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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, November 12, 2013, at 2 p.m.

Senate

THURSDAY, NOVEMBER 7, 2013

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. LEAHY).

PRAYER

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

Let us pray.

O God, our refuge and strength, give us reverence for Your greatness. Guide our Senators around the pitfalls of their work, enabling them to have hearts sustained by Your peace. May they surrender their will to You as they trust You to direct their path. Lord, give them the wisdom to receive Your approval with the understanding that You chastise those whom You love for their good. Empower them to find freedom in being as true to duty as the needle to the pole. Make their lives productive for the glory of Your Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

DRUG QUALITY AND SECURITY ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 236.

The PRESIDENT pro tempore. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to the bill (H.R. 3204) to amend the Federal Food, Drug, and Cosmetic Act with respect to human drug compounding and drug supply chain security, and for other purposes.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I thank the majority leader for giving me an opportunity to speak first this morning due to a commitment I have away from the Capitol.

TRIBUTE TO BILLY GRAHAM

Mr. MCCONNELL. Mr. President, I want to start out this morning by saying a few words about a man who has earned the respect and admiration of countless Americans for his energy, courage, and faithfulness to a calling that he first received about 75 years ago on a late-night walk around the Temple Terrace Golf Course in Tampa. The son of a North Carolina dairy farmer, Billy Graham turns 95 today. And I just want to join all the others across the country and around world in thanking this good and humble servant for his decades of ministry and tireless preaching of the Gospel that he loves.

In a career that spans generations, Billy Graham has walked the halls of power and counseled presidents and kings. But he has never forgotten his mission in life. And while he may not be able to preach at the giant rallies that made him a household name, he is still finding new ways to share his faith with a world in need of healing, hope, and purpose. Tonight, at the age

of 95, Billy Graham will preach what's been called his final message to America.

Growing up, Billy Graham wanted to be a baseball player. Thankfully, God had different plans. And ever since that night in Tampa, he's put his extraordinary natural talents and generosity of spirit at the service of others.

Billy Graham's first crusade took place in the Civic Auditorium in Grand Rapids, MI, in September 1947. In the decades to come, more than 400 crusades would follow in more than 185 countries and territories on six continents. At one memorable crusade in South Korea, more than one million people showed up to hear the powerful preaching and the hopeful message of the Reverend Billy Graham.

Billy Graham may be the only preacher with a star on the Hollywood Walk of Fame. But he never let that celebrity get to his head. I am sure he would say that his beloved Ruth helped keep him focused. And it is a credit to both of them that all five of the Graham children are carrying on the family legacy today.

As Billy Graham has receded from public life in recent years, we have missed the steady, reassuring presence that he lent to moments such as the Oklahoma City bombing and 9/11. But we have been consoled to know that he is still there on his mountain retreat in Montreat, NC. Billy Graham once said that "God has given us two hands, one to receive with and the other to give with." So today, I join countless others in sending our own message of thanks to a man who has been called "America's pastor," and to say how grateful

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



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we are for the life and witness of the Reverend Billy Graham.

OBAMACARE

Mr. President, on an entirely different matter, yesterday Secretary Sebelius came back to Capitol Hill to testify about ObamaCare. We did not learn much from her testimony, but some of the Q-and-A was actually pretty revealing. She admitted that the number of folks who have enrolled in ObamaCare is "very low."

When pressed on the administration's promise that ObamaCare would drive down premiums, here is what she said about premium rates on the individual market: "I didn't say they are going down."

When asked if convicted felons could become ObamaCare navigators and acquire Americans' sensitive information, here is what she said: "It's possible."

These revelations are really concerning. Americans were counting on the President's claim that their families' premiums would go down, not up, under a new health regime. Americans who have lost their insurance and find themselves forced into the exchanges—the last thing they need is to worry about some felon stealing their identity.

To many Americans the administration still seems more interested in deflecting blame than taking responsibility for the real harm this law is causing. Yesterday's hearing did little to dispel that notion.

By now we have heard our friends on the left blame just about everyone and everything for the disaster they forced on our country—everyone and everything, of course, except themselves. They have tried to blame the same contractors they hired. They blame the Republicans. They blame the tea party. I am sure they have even tried to pin this on George W. Bush. Of course, the administration has repeatedly tried to blame insurance companies for lost plans too. But here is what the Washington Post Fact Checker had to say about that:

The administration's effort to pin the blame on insurance companies is a classic case of misdirection.

