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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, May 20, 2002, at 12:30 p.m.

Senate

FRIDAY, MAY 17, 2002

The Senate met at 9:30 a.m. and was called to order by the Honorable Debbie Stabenow, a Senator from the State of Michigan.

PRAYER

The guest Chaplain, Father Paul Lavin, of St. Joseph's on Capitol Hill, offered the following prayer:

In the book of Tobit we read:

Thank God! Give him the praise and the glory. Before all living, acknowledge the many good things he has done for you, by blessing and extolling his name in song. Before all men, honor and proclaim God's deeds, and do not be slack in praising him. A king's secret it is prudent to keep, but the works of God are to be declared and made known. Praise them with due honor. Do good, and evil will not find its way to you. Prayer and fasting are good, but better than either is almsgiving accompanied by righteousness. A little with righteousness is better than abundance with wickedness.

Let us pray:

Almighty God, we give You thanks for the many and varied ways You have blessed the men and women who serve in the Senate. We ask now, Lord, that they may do Your will in all things and so remain close to You. Lord, Your presence is found where unity and love prevail; grant that they may strive to work together in harmony and peace.

We acknowledge that God is the strength and protector of His people; grant Lord to the Members of the Senate the strength and courage they need to serve the people of the United States.

Grant this through Christ our Lord. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW 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, May 17, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, I ask unanimous consent that morning business be extended until 5 after the hour and that Senator COLLINS be recognized for 15 minutes and Senator SANTORUM be recognized for 10 minutes. Senator STABENOW asked to speak for 15 minutes. That will take us until 10 after.

I hope Senators will complete their debate on H.R. 3167 in 20 minutes because the vote is still going to occur at 10:30.

I ask unanimous consent that be the case as far as those speaking in morning business.

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

The Senator from Maine is recognized.

Ms. COLLINS. I thank the Chair.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2531 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I thank the Senator from Maine for her excellent comments and for her introduction of that legislation.

OUR STEELWORKERS

Mr. SANTORUM. Madam President, I stand in this Chamber as a strong supporter of the steel industry. In fact, I would match my record of support for the steel industry, for steelworkers,

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



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and for steel retirees, with any person in this Chamber or in the other Chamber.

We have had a long history in western Pennsylvania—from my days in the House and prior to that—in the steel industry. We have dealt with crises, one after another, in this industry. The most recent crisis has perhaps been the most crippling, costing lots of companies going into bankruptcies, costing lots of steel jobs, and, tragically, lots of steel retirees losing their health care benefits.

In the last session of Congress, I worked with Senator ROCKEFELLER to follow through with the U.S. steelworkers' No. 1 priority, which is to try to get a quota bill passed in the Senate. I worked very hard on my side of the aisle, and we got a majority of our Members to vote for a quota on steel imports.

The other side of the aisle was not so generous. In fact, my recollection is, if we had gotten just half the Democrats, we would have been able to pass that, but we did not. So we failed in the No. 1 request from the United Steelworkers Union.

Last year, at the beginning of this session, management and labor got together, retirees got together, and they came up with their No. 1 priority for this Congress. It was to file a section 201 action, to try to find comprehensive relief for the steel industry.

So like I did the session before, I took on that challenge. I think I am very safe in saying I was the first Member of Congress—certainly the first Member of the Senate—to personally ask the President of the United States to file that action. I did so.

I think in his first month in office he was in Beaver County, PA. I talked with him at length about the importance of this industry to Pennsylvania, to the country, the importance to our steelworkers' and to retirees.

I continually worked with the President, the Secretary of Commerce, our Trade Representative, other Secretaries who were involved—Secretary of Treasury—and pushed for the President to file the section 201 case.

After several months of exhorting them to do so, publicly and privately, the President followed through. He followed through and he filed the case. I testified, not once but twice, before the ITC in support of the section 201 case.

When the decision came down, I again went back and worked with the administration on making sure there were adequate remedies. We met on a continual basis, daily basis toward the end, to make sure that there were adequate remedies. Why? Because the steelworkers, the retirees, and the companies understood the most important thing we could do is stop the hemorrhaging, stop the bankruptcies of steel companies, because these companies that were going into bankruptcy now, under the current climate of steel, were not going to go into bankruptcy to reorganize and come back

out again. In most causes, they were going to liquidate. That means, when they liquidate, retirees lose their health care benefits, they lose their pension benefits. We lose jobs, too, because they liquidate. They sell off assets. Some are reused; some are not. The ones that are reused, they have new contracts.

The jobs were not as "lucrative" as they are today. This is why it was the No. 1 priority, because it helped retirees; it helped workers, and it helped companies stay alive and pay benefits and have good-paying jobs. I worked and worked and worked, and we got 201 relief that everyone in the steel industry feels very good about. It helped retirees. There are retirees receiving benefits today who would not be receiving them if the President had not enacted the remedies he did under section 201. That is a fact. There are companies in business today that would not be in business today if that had not happened. There are companies that did not file bankruptcy.

