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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN F. KERRY, a Senator from the State of Massachusetts.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, our prayer is not to overcome Your reluctance to help us to know You and to do Your will, for You have created us to love, and serve, and obey Your guidance. Rather, our prayer is to lay hold of Your willingness to accomplish Your plans through us. You have told us to call on You, to trust You completely, to put You first in our priorities, and to express our devotion to You in our patriotism. Sometimes, pride blocks our response, and we find it difficult to turn the control of our lives over to You. When we are self-sufficient, we do not pray; when we are self-satisfied, we will not pray; and when we are self-righteous, we cannot pray. And yet, Father, when we are honest with ourselves, we know that, by ourselves, we are insufficient. We admit our profound need for Your presence, Your wisdom, and Your solutions to our problems. Continue to guide the discussion of the crucial issue of affordable prescription drugs for America. May this be a great day, lived to the fullest, trusting You each step of the way. Through our Lord and Saviour. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JOHN F. KERRY 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, July 18, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN F. KERRY, a Senator from the State of Massachusetts, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. KERRY thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished assistant majority leader is recognized.

### SCHEDULE

Mr. REID. I thank the Chair. The Chair will announce very briefly that there will be a period for morning business until 10:30 a.m., at which time we will take up the military construction bill with 15 minutes of debate. All Members are advised this should be a busy day. We have many things we need to accomplish on legislation now before the Senate.

We have a number of other issues we need to have resolved. I have notified staff for the minority that I am going to again propound a unanimous consent request to appoint conferees on the terrorism insurance bill. We have been held up doing this for weeks and weeks. The business community is going deeper and deeper into trouble because of our not coming forward with legislation. We cannot do that until the minority allows us to appoint conferees.

Mr. President, the first half of the time under the order of last evening is under the control of the majority. Sen-

ator STABENOW is here, but also Senator SPECTER is here. Senator SPECTER has a conference at 10 o'clock. We are entitled to the time. If Senator STABENOW has a time situation, she should proceed. I do not know if she would have time to give the Senator from Pennsylvania 10 minutes or so. I know he asked for 15 minutes. Maybe that is a little too much.

Mr. President, will Senator STABENOW tell me how she feels?

Ms. STABENOW. Mr. President, I will be pleased to yield some time to my friend from Pennsylvania. I am not sure what he is asking for at this point. I need to preside at 10 a.m., and I know we have other colleagues coming, but I will be happy to yield.

Mr. REID. Mr. President, I ask unanimous consent that the order be changed and that the Republican time begin with Senator SPECTER now taking 15 minutes. Is that what he wants?

Mr. SPECTER. Mr. President, I will try to abbreviate my remarks.

Mr. REID. If the Senator can do it in 10 minutes, that will allow Senator STABENOW time to speak before she takes the chair.

Mr. SPECTER. I thank my distinguished colleague from Nevada, and I will endeavor to limit myself to 10 minutes.

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business according to the unanimous consent agreement just entered into, and time shall not extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 10 minutes each. The control will be as the distinguished acting majority leader just described.

The Senator from Pennsylvania is recognized.

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



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Mr. SPECTER. I thank the Chair and the Senator from Michigan and the Senator from Nevada.

(The remarks of Mr. SPECTER pertaining to the introduction of S.J. Res. 41 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for a period of 10 minutes.

### PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I appreciate very much being recognized and having an opportunity this morning to speak regarding the situation I believe we are in and the challenges right now as they relate to moving forward on addressing prices and cost containment in the pharmaceutical industry.

We heard a lot of discussion yesterday. We had the opportunity to debate whether to open the border to Canada to have more competition between the prices that American companies charge in the United States and those in Canada. I was pleased we were able to move forward and come together on a plan to open the border, and now we place it in the hands of the Secretary of Health and Human Services to certify the difference in prices which we know are there and the fact that there is no safety risk, which we know is the case. So I look forward to moving ahead.

A lot came up during that debate and I did want to, as we set the stage to debate additional efforts today to lower prices, speak as to how I view the situation in our country right now with our most profitable industry. I welcome the fact that we have a very profitable, successful prescription drug industry. There are new lifesaving drugs being created that keep people out of the hospital and living longer. We celebrate that.

Over the last several years, we have seen more and more of a focus on selling and marketing and promotion than creating the next generation of lifesaving drugs. That is of great concern to me. When we talk about reducing prices, we hear that means reducing research and development. Yet there is nothing today that indicates that is factually accurate.

