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Senate

The Senate met at 9:30 a.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.

We receive this day from You, our God, with all of its uniqueness. Thank You for the fresh possibilities and opportunities. Use our lawmakers today as a creative force for good. Give them the discernment to see what new thing You are doing in our day, and the willingness to receive Your guidance. Remind them that to whom much is given, much is expected. May Your love reach out through them to touch our hurting world.

Lord, increase our hunger and thirst for righteousness and freedom.

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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, following the time for the two leaders, we will have a brief period for closing remarks related to S. 2271, the PATRIOT Act amendments legislation. The vote on passage of that bill is scheduled for 10 a.m. this morning. Immediately following that vote we will recess in order for the Senate to proceed to the House of Representatives for the joint meeting. The purpose of that 11 a.m. joint meeting is to hear an address by the Prime Minister of Italy. We will return to business following that address at 12 noon to continue work on the PATRIOT Act. We will have a cloture vote on the underlying conference report to accompany the PATRIOT Act legislation.

There are two additional procedural votes that may be requested from the other side of the aisle. We should not need those. I hope we do not have to proceed with those votes so we can expeditiously proceed to the cloture vote. If all of these votes are necessary, we could have three consecutive votes around noon today.

Once cloture is invoked, we wish to work out a time for the adoption of the PATRIOT Act conference report with no further delay.

In addition to the PATRIOT Act, we are working on a process to consider the LIHEAP bill introduced by the senior Senator from Maine. Yesterday I filed a cloture motion on the motion to proceed to that bill. I hope that will not be necessary, but I will continue to consult with Senators about a process that allows the Senate to vote on the underlying LIHEAP issue. In the meantime, this cloture vote would occur tomorrow unless some other agreement is worked out.

Again, I remind our colleagues to be prompt for this morning's vote so we can recess on time and proceed to the joint meeting.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

SENATE SCHEDULE

Mr. REID. Mr. President, I hope it is not necessary to have cloture on the LIHEAP matter. It has been cleared on our side and I understand the distinguished Senator from Tennessee is doing everything he can to have it cleared on his side. If the cloture vote is necessary, we will move forward as rapidly as possible. It is something we need to do. Both Senator FRIST and I have committed to move this bill as quickly as we can. I hope that can be done.

Mr. FRIST. Mr. President, could I ask, through the Chair to the Democratic leader, to express an opinion first, and that is we absolutely have to proceed with this pensions legislation. I know my distinguished colleague has come to the floor and said certain things about why we are not proceeding to conference, but it does come down to the fact that in November we passed this bill and the House passed it about a month later. At that point in time I said the conferees would be seven and five. As the Democratic leader knows, that is, after consultation—with consultation to the Democratic leader—the prerogative of the majority leader. I have been consistent with that.

We have waited a couple of months for a response and the Democratic leader has given us a response, but the response is that it is unacceptable, we need more people—because of things going on within their caucus.

I think it is time to stop—both. Everybody stop playing games and let's get to conference. It is an important issue. We had this April 15 deadline. We finished work on the floor now 3 months ago, and yet we had this bickering about the number of conferees. I know it is tough. We have been in conversation about what those numbers should be. It is going to be 7 to 5. And it is tough. The tax reconciliation bill we just did was 2 to 1. It is always tough, telling our fellow Senators that, no, you can't be on this conference report because we want a reasonable number of people.

I would make another plea that we proceed, that the other side of the aisle

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

appoint their five. We are ready to appoint our seven. We could go to conference this afternoon. We could address the issue. It is alleged either that there are other sort of motivations on our side or that we are not interested in this pension bill. It is gamesmanship and partisanship and it is wrong. It is time to get to the bill itself. We care about it. It is important to the American people. We have done the work on the Senate floor. We have the number of conferees. My seven are ready to go and I make another plea to the Democratic leader to step up and do what the American people expect, appoint conferees and go to conference.

Mr. REID. Mr. President, I have some remarks I was going to make on the pension conference and I will do that. But in response to my friend, the majority leader, partisanship is in the eyes of the beholder. We believe this conference is so important. It involves the jurisdiction of two committees, Finance and HELP. This is a Senate conference. It is not a Republican conference or Democratic conference, it is the Senate. The Senate is going to be represented in conference. I suggest to my friend, the majority leader—he came to the floor last week and suggested, rather than 8 to 6, which I suggested, that it would be 9 to 6.

We could resolve this very quickly. I would be happy to work with nine Republicans and seven Democrats—the two-vote majority we have agreed with. That is fine. The Senate has 55 Republicans and 45 Democrats. But I don't think it is unfair, and I don't think it has any partisanship involved. We have worked very hard from the very beginning on this bill to not have a partisan bill. I worked very hard, personally, as did Senator KENNEDY and Senator BAUCUS, to do what we could to eliminate extraneous amendments and we did that. It was not easy, but we did it. That bill got out of here very quickly. It passed; 97 Senators voted for this legislation.

