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House of Representatives

The House was not in session today. Its next meeting will be held on Friday, August 1, 2003, at 4 p.m.

Senate

WEDNESDAY, JULY 30, 2003

(Legislative day of Monday, July 21, 2003)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

Almighty God, You give strength to the weak and hope to the weary. You provide us with songs in the night. Great is Your faithfulness. We thank You for daily blessings, for the many moments that are touched by Your providence. We thank You for restoring us every time we fail. Make our faith more sure and help us to be faithful stewards of Your gifts. Give us ears to hear Your voice and hearts to obey You. Guide our Senators today. Teach them Your paths. We pray in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU 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. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 30, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU 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. FRIST. Mr. President, this morning the Senate will resume consideration of S. 14, the Energy bill. Under the order, the Cantwell second-degree amendment to the electricity amendment will be debated for 2½ hours. Following the disposition of that amendment, we will have 60 minutes prior to the cloture vote on the Estrada nomination. This will be the seventh cloture vote on his nomination.

Following the cloture vote, we will resume the electricity amendment and, hopefully, we will reach an agreement for the consideration of the two Bingaman second-degree amendments on

electricity. The chairman has stated it is his desire for the Senate to work its will on those second degrees and then vote on the underlying electricity amendment. We hope to reach an agreement to allow for that to occur at a reasonable time this afternoon. In addition, there have been discussions about debating and voting in relation to several climate-related amendments during today's session. I certainly hope we can reach reasonable time limits on the amendments as we go forward, so we can have a productive day on the Energy bill. Senators should be prepared to work into the evening with votes as we move through the remaining amendments.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, while the majority leader is on the floor, we have had a number of conversations privately and publicly with the distinguished Senator from New Mexico on this electricity title. As I indicated last night, we have Senators FEINSTEIN, FEINGOLD, BOXER, DAYTON, and CANTWELL who have amendments to offer. All of them but Senator CANTWELL have single amendments. Senator CANTWELL may have two or three others. We will work with Senator DOMENICI to have time agreements on these. I

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



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am confident and hopeful that the Senators offering the amendments will agree to time agreements.

I also note—and I say this as respectfully as I can to the distinguished majority leader, who I know has such a difficult job—the electricity title is very complicated. I think we are approaching this in the right way, to move through it as quickly as possible. We are cooperating in that regard. It makes it really difficult, as somebody trying to help move this along and help the two managers, to have these stops and starts. We just get going on something and then we have votes on judges.

I want everybody to understand I know how important Senator HATCH and others believe it is about these judges. For example, on Estrada, this will be the seventh vote. The votes are not going to change. We will take an hour of debate on that and get off the Energy bill, and then we will go back on it. It makes it extremely difficult. Senator DOMENICI told all his committee members during the committee markup that we know the bill isn't perfect, but we will have an opportunity on the floor to amend that. The leader has stuck by that. I think that is important.

Just as an effort to help, because you have to move this bill along, for example, the two Bingaman amendments—Senator DAYTON cannot offer his amendments until those are disposed of. That is another procedural matter we have to deal with here.

We recognize we have a lot of work to do. We squeezed in yesterday an hour on trade while everybody was at the White House. I know the leader wants these two bills done, and the White House talked about how important they are. I think it is good we have time down as low as we do on a bill people feel so strongly about. From what I know, it should pass fairly easily—both of those trade agreements.

In short, I want the Senator from Tennessee, who, I repeat, has a tremendously difficult job, to understand we are doing everything we can to cooperate. I stated yesterday twice, and I will start the day off today saying, I don't know of a single Senate Democrat who doesn't want an Energy bill. The time line you have given us makes it really tough. We will cooperate in any way we can to move the schedule along despite the difficulties I see.

Mr. FRIST. Mr. President, first of all, I appreciate the assistance of the distinguished assistant leader on the other side of the aisle in moving the Energy bill forward. We had the opportunity yesterday to have a bipartisan meeting with the President of the United States, who once again called for this body to address energy as expeditiously as possible, allowing appropriate time for debate and amendment.