Yesterday, Family USA produced another study showing the companies are spending 2.5 times more on advertising, promotion, marketing and administration than they do on research and development. The blue on my chart is R&D and the gold is advertising and marketing. For each of the top drug companies, the gold line is much higher than the blue line. We know there is more being spent in this effort.

We also know when you look overall at the profits versus R&D, we see stark numbers. Merck is a successful company in the United States. Their profit was three times more than what they spent on R&D last year. I do not be-

grudge that profit margin, but if we are going to have the next generation of new lifesaving medications, we need to see that R&D is the focus and that prescriptions are affordable. If they are not affordable, they are not available. That is not acceptable. This is about trying to get some balance in the system. Pfizer had 1.5 times more in profit last year than what they spent on R&D. They spent more on advertising than on R&D.

In the context of what we are talking about right now with corporate responsibility, and companies where executives take the dollars and run, leaving the shareholders or employees holding the bag, my concern is that while we are talking about the need to stop prescription drug prices from rising three times the rate of inflation, which is the average right now—the average drug used by seniors last year went up three times the rate of inflation. Our seniors do not have insurance coverage and are paying the highest prices in the world—but these companies are making top profits in the world today, and we find astounding salaries in compensation for the CEOs. I do not begrudge it, but I do when our average senior is deciding this morning: Do I eat breakfast or do I take my medicine? Companies are saying, no, they cannot lower prices; they could not possibly have more competition, they cannot open to Canada, they cannot allow more generics on the market, they cannot possibly handle more competition, or lowering prices without cutting R&D.

I am offended when I look at the numbers, when we are seeing more on promotion and advertising, more on the sales machine than on research and developing new drugs, more in profits, way more in profits than R&D, and more in the compensation for those at the top.

I will not name individuals, but we see the five highest paid executives in the industry, and the top at Bristol-Myers, with a salary of almost \$75 million last year in direct compensation, not counting unexercised stock options. Compare that to the average senior who is either not getting their medicine, cutting their pills in half, or taking them every other week; families who are struggling; small businesses whose premiums are skyrocketing and are having trouble affording health care for their employees because of 30 to 40 percent premium increases, mostly because of prescription drugs, and employees are told they cannot get a pay raise next year because the company has to cover more in medical premiums. I believe that company is sincere in having to struggle with those benefits, those prices.

Put that picture together with that of the drug companies, one of the most highly subsidized industries in the world: \$23.5 billion we as taxpayers put into the National Institutes of Health this year. So the companies can take that basic research, and I support

that—I would support more—they take that basic research, and they then develop their drugs. We give them tax credits and tax writeoffs to develop through research. We also give them tax writeoffs for their administration, their sales, their marketing. We give them a 20-year patent so they are protected from competition for their name brand so they can recover their costs for R&D. What do we get at the end? The highest prices in the world, and an effort to fight everything we are trying to do in the Senate—to increase competition and to lower prices and to provide Medicare benefit.

Then to add insult to injury, we see those at the top of the companies that who are fighting us earning \$75 million a year, \$40 million a year, \$28 million, \$23 million, \$15 million a year. We see unexercised stock options. At the top is Merck, \$93 million in unexercised stock options; \$76 million; \$60 million; \$56 million; \$46 million.

I could live on that. I think everybody within the sound of my voice together could live on that. I don't begrudge that. But I do begrudge people in that category heading companies that fight everything we do. They have put more money into their lobbying corporation than anybody else. For every one Senator there are six drug company lobbyists who spend their time more on sales and marketing than anything else.

Let me speak from the standpoint of our future health care discoveries. In Money and Investing, the Wall Street Journal, there was an article about a merger this week, and one of the disturbing parts of that was this:

After falling for 5 years, new drug applications to the Food and Drug Administration are expected this year to slide further. Through the first 5 months of this year, the FDA had received just two new applications for new drugs. Last year, total new drug applications dropped to 24, less than half the 53 received in 1996. Many in the industry say that past mergers may be among these reasons for these drops in new drug discoveries.

What I see is an effort more and more to focus on the fast, easy money, the quarterly report. Eighty percent of the new applications for patents now at FDA are not for new lifesaving discoveries that increase our longevity and deal with health challenges, but they are, instead, what are called "me too" drugs; 80 percent of the patents. A purple pill becomes a pink pill, a daily dose becomes a weekly dose, or maybe, to add insult to injury, the packaging changes.

I urge, as I draw to a conclusion, that as we look at the issues before the Senate on increasing competition and lowering prices, we do so understanding there is a lot of room to bring down prices without ever touching R&D. I argue we need to do everything possible to change the incentives to a longer view, to more research and development. This industry is out of