Maybe it solves the problems to go 9 to 7 rather than 8 to 6. I am willing to be reasonable in this. I think I have been. But I do not think it is being unreasonable; I do not think it is being partisan. If I suggest, with two major committees on a very complex piece of legislation, that we have six Democrats representing the Senate in the conference, I don't think that is asking too much.

I have had calls from my friends downtown, people who represent interested parties. I have told my friends we are ready to go to conference—yesterday. All we want is to have a fair makeup of the conferees.

I ask the distinguished majority leader to reconsider. This 7 to 5—there is nothing set in stone that that is the way it should be. We have had conferences where we have had 27 to 23 conferees representing the Senate in a conference. So I don't think it is asking too much to have 14 Senators, involving two of the most important committees in the Senate, to go to conference with the House.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, it is apparent where we are. What I do not want to see happen is that this escalates into comments from the other side accusing us of not caring about this bill. We have led on this bill. We finished it in November. The House finished it in December. Right after that I said the ratio will be 7 to 5. It is an internal problem within their caucus that we have to address and that is what leadership is all about—in terms of picking five people and picking seven people and then proceeding to conference.

It is almost as petty that it plays into this pattern of obstruction. It is what is going on. I went through my whole opening there—we have been on this PATRIOT Act now for weeks and weeks with procedural move after procedural move after procedural move on a bill we know is going to pass overwhelmingly.

When you see what happens there, and then you see this postponement and obstruction on a pensions bill we care passionately about, that the American people care about, that hundreds of thousands of people's futures depend on, that is disturbing. We have to step above it. That is what the American people expect us to be doing.

I am concerned. The Senate Democrats are refusing to go to conference with 7 to 5. They have had 2 months to address this within their caucus. I proposed if you can't appoint five and you can't convince five people to represent you, then we will go to six and then we are going to go to nine. That will be a counterproposal. If that is unacceptable, go back to 7 to 5.

By precedent, it is the majority leader who can set the numbers, and the numbers do vary all over the place. We set it at 7 to 5 from day one and it is 7 to 5 again today. I understand there may be a legitimate dispute on the other side of the aisle. You have too many people who want to be on this conference and decide who gets to serve. But I am beginning to think—I think it is becoming apparent to outside people who are interested in this bill—that this is fitting into a pattern of more postponement, more delay, more obstruction. What I think is unfair and wrong is to try to turn that and say it is because we don't care about pension legislation.

Anyway, we could go on and on forever. We will talk more about the details of this. Let's get on with it. The American people deserve more. This is petty politics and it is time to rise above it.

Mr. REID. Mr. President, as I said a few minutes ago, partisanship is in the eye of the beholder. Obstruction is in the eye of the beholder. I think if this were a jury out there, they would say: I heard Senator REID say he is willing to go to conference in a minute or two. What he wants is to have the conference have six Democrats and eight Republicans. Is there anything obstructionist about that? The distinguished majority leader talks about problems with the Senate Democrats. There is no problem with the Senate Democrats. We want to go to conference. But it appears to me maybe this is all a ploy not to have a bill.

It is not unreasonable, when you have the Finance Committee and the HELP Committee, to say there should be three from Finance and three from the HELP Committee. Then, to show how unreasonable this is, the majority leader says: Well, I will have nine and you have six.

I would say to a jury, if we were talking to a jury: Who is more reasonable? But it all boils down to the fact that another day has gone by and the Senate has been unable to appoint conferees to the pension reform bill. We have millions of Americans worried about their pensions. This legislation will help and we need to get it moving.

Once again, let me be very clear. We want to go to conference. We can name conferees right now and send the bill to the House so they can name their conferees.

We are not interested in delaying the bill. We support it and want it to go to conference. Delaying the conference on pension reform has real consequences.

Each day that there is a delay in naming conferees is another day that employers don't know what rules they will need to follow in funding their pension plans.

This uncertainty could lead some employers to decide to discontinue their pension plans. We have seen several companies make that decision recently. A delay in moving forward with this bill could only exacerbate this trend.

I am coming to the conclusion that maybe the majority does not want this pension reform bill.

Each day we delay is another day of uncertainty for those employers who offer so-called ''cash balance'' pension plans.

Conflicting legal decisions on the applicability of age discrimination rules on these plans have forced some sponsors to drop their pension plans. The Senate's inability to move forward with this legislation also delays improvements for workers whose employer converts to a cash balance plan.

Each day that we delay is another day that employees will be left in the dark.

Each day we delay is another day that employees will be prevented from diversifying away from employer stock in their 401(k) plans.

This change is an outgrowth of the situation surrounding the collapse of Enron where, as we speak, ex-Enron officials are in criminal courts. That change is an outgrowth of their situation, where employees were prevented from selling company stock which they held in their retirement plans. Each

day that we delay is another day that workers would not get transparent financial information on their pension plans. Each day we delay is another day that benefit protections for divorced and surviving spouses aren't made.

Each day that we delay is another day that many of our Nation's airline employees must wait to see if Congress will provide their industry the relief that will allow them to keep their pensions.

The only thing preventing us from appointing conferees is an agreement on the size of the Senate's delegation. The majority leader insisted on limiting the delegation to 12 Members, 7 Republicans and 5 Democrats.

