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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

### PRAYER

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

Let us pray.

Lord God Almighty, Maker of Heaven and Earth, we praise You that You have not left us solely to our own resources. Instead, You promised to be our strength, our ever-present help in time of trouble.

Lord, our lawmakers need You during these challenging days. Guide them with Your wisdom, as Your loving providence prepares the road ahead. Give them the grace to be valiant pilgrims of life's sometimes dreary and dusty way. Teach them to toil and ask not for reward save that of knowing they do the things that please You. May the spur of conscience be the guiding star to lead them to the right decisions. Strengthen their will to always choose that which is morally excellent rather than what is politically expedient.

We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS 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, October 20, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. BURRIS 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 90 minutes, with Senators permitted to speak for 10 minutes each. The majority will control the first 45 minutes and the Republicans will control the second part of that.

Following morning business, the Senate will proceed to the consideration of the conference report to accompany H.R. 2892, which is the Department of Homeland Security Appropriations Act. There will be 3 hours 15 minutes for debate prior to a vote on the conference report. The Senate will recess from 12:30 to 2:15 p.m. today for our weekly caucus lunches. If all time is used, the vote will occur around 4:30. However, some of the debate time may be yielded back and we could vote earlier than that.

We are still working on an agreement, the Republican leader and myself, to consider the Medicare Physicians Fairness Act. Senators will be notified when any agreement is reached.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The 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 minority leader is recognized.

### HEALTH CARE WEEK XIV, DAY II

Mr. MCCONNELL. Mr. President, over the past few months, I have delivered a series of floor speeches on the kinds of commonsense reforms that Americans were looking for but have not seen in the ongoing debate over health care. In particular, I have noted the glaring absence of medical liability reform in the various Democratic plans that are kicking around here on Capitol Hill.

My point has been simple: Throughout the debate, the administration has been hauling out one group or another onto the White House lawn as a way of suggesting support for its health care plans. We have seen doctors. We have seen nurses. We have seen hospitals, State governments—you name it. But one group you have not seen is the personal injury lawyers who drive up the cost of medicine and premiums for all of us by filing wasteful lawsuits against doctors and hospitals all across our country.

The connection between lawsuits and higher health care costs is obvious. Because of the constant threat of these suits, doctors are forced to order costly but unnecessary tests and procedures to protect themselves. The routine nature of this so-called defensive medicine is one reason health care costs

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



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have skyrocketed over the past decade, and junk lawsuits are the primary reason doctors today spend a fortune—a fortune—on liability insurance even before they open their doors for business.

The prevalence of wasteful lawsuits is evidenced by the fact that Americans spend more on lawsuits than any other country and more than twice as much as all but one other country—not because American doctors are somehow more negligent but because our lawsuits tend to be more wasteful. In fact, according to the *New England Journal of Medicine*, 40 percent—40 percent—of liability suits in the United States are entirely without merit, and even in cases in which the plaintiff prevails, most of the compensation goes to someone other than the victim.

There should be no doubt that wasteful lawsuits are a major reason that health care costs in this country are out of control and that we should do something about it.

We have seen the good results of medical liability reforms at the State level. States that have adopted medical liability reform have witnessed premiums for medical liability insurance fall dramatically. Recent reforms in Texas, for example, helped drive down insurance premiums for doctors by more than 25 percent. These savings have allowed doctors in Texas to see more clients and increase charity care.

Here was a commonsense reform that surely everyone could agree on. Yet, just like the other commonsense reforms Republicans have proposed as a way of fixing our existing health care system, our advice was ignored.

The administration and Democratic leaders in Congress were determined from the outset to press ahead with a massive—a massive—expansion of government rather than take step-by-step reforms that the American people have been asking for all along. We have seen it in every Democratic proposal, including the recently finalized Baucus plan. In the face of indisputable evidence that medical liability reforms would lower costs, the Baucus bill offers nothing more than lip service—a sense of the Senate that “Congress should consider establishing a state demonstration program.”

