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Senate

The Senate met at 9:30 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.

Lord, who shall abide in Your tabernacle? Who shall dwell in Your holy hill? You have given us the answers. Those who walk upright and work righteousness, who speak the truth in their hearts, will abide in Your presence.

Today, prepare the men and women of this body to dwell with You. Give them the integrity to be true to their duties, always striving to please You. Lord, fix their hearts on You, that everything they say and do will be under Your Lordship. Send out Your light and Your truth that they may shine in this Chamber, and guide our Senators in these challenging times. Join our lawmakers to You with an inseparable bond of love for You. You alone, O God, can guard their hearts with peace.

We pray in the Redeemer's 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:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 3, 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, there will be a period of morning business for 1 hour. Senators will be permitted to speak for up to 10 minutes each. The majority will control the first 30 minutes and the Republicans will control the next 30 minutes.

Following morning business, the Senate will resume consideration of the tobacco legislation, H.R. 1256. This is postcloture on the motion to proceed. Upon the use or yielding back of the 30 hours of postcloture debate time, the Senate will turn its consideration to that legislation. We hope that some time can be yielded back. We will wait and see what the will of the Republicans is at this time. We would like to begin the amendment process. We had a number of very good speeches yesterday from Senators who intend to offer amendments to this legislation. I will be speaking with the Republican leader throughout the day.

Mr. President, 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. 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.

RECOGNITION OF THE MINORITY LEADER

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

ORDER OF PROCEDURE

Mr. McCONNELL. Mr. President, at some point we will be back on the postcloture time. When that occurs, I ask unanimous consent that my hour postcloture be given to the Senator from North Carolina, Mr. BURR.

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

TOBACCO REGULATION

Mr. McCONNELL. Mr. President, I wish to say a few words about the FDA legislation we have been debating on the floor this week. First, I thank Senator ENZI for his hard work in managing this bill. He always does a great job. I also wish to acknowledge Senator BURR's thoughtful leadership on this legislation. This is a complicated set of issues. No one—I repeat, no one—knows the intricacies better than the Senator from North Carolina, Mr. BURR. He has been a good friend and ally of producers and growers dating back to his days in the House, and he has offered a thoughtful alternative to this very flawed legislation which we have before us.

A few years ago, I led the effort in Congress to enact a tobacco buyout which ended the Federal Government's support of tobacco production. Although the number of tobacco farms in

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



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Kentucky has decreased as a result of that legislation, thousands of Kentucky farm families and communities still depend on the income from tobacco production. I have concerns about the effect this legislation might have on them.

Still, no one in this Chamber would deny that tobacco is hazardous to the health of those who use it. Everyone knows that. If the purpose of this bill is to reduce the harm it could cause the people who consume it, then forcing the Food and Drug Administration to do the regulating would be the wrong route to take.

Former FDA Administrator Dr. Andrew von Eschenbach has predicted that forcing the FDA to regulate tobacco would undermine the agency's core mission of protecting the public health and ensuring that foods, medicines, and other products don't pose a risk to American consumers. When the FDA approves a product, Americans expect the product to be safe, but as we all know, there is no such thing as a safe cigarette. It doesn't exist. Forcing the FDA to regulate cigarettes will not make them safer for the American people.

This legislation is flawed for other reasons as well. As Senators BURR, ENZI, and others have repeatedly pointed out, the FDA is already overworked in carrying out its core mission of protecting the public health. When it comes to contaminated peanut butter, tainted toothpaste, or unsafe drugs coming into the United States, Americans expect that all of FDA's resources are being used to protect them. Yet instead of freeing additional resources for the FDA to perform this important function, this legislation could divert the agency's limited resources toward an impossible task: Vouching for the safety of a product that cannot be made safe. The American people don't want the FDA's resources diverted on a fool's errand.

It is hard to understand what the supporters of this bill are trying to accomplish. If the goal is to reduce smoking, then why isn't there a single dime—not one dime—in this bill directed at smoking cessation programs? If there is no such thing as a safe cigarette, the best way to help smokers is to help them kick the habit. This bill doesn't do that. If the goal of this legislation is to launch a public campaign to reduce smoking and promote better health, then why is there no focus on Federal programs that are already in place to achieve this goal?