That is the Washington Post—"a classic case of misdirection." They got three Pinocchios for that whopper.

Unfortunately, that does not seem to have deterred our friends on the other side from indulging in the blame game. Within just the past week we have seen the White House lash out at the words of a cancer survivor and try to point a finger of blame at Texans. A few days ago—get this one—one of the President's political allies attacked the very kind of folks who are now losing their health coverage under ObamaCare. "Free riders," he called them. "Free riders." You know the folks he is talking about. These are not folks who have done anything wrong. They are not free loaders or free riders or anything else; they are our neighbors, our constituents, and they are not looking

for handouts from the government. In fact, these are folks who went out and spent their own hard-earned money—not taxpayer money—to purchase the kind of health protection that best suits their families. For this, the President's allies attacked them? Many just want the government to leave them alone. Many just want to be able to keep the plans they like instead of only the plans the President likes. They want to keep the plans they like, not the ones the President in effect picks for them.

Here is what a small business owner in North Carolina said after his premiums shot up 400 percent: "I just wish I could have my insurance back." That is what he said. "I just wish I could have my insurance back."

I just read this morning about a constituent who lost his insurance and is finding that policies on the exchange will be more than double his premium and increase his annual deductible. That is partly because as a 31-year-old single male he will now be required to buy a policy with features he doesn't need, such as pediatric dental care and maternity care. "It doesn't make a whole lot of sense to me," he said.

Another constituent from Caldwell County had this to say after learning of changes to her plan: "My husband and I work hard, pay a lot in taxes and ask for little from our government. Is it asking too much for the government to stay out of my health insurance?"

No, it is not asking too much. It is simply taking the President at his word for the promise he made over and over, the promise that so many Democrats here in Washington made to their constituents but that we now know is simply not true.

I understand the White House is in a tight spot. They did a poor job preparing the country for this law, they wasted time making promises that simply could not pan out, and they chose to ignore the warnings from my party and experts across the country that these kinds of things would, indeed, happen. This is the result, and people are getting hurt. Premiums are rising, taxes are going up for millions in the middle class, folks are losing access to hospitals and doctors they like.

At this point, more Americans have lost health coverage than have gained it. As I mentioned yesterday, more than 50 times as many Kentuckians have lost private health coverage as have signed up for private plans on the State exchange. That is 280,000 folks we are talking about in my State, 280,000 Kentuckians who have lost their insurance. In Louisiana we are talking about 80,000 folks; in Kentucky, 280,000; up in Minnesota, 140,000 people; and close to half a million people in Georgia have lost their insurance.

It is way past time for our Democratic friends to end the blame game. Instead, they need to start acknowledging the consequences of their law and actually do something about the mess they created. If they are ready to

do so, Republicans are willing to help. Let's work together to undo the harm of ObamaCare and start over with real, bipartisan, cost-saving reforms, reforms that will actually allow Americans to keep the health plans they like. That is the kind of reform Americans really want. If Democrats are ready to work with us, we can give them just that.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. BOOKER). The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following my remarks the Senate will resume consideration of S. 815, which is the Employment Non-Discrimination Act. At 11:45 there will be two rollcall votes, first on the Toomey amendment and then a cloture vote on the bill. If cloture is invoked, there will be a third rollcall vote on passage of the Employment Non-Discrimination Act.

TRIBUTE TO BILLY GRAHAM

Mr. REID. Mr. President, I am happy to join with my friend in happy birthday wishes for Billy Graham. I have not had the good fortune to meet this man, but I have read his book. I read a biography of him. He is such a personality I thought that was something I should do, and I did.

I remember a lot of things about the book. The one thing I do remember is this: He is so scrupulous in making sure there is never any question about his integrity, his moral integrity. We have had a lot of problems with people preaching who do not turn out to be so good. But Billy Graham, among other things, would never meet a female in his office without the door being wide open so people could see everything that was going on in that room. That is just an indication of the kind of person he is.

I join with my friend in congratulating Billy Graham in his 95th year.

HEALTH CARE

The remarks of my friend, the Republican leader, kind of remind me of a joke that is not very funny, but it is a joke and I think it makes the point. Prison setting—these people run out of material for jokes. They are there together all the time and hear the same joke day after day. So they decided what they would do is they would list the best jokes from 1 to 50, and rather than tell the joke over and over, they would just yell a number and people would laugh.