Every steel company in America, maybe with the exception of a major steel company, maybe with the exception of Nucor, had said they were going to file bankruptcy if 201 remedies were not sufficient. To my knowledge, there have been no bankruptcies since 201. The fact is, we have done more for the steel industry, I have worked to do more for the steel industry, than anybody else.

There was a second component about which the steelworkers and retirees and companies were concerned. That was legacy costs. What was the issue with legacy? Legacy was important because we wanted to help retirees have security. But the most important part of the legacy cost, picking up the cost, was to encourage the steel industry to consolidate, to become more efficient, to restructure. Why? So they would be stronger entities that would be able to carry those retiree costs in the future and carry those companies in the future.

What we were going to do was to help the consolidation by picking up some retiree costs of some companies to encourage these companies to consolidate with stronger entities.

A few months ago during the energy debate, I worked with Senator STEVENS and others to try to craft a bill that would do just that. It would be a substantial benefit to enough retirees to encourage the steel industry to consolidate and become more efficient, become stronger in competition with foreign competitors.

We had an amendment to the ANWR drilling bill. Why was it an amendment to the ANWR bill? Because ANWR produced billions upon billions of dollars in revenue to the Federal Government that we could use to help pay for retiree benefits. We could fully fund a program that would incentivize restructuring. The whole purpose of doing the retiree benefit was to incentivize restructuring so we could

have a more stable industry to take care of retirees for the long term and provide better quality jobs for the long term.

We offered a piece of legislation that did that. Let me be very clear. The steelworkers unions walked away. They walked away. Why? Because it was on a bill they were not in favor of. It was on a bill, ANWR, that they were not in favor of and that the majority leader was not in favor of, and many others from the other side. They walked away. Why? Politics. They walked away from a comprehensive restructuring of legacy costs. Why? Politics.

Of the people who are offering this amendment on which cloture will be voted on Tuesday, of the seven sponsors of that amendment, six voted against a comprehensive legacy cost restructuring; six of the seven voted no on a much more comprehensive benefit that would have incentivized restructuring of the steel industry.

What are we offering today? We are offering a very narrow 1-year benefit that will not only do nothing to encourage restructuring but, from the industry representatives I have talked to, will in fact do the opposite. It will discourage restructuring because of the way it is so limited in its application. It picks winners and losers.

Yes, we will provide retirement benefits to retirees of companies that have gone bankrupt and stopped paying retiree benefits for health care. We will do that for 1 year. But the consequence of it is, we will not get the restructuring we need.

I am opposed to this amendment, not because I am opposed to the Senate doing something to pick up restructuring costs for the industry, not because I am opposed to having something done in the Senate to help pick up retiree health care costs. This is the wrong step. It is politics. It is raw, blatant politics. What is this amendment attached to? It is attached to the bill to which virtually every one of the sponsors of the legislation is opposed. You have heard from many on my side of the aisle and a few on the other who have said if this amendment is included, they will vote against the trade bill. They will sink this bill.

So what are we doing? We are playing a cruel hoax. It is a hoax. We are playing a hoax on retirees. We are playing a hoax on steelworkers. We are playing a hoax on the steel industry. The hoax is that this is somehow going to help retirees. In the long term it will not. It will not lead to the restructuring of the steel industry. What this will do is help sink the trade bill, which I know many who are supporting this amendment would love to see. But that is a hoax. To stand up and say you are for retirees when you are introducing a piece of legislation that is going to be counter to restructuring, which is the best thing we can do for retirees, is a hoax.

Yes, I am opposed to this legislation. It doesn't solve the problem. It is politics in its rawest, in its most crass form. You are preying on retirees who desperately need health care. You are playing politics with their health. It is wrong. It is not the right course.

We had a chance to do the right thing for the industry, for workers, and for retirees, and because of politics, under ANWR, the answer was no. Now we play politics again, and we play with people's lives. The answer should be no.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, as one of the Senators representing the steelworkers in the upper peninsula and throughout Michigan, I wish to indicate, contrary to my colleague who just spoke, that I can't think of a more appropriate place to talk about helping steel retirees who have lost their health insurance, those who have lost and will lose their jobs because of unfair competition, unfair steel dumping, unfair trade practices, than to debate it and attempt to fix it on a trade bill. I hope my colleagues will support standing up for our steel retirees on the trade bill.

PRESCRIPTION DRUG PRICES

Ms. STABENOW. Madam President, I rise to speak about one of the most important issues affecting our families, seniors, the business community, every part of our economy. That is the explosion in the cost of prescription drugs. Prices are skyrocketing, and too many of our seniors who use the majority of prescriptions—our seniors on average are using 18 different prescriptions in a year—find themselves in a situation that is absolutely untenable. We have heard these stories over and over again.