This legislation is the wrong way to regulate tobacco, and that is why Senator BURR will offer a thoughtful way to accomplish the goal. Senator BURR's proposal would create a new agency whose sole responsibility is to regulate tobacco. This would address the problem without undermining FDA's mission or straining its resources.

Forcing the FDA to regulate and approve the use of tobacco would be a distortion of the agency's mission and a

tremendous misuse of its overstretched resources. We should be focused on giving FDA the resources it needs to protect the public health, not burdening it with an impossible assignment.

HEALTH CARE REFORM

Mr. MCCONNELL. Mr. President, as we consider the best way to reform health care, some have argued that a so-called government option would not lead to a government takeover of health care. They promise safeguards to ensure a level playing field between private plans and a government-run plan. But no safeguard could ever create a truly level playing field. The reason is simple: Unlike private insurance plans, a government-run plan would have unlimited access to taxpayer money and could borrow as much money as it wants to subsidize the cost of services. The Federal Government is already planning to borrow \$1.8 trillion this year alone. If a company were allowed to borrow that much money, it could easily wipe out its competition, set prices, and create a monopoly. That is just what a so-called government "option" for health care will, in all likelihood, lead to.

A government-run plan would set artificially low prices that private insurers would have no way of competing with. Rates for private health plans would either skyrocket, leaving companies and individuals unable to afford them, or private health plans would simply be forced out of business. Either way, the government-run plan would take over the health care system, radically changing the way Americans choose and receive their care, from routine checkups to lifesaving surgeries. No safeguard could prevent this crowdout from happening, and no safeguard could, therefore, keep the millions of Americans who currently like the health care they have from being forced off of their plans and onto a government-run plan instead.

This isn't some fantasy scenario. We are already seeing in the government takeover of the auto industry how government interference in business forces firms out of the way by leveraging taxpayer dollars against their private competitors. Now that the government runs General Motors and has provided billions to its financing arm, GMAC, the company is offering interest rates that Ford, which hasn't taken any government money, and other companies which haven't taken any government money just can't compete with. What this means is that one American auto company that actually made the tough decisions so that it wouldn't need a government bailout is now at a competitive disadvantage to a company that is being propped up by billions of dollars of borrowed tax money. This is how the government subsidizes failure at taxpayers' expense and can unfairly undercut good companies, and this is precisely why so many Americans are worried about the trend of increased

government involvement in the economy. The government is running banks now. It is running insurance companies. As of this week, it is running a significant portion of the American automobile industry. Now it is thinking seriously about running the entire health care industry, and chances are Americans won't like the result any more than they like the government takeover of the banks or the auto industry.

Americans who now take for granted the ability to choose their care may suddenly find themselves being told by government bureaucrats that they are too old to qualify for a certain kind of surgery or that they have to go to the back of the line for a procedure they can now get right away. As I have said, Americans want health care reform, but this isn't what they have in mind. Americans don't want their health care denied and they don't want it delayed. But once government health care is the only option, bureaucratic hassles, endless hours stuck on hold waiting for government service representatives, restrictions on care, and, yes, rationing, are sure to follow. Americans don't want some remote bureaucrat in Washington deciding whether their mothers and fathers or spouses have access to a lifesaving drug. They don't want to share the fate of Bruce Hardy.

Bruce was a British citizen who was suffering from cancer. According to press reports, his doctor wanted to prescribe a new drug that was proven to delay the spread of his disease. But the government agency that runs Britain's health care system denied the treatment. They said it was too expensive—that Bruce Hardy's life wasn't worth prolonging, based on the cost to the government of the drug he needed to live. In a story discussing Bruce's plight, the New York Times noted that if Bruce had lived in the United States, he likely would have been able to get this treatment.

But that could change. What happened to Bruce Hardy could happen here. Americans who now have the freedom to find the care they need and to make their own health care decisions could be stripped of that right by a new government agency. This happens every single day in countries such as Britain. It happens to people like Bruce Hardy, against their will and against the will of their loved ones. As Bruce's wife put it:

Everybody should be allowed to have as much life as they can.

In America, we are free to make those decisions ourselves. If Congress approves a government takeover of health care, that freedom could soon be a memory.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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