That is what we have here. Why don't our Republican colleagues just number from 1 through 50 their criticisms of ObamaCare, and rather than coming and giving these speeches, I think we would be much better off if they would just give us a number and we would all—because we have heard these speeches so many times—immediately laugh because basically they are jokes too.

It is too bad that the Republican leader and many of his Republican colleagues want to keep fighting an old

fight. Four years ago we passed the health care reform bill. The President signed it, the Supreme Court upheld it, and it is the law of the land. Of course, we want to make it better, and certainly with what has happened with the rollout of the Web site, we need to do that. But I wish our Republican colleagues would stop trying to scare people out of participating in this program. If they would stop fighting last year's fights and move on and try to do the business of the American people, we would all be better off.

We can look back at the big changes we have made in legislation and we have made some big changes over the years in this body and some of those matters dealt with health care.

I was not here when Medicare passed, but I remember how important it was, because at the time it passed, I was the chairman of the board of trustees—an elected official in Nevada—with the biggest hospital district in Nevada. They had lots of beds and lots of patients. So I remember the impact of Medicare. We also know Medicare did not become popular overnight. There were a lot of criticisms about it.

Although not nearly as big as ObamaCare or Medicare, I was here when we passed—under the leadership of President Bush No. 2—the Medicare drug benefit bill. A number of us didn't like that. We thought it didn't go far enough and that it should have been done differently, but it passed in this body and became the law of the land. It was difficult to get that up and running, but we did not come to the floor and say: Get rid of this bill. We believed, as imperfect as it was, it was the beginning of building support and doing something about health care in America.

I wish my Republican colleagues would do something constructive regarding health care. We have not heard one positive remark about what they would do to change what we have already done. I think we would all be better off if that were, in fact, the case. This legislation is working, and it will work even better when we get the issues regarding the Web site worked out.

There are people in Nevada, there are people in New Jersey, there are people in Indiana, and there are people all over America today who are benefiting as a result of what happened 4 years ago in the Senate and the House of Representatives when the President signed the bill.

I am sure the Presiding Officer, and other people who are listening to this speech, can identify with someone who has or had a preexisting disability. Under the old law, if you were a woman, it was a preexisting disability. You could be charged differently because you were a woman. A child born with diabetes, an adult with diabetes, someone who had been in an automobile accident, someone who was—my friend Tony Coelho, who was one of the leaders when I served in the House with

him, was an epileptic. He had a pre-existing disability, and that is an understatement.

We could go on and on. If you are under age 18, it doesn't matter if you have a preexisting disability. At the first of the year, you can be an adult and have a preexisting disability and you can get insurance. In many States we extended the preexisting disability exemption to adults. It is already in effect in a number of States because under the law the States had the authority to do that, and the Federal Government will help them.

The Bush drug benefit was flawed. What did we do with it? We didn't try get rid of it, we improved it. The so-called doughnut hole is being filled and millions of senior citizens, and Americans over the last 4 years, have received millions and millions of dollars in benefits because our drugs are cheaper.

I have talked on this floor before, and I will say it again—in my hometown of Searchlight, NV, there was a young man who was in college and on his parents' insurance. In Nevada you could stay on your parents' insurance until you were 23 years old. Within a matter of weeks of turning 23, he started getting very sick. He had testicular cancer. His parents had no money. One of my friends who is a neurologist did the surgery for free, but he had two other surgeries that were not free.

His parents had no money; one was a retired operating engineer and one worked part-time in a post office there in Searchlight. They struggled, and their son Jeff has been taken care of. Many people don't have the benefit of his parents who sacrificed a great deal for their boy. That is no longer a problem. Children can stay on their parents' insurance for 3 more years, and that would have allowed Jeff, and other men and women just like him, to get out of school.

ObamaCare is a wonderful piece of legislation for America. Let's make it better. Stop carping about this. Get over it. It is the law. It is the legacy of Barack Obama and always will be. Let's make it better and stop the mischievous, unfortunate speeches out here every day about how bad it is. Talk about the good things in this bill and help us work to make it better.

EMPLOYMENT NON-DISCRIMINATION ACT

This afternoon the Senate will vote to advance the Employment Non-Discrimination Act. It is legislation that will protect all Americans from workplace discrimination based on sexual orientation or gender identity. The vote on cloture on the bill will take place before lunch and vote on final passage will take place before the caucus adjourns. We will start voting at 1:45 this afternoon.