Well, we already have State demonstration programs. We have them in California, we have them in Indiana, and we have them in Texas. They work, and we ought to be doing that at the Federal level.

If Democrats were serious about getting rid of junk lawsuits, I am sure they could have found room in the 1,500-page Baucus bill for it. Unfortunately, they did not.

Americans expected more than this. At the outset of this debate, everyone agreed that one of the primary reasons for reform was the need to lower health care costs, and commonsense experience and the testimony of all the experts tells us unequivocally—unequivocally—that ending junk lawsuits against doctors and hospitals would

lower costs. The question was not whether we should have included it. The only question was, Why would Democrats leave out such a commonsense reform?

Unfortunately, the answer is all too obvious. Here is how a former Democratic National Committee chairman put it recently in a candid moment. This is what he had to say. “The reason why tort reform is not in the bill is because the people who wrote it did not want to take on the trial lawyers in addition to everybody else they were taking on, and that is the plain and simple truth.”

That is Howard Dean, Dr. Howard Dean, not Senate Republicans. Howard Dean says the reason this obvious, commonsense reform was not included in the Baucus bill is that the authors of the bill did not want to face the wrath of the lawyers.

This is precisely why Americans are concerned about government-driven health care. Commonsense decisions become political decisions. And Americans do not want politics interfering with their health care. Medical liability reform should be in this bill. The fact that it is not only makes Americans more concerned about the impact government-driven health care would have on their lives and on their care.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REED. 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.

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for 90 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half.

The Senator from Rhode Island.

#### EXTENSION OF UNEMPLOYMENT INSURANCE BENEFITS

Mr. REED. Mr. President, I rise again to urge my colleagues, particularly my colleagues on the Republican side, to put aside their amendments so we can move immediately and pass an extension of unemployment insurance benefits.

We are facing a crisis of employment throughout this country. We are seeing people who are exhausting their benefits. The need is now. The time is now. We must act now.

Hundreds of thousands of Americans have already exhausted their unemployment benefits, including 3,500 Rhode Islanders. Unfortunately, this number is growing every day. These people are out of work, without an employment check or paycheck, with jobs remaining scarce.

It is important to recognize how we got here. A \$236 billion Federal surplus accumulated in the 1990s under President Clinton and handed to President Bush evaporated in 2000 due to President Bush's unsound and excessive tax cuts which cost nearly \$1.8 trillion and failed to spur sustainable economic expansion and were targeted to the richest Americans, not middle-income Americans. Indeed, most working Americans actually ended up less well off as the median income for families fell by \$2,000 from the year 2000 to the year 2007. Let me say that again. In the period of the Bush administration, with the huge tax cuts which he proposed as being the key to our economic recovery and our economic progress, incomes of middle-income Americans fell, they didn't rise. Incomes of the very richest Americans rose dramatically and continue to rise.

In addition, the Bush administration praised the doctrine of inadequate supervision of our financial markets, a lack of adequate risk assessment by financial institutions throughout not only the United States but the world, and they combined that laissez-faire attitude toward regulation of Wall Street with very costly and unfunded wars in Iraq and Afghanistan. As a result of these profligate policies, President Obama inherited a \$1.3 trillion deficit upon taking office. This is on top of an unprecedented set of circumstances facing our Nation both at home and abroad—the virtual collapse of the financial markets in September, the ongoing wars in Iraq and Afghanistan. With regard to Afghanistan, the same inattention the Bush administration showed toward regulation they showed toward our efforts in Afghanistan, and today we face a crisis of the first order there.

Today, we are in a serious situation. Through decisive action, which I will credit began under President Bush last September but particularly carried out through the stimulus package, we are responding to this economic crisis. But economists of all persuasions tell us we are in a very difficult and challenging moment. Unlike the 1980s and prior economic downturns, they do not expect a traditional V-shaped recovery—a quick decline and then a fairly rapid ascent to normal economic performances. In fact, economists are predicting that job gains will not be manifest until next year. It always seems to be the situation that employment numbers lag behind other indicators,