

on the Executive Calendar during tomorrow's session. Therefore, rollcall votes should be expected throughout the day. Leadership on both sides of the aisle has notified Senators that in all likelihood it will be necessary for us to work through the weekend. We are on target to complete our work this week, but it looks as though we will be in session working on Saturday and perhaps Sunday to complete action on the Energy and Medicare conference reports, as well as the appropriations measures.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The assistant minority leader.

Mr. REID. Mr. President, it is my understanding on the conference report it is privileged, but it could require a vote. On our side, we have no request for a vote to get the conference report on the floor. So on our side we do not need a vote, and I want the leader to know that. We worked last night with a couple of people who thought a vote would be necessary, but they no longer believe it is necessary, so we are ready to move to that as soon as it is here.

Mr. FRIST. Mr. President, responding through the Chair, we very much appreciate that because we are very eager to get to this Energy conference report and want to do it as soon as possible this morning. I have a couple of colleagues to talk to. A final decision will be made whether or not a vote will be required. If so, I would expect to have that vote very shortly after morning business.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes of the time under the control of the Democratic leader or his designee, and the second 30 minutes of the time under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

HAPPY 80TH BIRTHDAY

Mr. SCHUMER. First, I want to wish the President of the Senate a happy

80th birthday. I come from New York. We pride ourselves on good salmon. At his little gathering last night, the Alaska salmon looked beautiful and tasted as good as any salmon I ever tasted. I want to wish him a happy birthday and thank him for celebrating it with all of us.

ENERGY POLICY ACT AND MTBE

Mr. SCHUMER. Mr. President, what I would like to talk about today is the Energy bill that is coming upon us. I want to talk about one provision in there which I find to be one of the most abusive provisions that I have ever seen come down the pike, and that is the provision of a safe harbor for the MTBE producers.

As everyone knows, we have found that while MTBEs did work at cleaning air, they also worked at polluting the groundwater. What has happened in my State and in 38, I believe it is, of the 50 States is that when the MTBEs were spilled, they went into well water, into aquifers, and basically made the water undrinkable and unusable. This has left thousands and thousands of families in terrible shape, probably tens of thousands, and it is going to grow. It is going to be millions of families down the road because we are just learning of the extent of the MTBE spills.

We are being very generous, even without this safe harbor, to the MTBE producers. We are giving them \$2 billion to shut down. How many small business men and women in America, when they shut down, get a Government subsidy? I think very few. But we are giving it to them and I am not arguing against that right now, as much as I oppose it.

We have also given them a safe harbor. We have said to them that you cannot be sued, and we have set a retroactive date of September 5 in this Energy bill. I should not say "we." Two people who crafted the Energy bill did it. Nobody else had much say.

What will this mean? Let me tell you the situations I have found on Long Island and the Hudson Valley, in Orange County and Dutchess County, throughout my State.

MTBEs were spilled and have leaked into either individual wells of family homes or into aquifers upon which towns and villages depend. The water supply is gone. The people cannot use the water or drink the water. What does that mean? The least of it is they need bottled water to do everything—to drink, to brush their teeth, et cetera. They have to go out and buy bottled water. That is a significant expense to these families.

In most of the places I visited, the homes are modest. They are small homes. They are typical American families who have worked their lives and their little piece of the rock is their home.

Worse, however, is that you can't even take a shower because the MTBEs, it is said, give off some kind of

vapor that could be very harmful if you shower regularly. So the families have to go to neighbors. Since often the spills are in whole tracts of land, it is not just walking across the street and knocking on the door. In some cases that is possible because some houses are not polluted and some are, that are next to each other. But usually they have to get in the car and drive the kids, drive themselves to take a shower. That renders their home—if not valueless, it knocks out their investment.

We have lots of people struggling with these MTBEs. What they have done, of course, is gone to the people who have created the problem. They have gone to the service station owner who might have spilled the gasoline, or the pipeline that ruptured. But the bottom line is, in most cases those people are out of business or not able to help.

So what happened was, because of lawsuits—and I am not one of the Democrats who is the leading advocate for the trial lawyers, but I do believe there are instances where lawsuits are the only solution. They went to oil companies with lawsuits, one in California, several in other parts of the country, and showed not only that the companies knew MTBEs were harmful but, worse, they didn't tell anybody.

If in the mid-1980s we found that MTBEs were polluting the groundwater and permanently doing such severe damage, wouldn't it have made sense for the oil companies and the producers to send notifications to the service stations, to the pipelines, to the trucking companies, and say: If this stuff spills, it could be dangerous. Be very careful. Here is what you do in the immediate case that there is a spill.

None of that happened. It is reminiscent of the cigarette industry. We knew cigarettes were harmful. Most people sort of had an inkling after 1965. I, for one, believe that just to do a lawsuit because you later find a product is harmful is not the strongest case. But in the cigarette industry, and now with the MTBEs, when the producer knew it and not only continued to produce it but didn't let the information out, that to me is egregious because you could have prevented a whole lot of harm.

So what we had throughout New York was the following. We had lawsuits, and even in many of the cases when it wasn't lawsuits, the oil companies were beginning to come forward. In Fort Montgomery, right near West Point, Orange County, are a lot of retirees from the military, in lovely homes near the banks of the Hudson River. The oil companies paid to put on these filters that would prevent the MTBEs from going into the drinking water, the bathing water, et cetera. In some places, up in Dutchess County, they were beginning to negotiate with the law firm. The town would pay some money, the oil companies would pay some money, and they would put in a water system of piped-in water because the entire drinking water, under a large number of homes, was gone.

Many of these cases didn't reach lawsuits because they were trying to sit down and work out a negotiation. But we all know that the threat of a lawsuit is the only thing that brought the oil companies to the table. But progress was being made dealing with this bad problem. I don't want to cast blame here; it is just a serious problem.