I do hope and expect a bipartisan vote, a good one, to extend safeguards against workplace harassment and discrimination to every American. The time has come for Congress to pass a Federal law that ensures all citizens,

regardless of where they live, can go to work unafraid of being who they are.

More than 80 percent of the American people think that is already the law. It is not already the law, but that is what they think, so let's just do what the American people think already exists.

I appreciate Chairman HARKIN. He is a devoted person for people who need help. If you ever wondered how C-SPAN has closed captioning, it is because TOM HARKIN led the fight here for many years in the Senate to provide closed captioning. He has a brother who is hearing impaired, and because of that, he was focused on providing closed captioning. We have all kinds of good things for the disabled thanks to TOM HARKIN. The disabilities act, which is so important for our country, is now the law. So I appreciate Chairman HARKIN's work on this legislation. It is a shame for Iowa and the country that he has decided not to run for reelection. What a good man.

JEFF MERKLEY, from Oregon, also worked on this legislation. He has devoted huge amounts of time to this legislation, and I admire and respect him so very much. I respect and appreciate the leadership of these two fine Senators.

I hope Speaker BOEHNER will reconsider his decision not to bring this up for a vote in the House of Representatives. This legislation would pass by a nice margin in the House if the Speaker would allow a vote on it.

I can't understand what is going on in the House of Representatives. Legislation the American people want is held up over there. The farm bill would save this country \$23 billion, and they will not bring it up. The American people want this. There are reforms in the legislation that Senator STABENOW and others have worked so hard to put in place for decades. They are in this bill. The House is holding this up.

Immigration reform. America wants immigration reform. They are going to get it, but it is just too bad that it is being fought every step of the way by my friend, the Speaker. Comprehensive immigration reform is something that is needed in this body; it is needed in the House. We have already passed it. It should be the law of the land. They seem to be so focused on debt reduction. Well, immigration reform saves \$1 trillion of debt.

Marketplace fairness would allow little strip mall operators and small businesses to have the same benefits others have. It is unfair that brick-and-mortar businesses that pay rent cannot be competitive with the businesses on the Internet that pay no sales tax. The House is holding that up, and now they are holding this up. That is just another piece of legislation that people around America support and the House is holding up. I hope the Speaker will reconsider his position.

DC CIRCUIT COURT OF APPEALS

I will also file cloture today on the nomination of a highly qualified jurist to serve on the DC Circuit Court of Appeals. The DC Circuit is often called

the second highest court in the land. No one has debated that in any other way. It is so important. It is no wonder why. Here is what former DC Circuit Chief Judge Patricia Wald said of the court's caseload: "The DC Circuit hears the most complex, time-consuming, labyrinthine disputes over regulations with the greatest impact on ordinary Americans' lives."

It is unfortunate that Republicans are filibustering another talented and dedicated public servant nominated to serve on this crucial court.

Georgetown law professor Nina Pillard is the next victim of what the Republicans are doing. She graduated magna cum laude from Yale and attended Harvard Law School. For 5 years she litigated individual and class action racial discrimination cases as an attorney for the NAACP Legal Defense Fund.

She served as Deputy Assistant Attorney General and Assistant Solicitor General. Support for her confirmation is bipartisan. Two top Justice Department officials from the Bush era, Assistant Attorney General Viet Dinh and former FBI Director William Sessions, have supported her nomination.

Professor Pillard is also faculty co-director of the Supreme Court Institute at Georgetown, which helps attorneys to argue cases before the High Court. She brings a wealth of knowledge to the job. She has argued nine cases before the Supreme Court and has written briefs for another 25. Her arguments helped open the Virginia Military Institute to women in 1997 and beat back a constitutional challenge of the Family and Medical Leave Act.

She is qualified and dedicated. It is truly a shame that Republicans would filibuster this nomination for unrelated political reasons. The DC Circuit is currently operating with only 8 of its 11 seats. While Senate Republicans are blocking President Obama's nominees to this vital court, they were happy to confirm judges to the DC Circuit when President Reagan and both President Bushes were in office.

Republicans have already blocked two exceedingly qualified nominees to the DC Circuit, Caitlin Halligan and Patricia Millett. I hope my Republican colleagues will not block another qualified nominee when we vote on cloture on this matter next week. This nominee deserves a fair confirmation process and a simple up-or-down vote.

RESERVATION OF LEADER TIME

Mr. REID. Would the Chair announce the business of the day.

