

ORDERS FOR WEDNESDAY,
DECEMBER 2, 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Wednesday, December 2; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 3590, the health care reform legislation, for debate only, with no amendments or motions in order; and that the time until 11:30 a.m. be equally divided, with alternating blocks of time, with the Republicans controlling the first 30 minutes, the majority controlling the second 30 minutes; further that the Senate recess from 11:30 a.m. to 12:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, rollcall votes are expected to occur throughout the day.

ORDER FOR ADJOURNMENT

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order, following the remarks of Senators ENZI and INHOFE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

HEALTH CARE REFORM

Mr. ENZI. Mr. President, after the speech by the Senator from Illinois, I feel compelled to make a few comments. One, he challenged us a little bit to do a bill in 2,000 pages or less. I am one of those people who do not think it can be done in less. I do not think there are nearly enough pages there to solve the biggest problem in the United States for every American.

People are not comprehending how big health care is. The bill we are doing will affect 100 percent of the people in America. I do not know if we have ever had a bill before that affected 100 percent of the people—100 percent of the people, 100 percent of the professions, 100 percent of the businesses. This is big. Everybody has a role in health care, and we are trying to condense it into 2,000 pages and make it seem a lot simpler than it is.

The reason our side has been saying you need to take this a step at a time and get it right is because that gives up some of the right. There are over 200 references in the 2,000 pages that say the Secretary of Health and Human Services will solve that particular problem; in other words, put in the details. We do not have nearly the details

in there to actually run health care for America. Without the details, we do not know what the devil is, and that is the difficulty. So we really ought to break it down a step at a time.

One step I really think would calm America down is if we did Medicare as a separate step. That way we could assure seniors that Medicare was going to be for Medicare. Yes, there are savings in Medicare. Yes, Medicare is going broke. Use the savings for Medicare. It seems pretty simple to me.

One of the things they are complaining about is the doc fix we have. We are not paying doctors adequately to be willing to take Medicare patients. Of course, we are not paying them adequately to take Medicaid patients either. But we are not paying them right. It would cost about \$250 billion to fix that.

Well, if we are talking about \$464 billion worth of savings in Medicare, why not use that \$250 billion to fix that problem so we have doctors. I do not care what kind of insurance you have, I do not care how much you pay for the insurance, if you cannot see a doctor, you really do not have insurance. That is what seniors are being faced with. That is what Medicaid people are being faced with.

Medicaid—well, that is another piece that ought to be maybe a step because 40 percent of the doctors will not take a Medicaid patient because they are not being paid adequately for it. If you are not paid adequately, you go broke. They are small businesses. They are affected by this bill in more than one way. They have to provide what we are saying is a government requirement for the minimum insurance they have, and they also have to live with whatever rules we put in there and whatever pay fixes we put in there.

On the government option, one of the things CBO said was, the only way that would ever bring down costs is if the government fixes prices for the doctors, for the hospitals. Well, we are kind of doing that in this bill for Medicare because we are telling nursing homes they are going to take a big cut. Nursing homes do not have a lot of margin, and if nursing homes go broke, people have to go a long ways, sometimes—in Wyoming, anyway, and Colorado, wherever we have rural populations—they may have to go a long way to see their loved one. They may not even be able to do it. So we have to keep those small nursing homes in business as well.

So we ought to do this in steps and get it right. That is one of the problems that the Group of 6 ran into. We were not given the time. We allocated about 13 different areas to go through. I think we made it through 5 completely and probably 3 fairly completely, and the rest we were just asking basic questions. With any business, it looks pretty easy until you scratch the surface a little bit, and when you scratch the surface, you find out that every job out there is fairly com-

plicated. If you have never done it before, and you are trying to come up with 2,000 pages worth of laws to govern that, you are probably going to get it wrong.

That is what the doctors are telling us. That is what the other providers are telling us. This bill has it wrong, in a lot of places, enough places that it is going to cause a crisis in America if this bill passes the way it is.

We have never passed a major bill in this body with just one side voting for it. If that were to happen, the other side would take potshots at anything that turned out to be something that had not been comprehended when the bill was written. And there will be plenty of that in here.

But just as important, the American people will not have confidence in it. They do not have confidence in us now—either side. I think that is what the elections in Virginia and New Jersey said. That is what the tea parties are saying. They are saying: We don't trust any of you. Throw the whole bunch out. Start over.

