a surplus in the Treasury but, in fact, will put us in a deficit.

I think every Member of this body needs to read this communication before they cast their vote. I know a lot of Members of the Senate who voted for the bill did so under the belief that it would be deficit neutral. They have said so publicly. The President has repeatedly stated—and he did to the Joint Session of Congress—that not one dime will be added to the national debt, and that is not so.

I will reveal what we were told by CBO this morning in their report. This is what the CBO said to us, and it is very simple. It is actually stunning that we have been confused about this issue when we are talking about hundreds of billions of dollars. It is absolutely an amazing event that the U.S. Congress can't get its act together when we are talking about hundreds of billions of dollars.

They say this:

The key point is that the savings to the HI trust fund—

Talking about Medicare—
under the PPACA—

That is the health care bill we are considering—

would be received by the government only once, so they cannot be set aside to pay for future Medicare spending and, at the same time, pay for current spending on other parts of the legislation or on other programs.

That is exactly what this bill proposes to do.

Just 2 days ago at this press conference, the President said:

Medicare will be stronger and its solvency extended by nearly a decade.

Then he goes on to say this:

The Congressional Budget Office now reports that this bill will reduce our deficit by \$132 billion over the first decade.

That is counting the money twice. It cannot be done. That is wrong, and it must not be allowed to occur.

Senator GREGG, the former chairman of the Budget Committee and ranking Republican on that committee, proposed an amendment that said any savings in Medicare stay in Medicare, and our colleague who voted it down—Senator HARKIN said: You have to vote it down—to our colleagues in his speech on the floor—you have to vote it down because it will kill the bill. Why would it kill the bill? Because they are planning to use the money both ways, and it cannot be done and ought not to be done.

This is very much consistent, entirely consistent with the communication from the Chief Actuary, Richard S. Foster, of the Center for Medicare and Medicaid Services. Mr. Foster laid it out. We should have seen this back on December 10. It is really what piqued my interest in this whole matter because I was wondering how this could be done. It didn't make sense to me. And I read his letter, and he says this:

The combination of lower Part A costs—

And that is Part A of Medicare, the hospital part—

and higher tax revenues results in a lower Federal deficit based on budget accounting rules.

He goes on to say:

However, trust fund accounting considers the same lower expenditures and additional revenues as extending the exhaustion date of the Part A trust fund.

They are running out of money, and if you cut the cost to Part A, you would extend, according to the trust fund accounting, the lifetime of the trust fund before it goes broke.

He adds:

In practice, the improved Part A financing cannot be simultaneously used to finance other Federal outlays.

Then he put in parentheses:

such as the covered expansions under the PPACA—

Which is the health care bill—

and to extend the trust fund, despite the appearance of this result from the respective accounting conventions.

So there are two different accountings. The one from CMS says one thing. The one from CBO, which is a unified accounting, a different process of accounting for Federal expenditures—both say good things. But both can't be accurate. Both Members say, CBO says you can't count it twice, and CMS also says that.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SESSIONS. I thank the Chair and urge my colleagues to access this information on the CBO Web site and mine if they would like.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 2 p.m. will be controlled in alternating 1-hour blocks of time, with the majority controlling the first hour.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, it has been nearly 5 weeks since the majority