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

EMPLOYMENT NON-DISCRIMINATION ACT OF 2013

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 815, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 815) to prohibit employment discrimination on the basis of sexual orientation or gender identity.

Pending:

Reid amendment No. 2014 (to the language proposed to be stricken by the committee substitute), to change the enactment date.

Reid amendment No. 2015 (to amendment No. 2014), of a perfecting nature.

Reid motion to recommit the bill to the Committee on Health, Education, Labor, and Pensions with instructions to report back forthwith, Reid Amendment No. 2016, to change the enactment date.

Reid amendment No. 2017 (to the instructions of the motion to recommit) Amendment No. 2016), of a perfecting nature.

Reid amendment No. 2018 (to amendment No. 2017), of a perfecting nature.

Reid (for Toomey/Flake) amendment No. 2013, to strike the appropriate balance between protecting workers and protecting religious freedom.

Collins (for Reid) amendment No. 2020 (to amendment No. 2013), to change the enactment date.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I come to the floor today to discuss the topic of religious freedom. This issue is an important component in the debate on the legislation that we are currently considering, but it's also an issue that defines, I believe, who we are as a Nation as well as the rights granted to us in the Constitution.

To paraphrase what Thomas Jefferson said in 1807, for Americans, he said, 'Among the most inestimable of our blessings' is the blessing 'of liberty to worship our Creator in the way we think most agreeable to His will; a liberty deemed in other countries incompatible with good government and yet proved by our experience to be its best support.'

From Jefferson's time to today, freedom of religion has been a core American principle, a principle our founding fathers put their lives on the line for and a principle that generations of Americans in uniform have defended so that we can all enjoy this cherished freedom. Unfortunately, this principle of religious freedom is under attack across our country today. Though in many cases these attacks may be subtle, make no mistake, we are seeing the free exercise of religion and freedom of speech constrained and restricted.

We have seen it in the administration's rule regarding church-affiliated groups to facilitate insurance coverage that includes contraceptives and abortion-inducing drugs despite their deeply held religious beliefs.

I think about my alma mater, Wheaton College in Illinois, which is a school from which Billy Graham graduated years ago.

I appreciate the Senate's Majority Leader and Minority Leader's reference to his life as he celebrates his 95th birthday. Billy Graham had an important impact on my life and millions of people—not just Americans, but people around the world. I appreciate the recognition that has been given here by our leaders.

I also think about Indiana-based University of Notre Dame. Despite conscious objections and the clearly outlined standards of these colleges and universities—the College's Community Covenant at Wheaton and the values of the University of Notre Dame—they have been told by the government that they are not considered religious institutions and must comply with the Health and Human Services Mandate.

Let me describe a little bit the thread of faith that runs through every aspect of a school like Wheaton College and the values of faith expressed frequently in a number of ways by the University of Notre Dame. If you tune into the Notre Dame football programs on Saturday afternoons, as I do every week, or intend to do, you will see an ad by Father Jenkins, President of Notre Dame, that talks about the component and element of faith that is essential to the beliefs of what the University of Notre Dame is trying to address through its education process.

Whether it is professors or students, administrators or groundskeepers or others that thread of faith and values runs through the university and throughout my alma mater as well. There's such a thing as, it's been described by former president of Wheaton College, as umbrella universities—those [universities] that have a faith component perhaps in a theological school or a religious program. The thought is well, certainly, they can exercise their constitutional rights guaranteed by the First Amendment. But what about the doorkeeper or receptionist at the administration building or the coaches of the teams or the professors? Sure the professor of theology and the professor of religion, but what about the professor of science, professor of economics, or the professor of business, how does that apply? Or what about the groundskeepers or those who serve the meals in the cafeterias to the students? Well, there are those types of institutions, and there is an argument that it is not systemic, it is not the thread that runs through every aspect of the program. And this applies to homeless shelters and faith-based institutions across America. Some are secular-related. Some are a mix of secular-religious. And some are systemically faith-based where a thread of faith runs through every aspect of their program or the institution.

So what we're talking about here is a situation where institutions of education, like Wheaton College and the University of Notre Dame, or faith-based institutions reaching out through homeless shelters, food kitchens, any number of programs provided by faith-based institutions or individuals engaged in this that believe that the thread of faith is important to their success and that's why they're there.

These faith-based institutions have been told by the government that they're not considered religious institutions and must comply with the