Well, we need to stop and get their confidence. Just steamrolling from one side, even if they have the 60 votes, is not going to do that. I have been saying that since we started. It is something so important that we have to get it right, and we do not have it right in this bill because there are a whole bunch of things, over 200, where we said to the Secretary of Health and Human Services: You figure that one out. Well, that is going to be thousands of pages, and it is going to be done by an unelected bureaucrat. It is not going to be approved by this body.

We ought to take the responsibility for getting those things right. And we can. Yes, it takes time. Yes, we have a lot of things to do. But I am in agreement that health care is the most important thing we have to do. But we ought to take the time to get it right.

There are a lot of ideas out there that would—in fact, one of the things that always upsets me when they say: So where is the Republican version? Well, I have been working on this thing for about 4 years. I have been working on it, actually—health care—ever since I got on the committee over 13 years ago, but for the last 4 years pretty intensively.

Senator Kennedy and I sat down and worked out principles we wanted to have. The principles are still the principles we are talking about around here. We want to make sure people are covered in catastrophic situations. We want to make sure preexisting conditions are taken care of. We want to make sure they have portability when they go from one job to another. The list goes on and on. We reached agreement. He was busy working on the Higher Education Act because it was way past due for being reauthorized, so I was kind of released to go talk to everybody on health care. I worked that. I worked both sides of the aisle, finding out ideas they had, and boiled it down to a 10-step plan.

I did a tour with my 10-step plan to see what kind of problems there were with it and was really pleased with the reception. Yes, I learned some things that needed to be done differently than what I thought. But if you will check my Web site, there is a 10-step plan that is a bill that covers the things we have been promising people they would have. I would not suggest doing it in one package. I would suggest doing it in several steps, not necessarily 10 steps, which are what are in there. But it would bring down the cost of health care insurance. That is the biggest thing I hear from people out there: Bring down my cost.

Now, everybody has been real pleased with this CBO clarification that came out that said the costs were not going to rise. They did not say: Don't let them rise. They said: Bring them down. Bring them down. They said: We don't mind covering a whole bunch of other people, but don't increase my costs as a result. This bill increases their costs as a result.

There is a way to do it. There are four different bills on the Republican side. And then there is a really bipartisan bill that Senator WYDEN and Senator BENNETT worked out, and I think there are about 15 cosponsors on both sides of the aisle. Those are all ways that this could be solved. But they are not in the bill. Since Senator WYDEN was left out of that part of the process, I am not even sure it could be considered partisan because you have to include all from one party.

But, at any rate, there are alternates out there. When we did the health care bill, which took weeks of doing the amendments, because it is very hard to do something in an amendment process and get it right—it is easier in the committee than it is here on the floor—but in the committee, we put up one of those as an alternative. We only took one vote to vote the whole thing down. They only had to criticize about 3 parts of 20 to get enough enthusiasm against it to be able to win. All the votes were 13 to 10, pretty much.

So we said: Wait a minute. That is not a good idea for us. They should have to take a look at these germs of ideas that are in all these different sections. So we started putting them up one at a time. We still lost most of them 13 to 10. There were a couple of them that did finally pass.

But we need to get into a mode of working across the aisle, like Senator Kennedy and I did on so many bills. In fact, I think we set some records, probably, not just when I was chairman of the committee but when he was chairman of the committee. We were on our way to getting a bunch done.

Anyway, deficit reduction. I heard Senator DURBIN talk about deficit reduction, and if this bill reduces the deficit. You have to be honest. If you use phony accounting, you can show huge deficits being reduced. That means leaving out some things that aren't in the bill, but they are going to be costs

we have to cover. For instance, the doc fix, \$250 billion. It is not in there. They say we will fix it for 1 year and then we will hold them hostage again for another year so we can get them to join us on something else. That is not the right way to do business. We ought to fix the thing and if we have all of this extra money in Medicare, that would solve some problems for Medicare.

