The Senate met at 9:00 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

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

Almighty God, reign supreme as sovereign Lord in this Chamber today. Enter the minds and hearts of all the Senators. May they be given supernatural insight and wisdom to discern Your guidance each step of the way through this crucial day. Break deadlocks, enable creative compromises, and inspire a spirit of unity. Overcome the weariness of the hard work of this past week. Give these men and women a second wind to finish the race of completing the legislative responsibilities before them.

Where there is nowhere else to turn, we turn to You. When we fail to work things out, we must ask You to work out things. When our burdens make us downcast, we cast our burdens on You. If You could create the universe and uphold it with Your providential care, You can solve our most complex problems. We trust You, Father, and place the challenges of this day in Your strong capable hands. In Your all powerful name, Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON 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,

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MA JORITY LEADER

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

SCHEDULE

Mr. DASCHLE. Mr. President, today the Senate will resume consideration of the Patients’ Bill of Rights. As we agreed last night, we now will have a series of rollover votes, all of which were on amendments which were offered last night.

Additional amendments with votes are expected throughout the day. It would be my expectation to finish the bill, either today or tomorrow, and then move to the organizing resolution. So as I understand it, under the unanimous consent agreement, the first amendment is to be taken up right now. I yield the floor.

RESERVATION OF LEADER TIME

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

BIPARTISAN PATIENT PROTECTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1052, which the clerk will report. The legislative clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Pending:

Thompson amendment No. 819, to require the exhaustion of administrative remedies before a claimant goes to court.

Warner modified amendment No. 833, to limit the amount of attorneys’ fees in a cause of action brought under this Act.

DeWine amendment No. 842, to limit class actions to a single plan.

Grassley amendment No. 845, to strike provisions relating to customs user fees, and Medicare payment delay.

Santorum amendment No. 814, to protect infants who are born alive.

Nickles amendment No. 846, to apply the bill to plans maintained pursuant to collective bargaining agreements beginning on the general effective date.

Brownback amendment No. 847, to prohibit human germline gene modification.

Ensign amendment No. 849, to provide for genetic nondiscrimination.

Ensign amendment No. 848, to provide that health care professionals who provide pro bono medical services to medically under-served or indigent individuals are immune from liability.

AMENDMENT NO. 814

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 4 minutes of debate prior to a vote in relation to the Santorum amendment No. 814.

Who yields time? The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

Mr. KENNEDY. Mr. President, could we have order. We have a series of votes now.

The ACTING PRESIDENT pro tempore. The Senate will come to order.

Mr. KENNEDY. We had good debates on them last evening. They are important votes. The Senator is entitled to be heard, and we want to give all those who worked on these amendments an opportunity for Senators to hear them. The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senator from Pennsylvania.

Mr. SANTORUM. My amendment is simple. My amendment says anybody born alive, any child born alive is entitled to protection under the laws of the United States of America.

Unfortunately, this amendment is necessary for two reasons. No. 1, because of the treatment of children who are delivered as a result of an abortion that was botched. We have ample testimony to, unfortunately, show that children born alive as a result of induced abortions are not cared for and are discarded, not cared for as appropriate to their gestational age. So we think it is important to make it clear that is Federal protection; that the laws of the land apply to even children who are born as a result of abortion—born alive.

The second reason is because of our courts in this country, particularly the Supreme Court, where two Supreme Court Justices in the most recent abortion decision, the Nebraska decision, stated that any procedure that the doctor would permit is OK in this country. This is just two of the nine. But they said the Federal Government and our Constitution does not allow regulation of any procedure that the doctor believes is in the best health interests of the mother. That, to me, leaves open the possibility, if the doctor decides in the health interest of a mother that the best thing is to deliver the baby alive and then kill the baby, two Justices on this Court would suggest that would be OK because we cannot regulate any procedure, and they use “any procedure,” that the doctor believes is the best interests of the mother.

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