The President set out his energy policy 2 years and 2 or 3 months ago and has called upon this body to work its will. The House has done that and

passed a bill. We have not done that and the American people deserve it. That is why we brought this bill to the floor on May 6. That is why we have spent 17 days on the bill. That is why we are working as hard as we can to complete this bill in the next 3 days. I think we are working well together. It is a complex bill. We debated days and days last year. It has been taken through committee this year and marked up and brought to the floor appropriately. We are making real progress there.

The issue of judges, though, bothers me. It has been brought up every time I say we have to keep moving forward and that we owe it to the American people on this Energy bill, and then we have a few votes on judges. That is brought up as if that is slowing down progress on the Energy bill. It disturbs me.

First of all, all we are saying is let's give Miguel Estrada an up-or-down vote. That is all we want. If you don't like him and you want to vote against him, do it. We think that when judicial nominees come from the White House to us under advice and consent, we deserve the opportunity to express that advice and consent, and the only way we can do that is by voting. Each seat here has one vote. Let people express their will and, if the nominees are successful, fine. If not, we will move on. That is what we are saying.

I also want to make it clear on what we are having to do this week. Clotures filed on our side of the aisle don't require any debate. They require a vote and that is all we ask. Again, we want to keep things moving. We have been willing, as I said time and time again, to stack the votes among the other energy amendment votes. We don't require the debate or time. It is the other side that is requiring the time.

Another issue we have not really talked about, at least on the floor, is these votes on district judges, which is essentially unprecedented, which is being required of us today, if we look to the past, if we compare it to the past. The whole issue on both sides of the aisle is that many, if not most, of these could be approved by unanimous consent. Many, if not all, confirmations have to be by rollcall votes. Because there is this call from the other side of the aisle for rollcall votes, which traditionally in this body have been handled, for the most part, through voice votes, we are having to factor those rollcall votes, which take time, into the Senate schedule if we are going to demand justice around the country. If we do not get these judges confirmed, justice is, in effect, delayed. So they put a huge demand on us—really me as majority leader—demanding what has not been done in the past, rollcall votes, which take time and we have to factor them into the schedule, which does delay our schedule unnecessarily, and it means later hours at night and starting 30 minutes earlier in the day to accommodate the demands they are putting on us.

That, to me, is challenging. It is challenging that we work on this important Energy bill and, for the most part, these rollcall votes on the district judges are challenging.

To make that point, if we go back to the 105th Congress, there were 100 judges—20 circuit and 80 district judges. In that Congress, there were 25 rollcall votes—7 circuit, 18 district. So on about 25 percent of the 100 judges, rollcall votes were required.

If we move to the 106th Congress, there were 72 judges confirmed, and 18 of those were rollcall votes.

If we go to the 107th Congress, there were 100 confirmed and 59 rollcall votes.

And if we go to the 108th Congress, the present Congress, 37 judges have been confirmed. We have had to have 28 rollcall votes.

What is interesting is that of those 28 rollcall votes, 23 were unanimous. So we had rollcall votes, and all 100 Senators, or everybody present and voting, voted to confirm. Eighty-two percent of them were unanimous.

We can see this trend going back to the 104th Congress when there were 73 judges confirmed, and there were zero rollcall votes. What has happened in this Congress, because of the request from the other side of the aisle, is this demand that all of these judges, not just the circuit judges, but the district judges, have rollcall votes. Therefore, it has made it very difficult.

When it is brought up that our voting on judicial nominees is slowing the work of the Senate down, I ask the other side to at least consider what happened in the 103rd, 104th, and 105th Congresses in terms of the number of rollcall votes required.

ANNIVERSARY OF THE MEDICARE ACT

Mr. FRIST. Mr. President, I am going to come back later today and comment on the fact that today is the anniversary of Medicare. I know we want to move on to the pending bill. It was a historic day in 1965. On this day, President Johnson took the historic and bold action of signing Medicare into law.

Since that time, Medicare has helped millions of seniors cover their health care needs, but Medicare, in 1965, was designed to treat episodic illness and did not include the most powerful tool in medicine today—prescription drugs.

I mention this only because we have an opportunity before us, this body already having spoken its will in passing a comprehensive Medicare reform bill that strengthens and improves Medicare and includes prescription drugs. The House has done likewise. We are currently in conference. By working in conference, we will greatly strengthen and improve Medicare. Over the course of the day, I know there will be other statements, but there will also be a service and a statement about Medicare at the White House later today.