On Medicaid, we are about to dump a whole bunch more people onto the Medicaid system. It is nice we are going to be able to do that, but there are some other ways we can take care of those same people and make sure they have insurance, and they would have insurance that didn't have the same stigma as Medicaid. One of the stigmas I am talking about is the doctors not willing to take them. If you can't see a doctor, you don't have insurance. If we dump all of these people on a system that already won't take the patients, how many of them are going to be able to see a doctor? So we could eliminate that stigma. In fact, that is what we did in the SCHIP in Wyoming. We made a provision so that it could go through the private market. When they go through the private market—or when they don't go through the private market, a problem a kid has if their dad is working, they have insurance; if he is not working, they don't have insurance, or if it is mom. Under the Wyoming one, when they go through the private market they know they have it for a year. That is the way it ought to be. That is the way Medicaid should be. Of course, you have to sign up for it. Right now you don't have to sign up. You go to the hospital, you get your fix, and we pay for it, or the State pays their share. We are dumping a huge liability on the States, so it is a real problem.

The States are very concerned. Right now they are having budget problems almost across the entire United States. They are saying, so what are you going to dump on us? Well, our Gang of 6 asked that question and we got this overall CBO score on how much it was going to cost the States as a whole, but we didn't want to know how much it was going to cost as a whole. Every one of us has to answer to our State, so we asked for it to be broken down and they broke it down. It was kind of interesting. I had to call my Governor and explain to him how much he was going to have to come up with, even under the extra protection we were trying to build in for States. But the next day we got another breakdown. I said, so did CBO change their score? No, they didn't, but we manipulated the numbers a little bit differently. Well, they manipulated the numbers for Nevada and New York, and I think that is in the bill too. Their excuse for it was that Nevada and New York are particularly hard hit by the recession. Well, one of our complaints—and part of the phony accounting—is that this doesn't even go into effect for 4 more years, so how would we know that in 4 more

years Nevada and New York would be the hardest hit? How do we know it won't be Wyoming and Colorado? So the formulas ought to be formulas that are going to work for everybody all of the time, not just for some of the leadership.

There are some flaws in here we need to take a look at and we need to clear up. I am not going to keep everybody much longer because I want to go hear the President speak too and I apologize for the time I have taken. But once in a while a speech gets me kind of concerned and I have to expound a little bit on it and I think the people of America need to know. Actually, I think the people of America have figured this out. I think that is why there were problems in August and I think that is why we are not going home on the weekends, because we don't want people to hear what the people at home are saying. I was home over the Thanksgiving weekend and I got an earful, and I like what I am doing. I don't think I like what is happening in the bill.

So with that, I yield the floor and thank the President, so the Senator from Oklahoma can speak.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Wyoming.

Mr. President, the Senator from Wyoming made some references to the August recess and what happened during that time. I admire the Senator from Wyoming so much for the time he has spent on this issue. I, frankly, have not spent much time on this issue. We are kind of a product of our own committees in the Senate, but I do remember—and some people have forgotten—that during the August recess it was not just health care, it was also the cap-and-trade bill, because these are the bills that were passed right down party lines.

I have to disagree with the Senator from Wyoming in one respect and that is the people during the August recess were not upset with the Republicans. They were upset with the Democrats because the one bill in my State of Oklahoma is referred to as socialized medicine. They have a hard time believing that the government is going to be able to run anything better than what we have today. I know those in this Chamber who represent States up in the far north recognize that the hospitals, the Mayo Clinics, and some of those in the northern tier, are filled with people from Canada. They have come down to America because they can't get what they wanted in Canada. So I kind of looked around and the people in Oklahoma seem to understand that if it doesn't work in Denmark, if it doesn't work in the United Kingdom, and if it doesn't work in Canada, why would it work in the United States? The answer is clearly that it wouldn't.

The other issue that was prominent at that time was the issue of global warming. Six years ago I made the

statement that the notion that man-made gases, anthropogenic gases, CO₂, cause global warming is probably the greatest hoax ever perpetrated on the American people. I know that more and more people are using the hoax statement now. The reason that was such a big issue was it passed again in the House, right down party lines—this was the Waxman-Markey bill—that would have been a tax increase on the American people of well over \$300 billion a year. That translates in my State of Oklahoma to about \$3,000 a family, a tax-paying family. It is something we were not going to let happen and we still are not, but that is a reality. I wish to remind my fellow Senators: You may think that August is a long time ago. You may think that since we have been in the shelter of these halls here in the Senate that people have forgotten about those two issues, and they haven't forgotten. However, I have to say that is not why I am here tonight.

