



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 149

WASHINGTON, MONDAY, SEPTEMBER 8, 2003

No. 122

## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, September 9, 2003, at 12:30 p.m.

## Senate

MONDAY, SEPTEMBER 8, 2003

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

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

Let us pray.

O Maker of sea, land and air, speak to our hearts that we may cling to the things that cannot fail. Thank You for the gift of a new day, for borrowed breath and heartbeats. Be our pilot over life's tempestuous seas, and help us to strive more for faithfulness than success.

Be with our Senators today. Use them to speed the day when people need not live in fear of one another. Empower them to give and not to count the cost; to fight and not to heed the wounds; to toil and not to seek for rest; to labor and not to ask for anything, except the knowledge that they are doing Your will.

We pray in Your Holy Name, Amen.

### PLEDGE OF ALLEGIANCE

The Honorable HARRY REID 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.

### RECOGNITION OF THE ACTING MAJORITY LEADER

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

### SCHEDULE

Mr. ENZI. Mr. President, today the Senate will resume consideration of H.R. 2660, the Labor, HHS, and Education appropriations bill. The chairman and ranking member will be here this afternoon throughout the consideration of the bill. It had been the hope of the leader to schedule votes this evening on amendments to the Labor-HHS bill. However, it is our understanding there will be an objection from the other side of the aisle for any unanimous consent request that sets a vote for today. That objection extends to setting votes on executive nominations as well. Therefore, on behalf of the leader, I announce that no rollcall votes will occur during today's session. We will continue to work throughout today to resolve the remaining issues on the Labor-HHS appropriations bill, and we hope additional progress can be made on the bill.

### RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The assistant minority leader.

Mr. REID. Mr. President, my friend from Wyoming is absolutely correct. We will not agree to setting aside any amendments. As I announced last week, we on this side want to move this bill. Last Tuesday, when we started after the August break, we said we would like to have a day where we could have a vote on overtime. We said last Tuesday we thought the best time would be Tuesday, a week from that day. We spoke to the majority leader.

Of course, we spoke to Senator SPECTER on many occasions about that. We do not want anyone to think we are scheduling the Senate's business around four Democratic Senators who are running for President. Since the Presidential process started, we never asked any special favors. We thought we were doing everyone a favor here by telling—in fact, telegraphing them—when we thought that vote should take place.

It is possible there can be an effort made to table the Harkin amendment on overtime. This is an important piece of legislation. This one appropriations bill is, I think, about \$30-odd billion. It deals with issues of extreme importance.

We want to move this legislation. But also for the men and women of this country, we feel it is so important to have an up-or-down vote on overtime. The President has made a decision that he wants to change the way overtime is paid to the men and women in this country. It is only the American way that we would simply have a vote as to whether or not the President is right.

We believe people of good will will vote with us. It is clear the reason we have suddenly not been able to have a vote is because the majority leader recognizes they will lose and we will win, but that shouldn't be a cause to bring down a whole bill. But in fairness, we believe we should have a vote on this issue.

I am only speaking for myself. It is hard for me personally to comprehend. These bills go to conference. There will be a conference with the House. Of course, if we don't like what comes out

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



Printed on recycled paper.

S11173

of conference, we will see what happens.

But this is a very important bill. I think people will have to look very closely at what they want to do once this bill comes out of conference.

I understand why they are not allowing us to vote on that. It is simply because they don't have the votes. But you can't win everything around here. We are entitled to win once in a while. Don't simply take away our ability to vote. That, in effect, is what is happening. It is really too bad. I hope when the conference is held with Republican Senators, they will see that.

We should be able to vote tomorrow. We contemplated finishing this bill tomorrow, Tuesday. That is what we had contemplated. We have a lot of amendments. The managers could agree to some of those. Some of them simply won't come up. Of course, one of the reasons there are a lot of amendments by both sides, if they offer them, is in effect to protect their sides in case something comes up they don't understand.

I believed we could finish this bill tomorrow. Having gotten nothing done on Friday, and now nothing today, it is really too bad. I don't believe we will be able to finish the bill on Tuesday.

Senator DOMENICI and I have worked on the Energy and water bill for many years. We have a good idea how quickly that bill will move along. It is certainly not as big dollarwise as this bill, but it is \$25-plus billion. It deals with issues that are important. The difference between our bill and the Labor-HHS bill is that all of the money we have in our bill is discretionary spending.

I hope we can get to that, move along and get the appropriations bills done. I hope we don't have a situation where we have nine bills in an omnibus bill. We tried that. It wasn't the best way to go. We had 11 bills in the omnibus bill. We have nine bills we still have to approve.

