



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 109<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 151

WASHINGTON, SUNDAY, DECEMBER 18, 2005

No. 164

## Senate

The Senate met at 6 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

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

Let us pray.

O God who reigns forever, judging the nations with righteousness and the people with Your truth, let Your mercy rest upon the nations and Your compassion dwell among the people. Give us a peace in this season of good will that does not depend upon externals, as You empower us to trust You, even in the storms.

Bless America to promote justice and understanding within her boundaries and unto the ends of the Earth.

Strengthen the Members of this body for this evening's journey, deliver them from any shortsighted policy of selfishness, exploitation, or expediency. Give them the courage to live up to their lofty professions and grant that each of us may overcome fear, apathy, or arrogance that keep us from honoring You. We pray in Your holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

### 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 now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### NOTICE

If the 109th Congress, 1st Session, adjourns sine die on or before December 20, 2005, a final issue of the Congressional Record for the 109th Congress, 1st Session, will be published on Friday, December 30, 2005, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-60 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Thursday, December 29. The final issue will be dated Friday, December 30, 2005, and will be delivered on Tuesday, January 3, 2006. Both offices will be closed Monday, December 26, 2005.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at <http://clerk.house.gov/forms>. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT-60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Office of Congressional Publishing Services, at the Government Printing Office, on 512-0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

TRENT LOTT, *Chairman.*

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



Printed on recycled paper.

S13971

## SCHEDULE

Mr. FRIST. Mr. President, we have returned this evening to session awaiting various conferences to finish their work and for House action on the remaining conference reports. We need to remain in session this evening in case those conference reports do become available. When we are certain one way or the other on the timing of the Defense conference reports, we will make a decision on the length of the session. Certainly if the conference report will not be available before midnight, then I do not anticipate a late evening. We should know something about that within the next couple of hours.

We cannot rule that in or out at this point. Therefore, we will monitor the timing closely and then make further announcements.

For tomorrow, we continue to try to set votes on seven district judges who are on the calendar. If we are not able to reach an agreement for that shortly—I hope we can set those votes for a time certain so we can alert Members. I will be discussing this shortly with the Democratic leader. Again, we will be doing our best to get word to the Senators shortly as to the schedule for this evening and tomorrow.

People have worked through last night and throughout today on these conference reports and there has been a lot of activity in the last hour or hour and a half. Shortly, I will come back to the floor with something more certain in terms of the schedule for later tonight as well as tomorrow.

---

 RECOGNITION OF THE  
 DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

---

 DEFENSE APPROPRIATIONS  
 CONFERENCE REPORT

Mr. REID. Mr. President, I have said on previous occasions how much I care about this institution, but I have trouble expressing how disappointed I am as to what is going on. The arrogance of power of the Republicans in the House and the Senate is beyond my ability to comprehend. The Republican leadership now is attempting to impose the most cynical and I believe abusive practice in this pending conference report that, if successful, has the potential of changing the way this body operates forever. We will become another House of Representatives.

Any conference report can set the tone of debate, the hours of debate, the parameters of debate. If the Senate does that, it will no longer be the Senate that was led by some of the greats such as Mansfield and Dirksen. I say this respectfully. I do not know how anyone would allow this to happen, those who have the ability to do it. There have been issues I felt strongly about, but I always played within the rules. That is not what is happening

here. The game is being changed, the rules of the game are being changed in the middle of the game.

In the Senate and the House, the rules are that the conferees are not allowed to include in the conference report any matter that was not submitted to the conference by either House. This avoids the possibility of conferees including legislation that would not pass either one House or the other on its own and forces the Congress to reach a consensus on controversial legislation. This process has served the Senate well for more than 200 years.

But the Republicans in Congress and the White House simply do not care about rules and they break them when it suits their interests. This conference report violates Senate rules on scope and is a cynical attempt to leverage support for funding our troops at war in order to include numerous extraneous items for special interests that could not pass the Senate on their own.

They have included—and we all know what this is about—the authority for oil companies to drill in the Alaska Wildlife Refuge, I say to the American people, that this year are making \$100 billion. But that is not enough. This abuse of power will have long-term ramifications in this body and is as bad or worse than anything ever attempted before, including the nuclear option. But in the future, if this goes forward, any matter, including nominations of a Secretary of State—you could limit debate for our giving consent on a Secretary of State to 20 minutes equally divided. All you have to do is stick it in a conference report.

There has never been an attempt in the Senate like this to similarly abuse our practices. When they have occurred, they have been ruled out of order or the leaders of the respective parties in this body have said you are going too far. The Senate has a series of precedents prohibiting bootstrapping a procedural fix in the same bill that violated the particular rule. Those precedents should be applied here to prevent this abuse of practice. If this practice is allowed to stand, then the Republican majority, or any majority, can change the rules in the Senate procedure prospectively in a conference committee without any say by the minority party by a simple majority vote on an unrelated conference report.

To show the cynicism of this whole charade, in the same conference report they reverse the rule. Now, try that one on. These rules mean nothing. It is like a game of Monopoly with grade school kids. But this is the Senate. It is not a Monopoly game.

This next few days is going to take longer than a Monopoly game, and some of those take a long time. If the rules are going to be played with—and they are being played with—then they are going to have to follow every rule. If you want a vote on a nomination, then invoke cloture on it.

This is a dark day in the history of the American constitutional form of government.

We become the House of Representatives. The Founding Fathers didn't want two House of Representatives. They wanted a bicameral legislature. But we become the House of Representatives, and the possibilities are endless in an institution that exists to forge a consensus and not act on the whims of whichever majority party is in control at the time. We become similar to the House of Commons. Whoever has the most votes wins. We haven't worked that way for 216 years.

This abusive practice will allow any majority to alter any rule at any time for the consideration of any measure to advance its short-term political interests and will change the very nature of the Senate.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

---

 ORDERS FOR MONDAY,  
 DECEMBER 19, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Monday, December 19. I further ask that following the prayer and pledge, the mourning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

---

 PROGRAM

Mr. FRIST. Mr. President, tomorrow we expect to have the remaining conference reports from the House of Representatives. Much of the activity tonight and all of the activity over the course of the day has been the generation of those conference reports. Since neither of those are going to be available to us this evening, there is no reason for us to remain in session. We will turn to one of those conference reports in the morning and hopefully get closer to finishing our work before Christmas.

---

 ENROLLED JOINT RESOLUTION  
 SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on today, December 17, 2005, during the adjournment of