TRIBUTE TO BILLY JOE DAUGHERTY

Mr. INHOFE. Mr. President, I lost a very dear friend of mine named Billy Joe Daugherty a few days ago. I never thought I could sit in one chair for 4 hours, but I did this past Monday. Yesterday they had a memorial for Billy Joe.

He is a guy who as a very young man came to Tulsa, OK. He built one of the largest churches in the Nation. He has been all throughout the Soviet Union—at that time it was the Soviet Union—and throughout the world, and he has been saving souls. This guy was just fantastic. When he died last week, he was only 57 years old. I sat there—I actually sat there, I say to the Chair, for 4 hours in one chair. I didn't think I would be able to do that because I normally am not that patient. But as people started giving talks and the eulogies, the best was saved until last. Billy Joe Daugherty was married for 35 years or so to his wife Sharon. She gave the most beautiful, long speech about her life with Billy Joe Daugherty. Then, one by one, the kids—four kids: John, Paul, Sarah, and Ruthie—stood up and gave tributes. I was thinking: My prayer is that when—

my wife and I have been married—two weeks from now it will be 50 years. We have 20 kids and grandkids. By the way, we had all 20 kids and grandkids at one table for Thanksgiving, something that many people are not aware is even possible in this day and age. But my prayer is that when my time comes and I am gone, that my kids will revere me as much as Billy Joe Daugherty's kids revered him.

I remember back in 1978—Billy Joe died last week when he was 57—he would have been about 26, 27 years old. I was mayor of the city of Tulsa. I was elected for the first time. I served three 2-year terms. I am a morning person. I don't do very well at night. In the morning I perform pretty well. I had a policy—and I lived it all the way through those three terms as mayor of Tulsa—that I would open up the city hall at 6 o'clock in the morning and I would make sure no one else was there—no security, nobody else—and stay until 8 o'clock so that everyone knew they could come down and visit with the mayor for 2 hours every day if anyone wanted.

Not many of them got up that early. The first visitor I had back in 1978 was kind of a skinny kid, who came in and said, "I'm Billy Joe Daugherty, and I want to pray with you." That is the first time I ever met the guy. I cannot tell you that he came by every week for those 6 years, but he was a regular who was always showing up. We did pray for each other, for our families, and for the city of Tulsa.

I can remember a favorite verse that he used most of the time, a most common verse, the 23rd Psalm:

The Lord is my Shepherd; I shall not want.
He maketh me to lie down in green pastures:
He leadeth me beside still waters.
He restoureth my soul:
He leadeth me in the paths of righteousness
for His name sake.

The path of righteousness. Billy Joe was led by Jesus down the path of righteousness probably two, three decades ago. I cannot tell you how many thousands of people Billy Joe has led down that path of righteousness.

Yea, though I walk through the valley of the shadow of death,
I will fear no evil: For thou art with me;
Thy rod and thy staff, they comfort me.

I am sure that when Billy Joe went through that valley of the shadow of

death, he probably, knowing him, wasn't even walking. He was probably running because he knew what was on the other side.

Thou preparest a table before me in the presence of mine enemies;
Thou anointest my head with oil; My cup runneth over.

Here was the good part. Billy Joe said this:

Surely goodness and mercy shall follow me all the days of my life.

He might have changed that and said: Surely goodness and mercy and Sharon will follow me all the rest of my days. Whatever it was, they did it together. He led a life—in 57 short years—that accomplished more than most people who will live to be a hundred.

The final words of that verse were:
And I will dwell in the House of the Lord forever.

I could look at you folks here today and tell you I don't think Billy Joe Daugherty is in heaven, I know Billy Joe Daugherty is in heaven. He is looking down at us and thinking two things. First, he is saying: If you only knew what I know now. And then you have to keep in mind the other thing—Billy Joe is in a different time zone now, and he probably said that in just a wink of time, we will all be together. I have every expectation that will happen.

So this is not to say goodbye to Billy Joe Daugherty; this is to say, so long, we will see you soon.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 8:14 p.m., adjourned until Wednesday, December 2, 2009, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate, Tuesday, December 1, 2009:

THE JUDICIARY

JACQUELINE H. NGUYEN, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.