On this side of the aisle, we have two ideas we are putting forward. First, we have to have an updated Medicare to cover prescription drugs. We have to do it in a way that is comprehensive and helps our seniors. I call upon my colleagues from the other side and in the House of Representatives to join us in real prescription drug coverage.

Secondly, we know we have to lower the price. Prices need to go down for everyone. When I talk to our small business community, I talk to farmers in the State of Michigan, I talk to the big three automakers, wherever I am in Michigan talking about the cost of doing business, everyone wants to talk about health care. They understand that the explosion in their health care premium is because of the uncontrollable cost of prescription drugs.

I have been putting forward, and have met with a number of my colleagues, four different ideas. I will speak specifically about a bill we are now introducing that we talked about yesterday with colleagues. There are four different ideas we have been promoting. If we did those things, prices

would go down. Prices would go down immediately. Even as we know any kind of comprehensive Medicare prescription drug benefit will take time to phase in, there are things we can do now.

The American people, who subsidize the research, who underwrite the cost for tax credits and deductions for the development of these drugs, deserve to see something happen now.

First is to make sure the generic laws work. I commend my colleagues, Senators SCHUMER and MCCAIN, for their continuing efforts. We have a bill that will close loopholes, that will stop the ability of the drug companies to be able to manipulate the law so that lower priced generics are precluded from the market. We know if that were to pass, we could see a tremendous drop in prices. We know if we opened the border to Canada so that we could in fact see not only individuals but businesses and hospitals and pharmacies developing business relationships across the border to bring back American-made, safe, FDA-approved drugs, we could drop prices almost in half.

I find it ironic, as we are in the middle of a discussion on a trade bill, that the only things you cannot take back and forth across the border from the great State of Michigan into Canada are American-made prescription drugs. So we need to open the border. I welcome colleagues joining us to do that. We could drop prices tomorrow 40 to 50 percent if we did that.

Thirdly, we know that since the FDA changed their rules on advertising, direct consumer advertising, starting back in the mid-1990s, there has been an explosion of excessive advertising. While companies say they spend more on research than advertising, there is great evidence to the contrary. So we have introduced legislation to say simply that you can write off as much advertising and marketing expenses on your taxes, that taxpayers will subsidize advertising and marketing to the same level we subsidize research—the same level. If you want to do more advertising, do more research, because taxpayers want to see the research done.

Then, finally, I joined with my colleagues, Senators DURBIN, LEAHY, LEVIN, BOXER, DORGAN, and others to introduce legislation to give States the flexibility to set up programs to pass a law on Medicaid discounts to their citizens who don't have prescription drug coverage and are not eligible for Medicaid.

There are 30 States that have enacted some kind of a law to help citizens with prescription drug coverage. Unfortunately, we have seen the drugmakers trade association, PhRMA, mounting legal challenges to a number of States that have attempted to lower prices for their citizens. They have fought these efforts. I am specifically referring to lawsuits against Maine and Vermont because the drug lobby doesn't want

them to extend the Medicaid discount—the price that is paid for Medicaid—to those who are not Medicaid recipients but need help, who don't have prescription drug coverage. So we have introduced the Rx Flexibility for States Act. We are calling it the Rx Flex Program. It will simply say that what is being done in States, what is innovative, in our attempts to reach out and use the purchasing power of the States under Medicaid to provide additional price reductions to those who don't have insurance, who are not on Medicaid—that those are legal.

We have heard colleagues on both sides of the aisle, both sides of this great Capitol Building, talk about the States as being the place for flexibility, creativity, and new ideas. Well, this legislation says we are going to remove the legal hurdles that are preventing States from providing lower priced prescription drugs to all of their citizens.

Right now, we have States that are spending millions of dollars fighting suits from the drug companies because the companies fight everything that is attempted that would lower prices for our citizens.

This legislation specifically would indicate that those States that are using the clout of Medicaid purchasing power to expand to allow that same price to be given to those without prescription drug coverage, who are in need of prescription drug help in their States, would be able to do that. Right now, the lawsuits have been filed. We know that while Maine's program has been upheld in court, Vermont's program was not, and both States are embroiled in very lengthy appeals processes.

I am very hopeful that as we are working to put together a very strong, effective Medicare prescription drug program, we can also pass this legislation to reinforce that States, on their own, can proceed to do what is necessary to make sure their citizens have access to lower priced prescription drugs and that we will pass those other measures we have been talking about that will allow us to lower prices, create more competition across the border, get a better balance between advertising and marketing expenses and research, and that we will be able to create a system where we in America not only create the best drugs, the new lifesaving medications, where we don't only subsidize and underwrite and fund the research through the National Institutes of Health, and other mechanisms, but our people can actually get those drugs.

Right now, it is not a good deal when we are the ones who are creating, supporting, and subsidizing the creation of these medications. Seniors will sit down this morning, this noon, and tonight and decide: Do I eat, pay the electric bill, pay my rent, or can I get my medicine this week?

We can do better. I am committed to doing better. Colleagues of mine are committed to doing better. We want a