We agree with the two-vote margin. We don't like it, but we agree.

We believe that limiting the number of Democrats to five unnecessarily shortchanges not only Democrats but the entire Senate of the expertise that will prove successful in reaching agreement with the House of Representatives on a bill that can attract a strong majority of support in the Senate.

I repeat. This is not a Senate Republican conference, it is a Senate conference.

We are not contesting the Republicans' desire to have a two-vote advantage when we get to conference, but we believe it is important to have each committee adequately represented.

The majority leader has offered to expand the delegation by one but only if he gets two additional Republican conferees. He said: I will give you one Democrat, but I want two. That is the 9-to-6 ridiculous proposal that has been made. It doesn't have to be 7 to 5. It can be 8 to 6, it can be 9 to 7. I have no problem in selecting people to go on the conference. I certainly don't think it should affect the majority leader. If he doesn't like 8 to 6, let him put another Senator on. Have it 9 to 7.

All we are asking is that a sufficient number of conference, conferees are appointed to the conference. Having 14 conferees in the ratio of 8 to 6 gives the Senate the best opportunity to bring back a bill from conference that will garner support from the Senate.

Let the RECORD be very clear. Democrats have worked closely with our Republican colleagues every step of the way on this legislation. The result has been a very strong bipartisan bill.

I hope that the majority leader will consider his opposition to our request so we can move forward with this conference.

Together, we can improve our Nation's pension system and make America a better place.

RESERVATION OF LEADER TIME

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

USA PATRIOT ACT ADDITIONAL REAUTHORIZING AMENDMENTS ACT OF 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2271, which the clerk will report.

The legislative clerk read as follows.

A bill (S. 2271) to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

Pending:

Frist amendment No. 2895, to establish the enactment date of the act.

Frist amendment No. 2896 (to amendment No. 2895), of a perfecting nature.

The PRESIDENT pro tempore. Under the previous order, the time between now and 10 a.m. will be equally divided.

Who seeks time?

Mr. GREGG. Mr. President, 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.

Mr. CRAPO. I ask unanimous consent that the order for the quorum call be rescinded.

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

All time has expired.

The question now is on agreeing to the Frist amendment numbered 2896.

The amendment (No. 2896) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Frist amendment numbered 2895, as amended.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 18, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—81

Alexander	Collins	Hutchison
Allard	Conrad	Inhofe
Allen	Cornyn	Isakson
Baucus	Craig	Johnson
Bayh	Crapo	Kennedy
Bennett	Dayton	Kerry
Biden	DeMint	Kohl
Bond	DeWine	Kyl
Boxer	Dole	Landrieu
Brownback	Domenici	Lautenberg
Bunning	Dorgan	Leahy
Burns	Ensign	Lincoln
Burr	Enzi	Lott
Carper	Feinstein	Lugar
Chafee	Frist	Martinez
Chambliss	Graham	McCain
Clinton	Grassley	McConnell
Coburn	Gregg	Mikulski
Cochran	Hagel	Murkowski
Coleman	Hatch	Nelson (FL)
Nelson (NE)	Sessions	Sununu
Pryor	Shelby	Talent
Roberts	Smith	Thomas
Salazar	Snowe	Thune
Santorum	Specter	Vitter
Sarbanes	Stabenow	Voinovich
Schumer	Stevens	Warner

NAYS—18

Akaka	Feingold	Murray
Bingaman	Harkin	Obama
Byrd	Jeffords	Reed
Cantwell	Levin	Reid
Dodd	Lieberman	Rockefeller
Durbin	Menendez	Wyden

NOT VOTING—1

Inouye

The amendment (No. 2895) was agreed to.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRIME MINISTER OF THE REPUBLIC OF ITALY

RECESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate stand in recess.

The PRESIDING OFFICER. Without objection, it is so ordered. And under the previous order, the Senate will stand in recess until 12 noon for a joint meeting of Congress.

Thereupon, the Senate, at 10:42 a.m., took a recess, and the Senate, preceded by the Assistant Sergeant at Arms Lynne Halbrooks, the Secretary of the Senate, Emily J. Reynolds, and the Vice President of the United States, RICHARD B. CHENEY, proceeded to the Hall of the House of Representatives to hear an address delivered by the Honorable Silvio Berlusconi, Prime Minister of the Republic of Italy.

(The address delivered by the Prime Minister of the Republic of Italy to the joint meeting of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

At 12:01 p.m., the Senate reassembled and was called to order by the Presiding Officer (Ms. MURKOWSKI.)

The PRESIDING OFFICER. The majority leader.

USA PATRIOT ACT ADDITIONAL REAUTHORIZING AMENDMENTS ACT OF 2006—Continued

Mr. FRIST. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. FRIST. Madam President, I ask unanimous consent that following the passage vote, the Senate vote on the motion to proceed to the motion to reconsider the vote by which cloture was not invoked on the conference report to accompany H.R. 3199; I further ask consent that if the motion to proceed is agreed to, the Senate vote immediately on the motion to reconsider and, if agreed to, then the Senate vote on the motion to invoke cloture on the conference report.