I am disappointed the majority leader has taken this tack. I hope after meeting with colleagues this evening there will be a change.

The PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, speaking purely on my own behalf but hopefully reflecting some of the feelings of the leader, we are terribly disappointed that until the time is set exactly as the time the Presidential candidates want to have the vote, no other business can happen in this Chamber. That isn't how this ought to work. We ought to be proceeding on other amendments. We ought to be wrapping this thing up and getting down to what evidently could be the last vote. It needs to happen.

I am terribly disappointed the overtime rule has been made into such a political hot issue. It is a proposed rule. The way rules work around here is they get published so there can be comments. There have been 80,000 comments. This amendment doesn't stop

the rule. At this point, it stops the review of those comments. The Secretary of Labor can't even look at the 80,000 comments to see if she made a mistake in the rule.

It appears there are some concerns about the rule and the way it is written. But it can't even be rewritten, if this amendment passes. This amendment takes away the right of the Secretary to review those 80,000 comments so changes can be made, if needed, to the rule. That is how we do rules around here.

To take the money away and stop that process I don't think is the right way to do it. We have a process in place. We even have a process for overcoming the process. That is the Congressional Review Act. If the Secretary does not pay the attention needed to it, we have the right to overturn the rule. In fact, we have the obligation to overturn rules. That is why we did a Congressional Review Act.

I hope we will let her go ahead and read the 80,000 concerns and see what changes need to be made, see what people are thinking about the rule. Obviously, there are people with concerns. I hope the rule can be revised to take care of those concerns. It has not been revised in 50 years. Tell me that business has not changed in 50 years. Tell me that employment has not changed in 50 years. It has.

One of the provisions of this is raising the amount you have to be covered by overtime from \$8,600 to \$22,000. That needs to be done. People make a lot more money now than in 1950.

I hope we can go ahead with the rule. I hope we can go ahead with other amendments as we have been doing for the last week, setting aside amendments so we can debate amendments. All the amendments are still in a queue and we still have to take care of those amendments. It does not keep them from being voted on but keeps them just from being voted on in that necessary order, although you can call for regular order and put it right back in the queue in the same place. It is possible to get votes. In fact, it is impossible to avoid votes around here.

As stated, if there were a motion to table, it could be brought up again. There will be a vote. Now, whether the leader gets to set the exact time for the vote or whether the minority sets the exact time for the vote evidently is the question for debate. I hope we can get past this little rift and move on and cover some more amendments. I was hoping we could have some votes today so tomorrow we could finish up. If we were going to finish anyway tomorrow, we could finish early tomorrow so we could move on to the other bills. I hope that wedge will not remain in there and we can make some progress.

I yield the floor.

Mr. REID. Mr. President, I know the Chair wants to report the bill, but let me say we did not want an exact time. We put something in the proposed

unanimous consent agreement. We just said Tuesday. We thought it would be better to do it after the party conferences. Anytime Tuesday would be fine with us.

I certainly understand the Congressional Review Act. Senator NICKLES and I wrote that. That is our legislation now in the law. It has been passed and used several times, and it will be used this week, also, on the TV ownership. It is an important piece of legislation and one of the things I am very proud I have been able to work on during my tenure as a Member of Congress.

I say to my friend, for whom I have the greatest respect, the Senator from Wyoming, we have worked together on a number of issues on a bipartisan basis. We recognize overtime has been paid by virtue of a statute in this country for more than 50 years. We think that is appropriate.

If the President wants to change this, he should change it by asking the committees of Congress to do that. We could have hearings and go forward on that basis. To have the President act as if he is the king of this country and just set rules any way he wants, we do not agree with that. That is why the men and women of this country are really upset and why we had 80,000 comments.

The Senator from Wyoming and I are not going to make that decision. We are not in a position to do that. We are here representing others. I appreciate the courtesy of the Senator from Wyoming this afternoon, as always.

---

#### RESERVATION OF LEADER TIME

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

---

#### LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2660, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004.

Pending:

Specter amendment No. 1542, in the nature of a substitute.

Byrd amendment No. 1543 (to amendment No. 1542), to provide additional funding for education for the disadvantaged.

Akaka amendment No. 1544 (to amendment No. 1542), to increase funding for the Excellence in Economic Education Act of 2001.

Mikulski amendment No. 1552 (to amendment No. 1542), to increase funding for programs under the Nurse Reinvestment Act and other nursing workforce development programs.

Kohl amendment No. 1558 (to amendment No. 1542), to provide additional funding for