I ask my colleagues, if you are a homeowner and you bought your home and this stuff leaked half a mile away and leached into your aquifer and your home is worth half the value it was, and it could be made whole again by simply putting in a water supply, should we just say to the homeowner: Tough luck? Or should we try to figure out a way to have those who knew this horrible thing was happening help pay?

I would have felt better—maybe some of my colleagues don't like the idea of lawsuits; in this Energy bill we have \$30 billion to fund everything under the Sun—had there been a fund to help the homeowners. If you don't like the way of lawsuits, that is fine, and if you believe the Government has some responsibility—which it probably does because the Government sanctioned MTBEs—fine. But what we are saying is, with this safe harbor, to the tens of thousands, soon to be hundreds of thousands, and probably into the millions of homeowners whose whole life savings are destroyed: Tough luck. You can't sue. You can't negotiate.

This is a classic case of what is wrong, sometimes, with the things we do here. We have sided with the oil companies that, at least, have as much blame as the innocent homeowner—more blame. And we have told the homeowners: Tough luck.

It is not fair. As I say, these are hard-working people. There is no fault of their own. No one thinks there is any culpability on the part of the homeowners.

We had things beginning to move in the proper direction, and because of the power of a limited few, and, frankly, because of the way this bill was created, with no debate, no chance for amendment—what we did here on the floor I think many on our side regret because we passed last year's Democratic bill which modified the safe harbor provision, due to the work of the Senator from California and some of the others, and then it was totally ignored and basically two people—both of whom I have a lot of respect for but they have a point of view quite different than many of us here on energy issues—negotiated the entire proposal.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SCHUMER. I ask that I be given another 5 minutes since none of my colleagues is here.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, many of us believe this whole Energy bill is a travesty. Many of us believe there are three major energy issues that have occurred in the last 3 years. One was 9/11.

It showed us the need to be independent of Middle Eastern oil. And China, of all places, because they are worried about dependence on Middle Eastern oil, is now instituting CAFE standards in their automobiles that are higher than ours. That should make every American think. If our country cannot take the necessary preparations to deal with a problem that is going to be nipping at our heels and then create real problems in America a few years from now, that is a sign of weakness of our country, and I love this country and I don't like to see us be weak. But we have done nothing on oil conservation.

I am not one of those who says we shouldn't produce new oil. I was one of six Democrats who voted to look in the east gulf, much to the chagrin of my friends from Florida. I think on Federal lands—certainly not in parks or monuments but on the huge forest land—we should not be so doctrinaire. If there is a good amount of oil and gas that can be recovered in an environmentally sound way, I think we should do so. We need to increase supply and decrease demand. But we are doing nothing to decrease demand. On that issue, we have done nothing.

The second issue that occurred with California and the way electricity flows in this country—again, talk to my colleagues from Washington and talk to my colleagues from California; they will tell you; they know this issue better than I—we are doing nothing in this bill to prevent another fiasco like the one which occurred in California, and the one I find most amazing is the recent blackout that many of us in the Northeast and Midwest suffered. We all know the reason is that no one is in charge of the grid. In some places, it is power companies; in some places, it is a conglomeration; in some places, it is ISOs.

There was consensus immediately after the blackout that we ought to have one national grid governed by someone who will look out for the transmission of electricity.

The analogy ought to be the highway system. We have one national highway system. Even though people drive within the States, commerce flows across State lines. So does electricity.

The idea of not creating a strong national unit that can determine how our power flows because we are going to need more power—again, I don't like those who say we shouldn't grow. We should grow, but we are going to need more power to grow. To not have a national grid after what we saw on August 14, I believe the date was, and to just sort of ignore history because a few special interests or a few power companies didn't like it—I try to read a little bit of history. When the special interests, whether they be left, right, or center, whether they be rich or poor, overcome the national interests, that is a sign of weakness. It is a sign of failure. And energy and power are two issues that demand some kind of na-

tional solution and some kind of long-term solution.

This bill, aside from the MTBE provision, is a hodgepodge of little special interest things. I know what it does. I ought to vote for it. I am getting a few things for New York State. If each one of us is going to say we got our little thing for our States and we are not dealing with the national problem—and the two are not mutually exclusive in most cases—then we are not serving America.

I predict that within 5 years we are going to need to do another Energy bill. I think the last one we did was in 1992. We are going to need to do another Energy bill because the best that can be said about this bill is it sidesteps the major problems. The worst that can be said about it, or one of the harshest things that can be said about it, is if you hired the right lobbyist and had the right connections, you got something in this bill.

But the thing I most object to is not all those little things in there but, rather, that they have taken the place of a national policy on energy which we do not have. If there was ever a time to have it, after 9/11, blackouts, and Enron in California, now is the time we should have created it. If we can't create it now, when?

I yield the floor. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

ENERGY AND MEDICARE

Mrs. HUTCHISON. Mr. President, I rise today to talk about two monumental pieces of legislation that are coming this way and, hopefully, will be passed in the next 48 hours. I am hopeful that we will pass the Energy bill. The House has passed this Energy bill. It was a very hard-fought bill.

Since coming to the Senate 10 years ago, I have tried to have a part in passing energy legislation that would make our country self-sufficient. Ten years ago, I said we were too dependent on foreign oil. We were dependent upon foreign oil for about 50 percent of our energy needs. Today, 10 years later, it is 10 percent more. We are 60 percent more dependent on foreign oil for our energy needs.

It is a very important issue for our economy. Our economy is not the most stable right now, but it is in a recovery. We are dependent on energy for our factories, for our businesses, for our economy to remain stable, and for us to be able to continue to increase the number of jobs in our country. Having more energy self-sufficiency