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## House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, September 6, 2006, at 2 p.m.

## Senate

THURSDAY, AUGUST 3, 2006

The Senate met at 9:30 a.m. 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.

Eternal Father, who cares for us all, we praise You for Your wisdom and might. Thank You for Your word that guides us, for Your creation that sustains us and for Your redemption that saves us.

Place us on the paths that lead to abundant living. Today, strengthen and inspire our lawmakers. Empower them to dedicate their lives to Your service. Enlist them in the ranks of those who love You without ceasing and serve You without fail. Give them the wisdom to change the bad to good and the good to better.

Help us all to be grateful for the blessings and benefits You benevolently bestow upon us.

We pray in Your marvelous 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, August 3, 2006.

*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, in a few minutes, we will return to the Department of Defense appropriations bill. We have several votes on amendments and the two managers were able to work out language on a number of other amendments that were agreed to by consent. I expect another full day on the Defense bill, with votes on amendments, as necessary. We will remain in session later into the evening to finish the appropriations bill tonight. That is the goal. The two managers have patiently waited for Senators to bring their amendments forward. I would counsel them to bring the bill to a

close if Senators are not prepared to come down and offer their amendments. Again, the managers are doing a superb job. We need to get Members to move ahead with their amendments and make sure they are appropriately offered.

Last night I filed a cloture motion on the motion to proceed to the Family Prosperity Act, which is the death tax, the minimum wage, and the extenders package. That vote will occur tomorrow morning, unless we can finish the Defense bill earlier and we can get an agreement to change the timing of that cloture vote.

Therefore, I encourage Members to remain available for the next 24 to 48 hours as we consider these two important measures, along with a very important pensions bill which we must act upon before we leave.

Let me turn to the Democratic leader briefly. Schedulingwise, we have a busy day, a lot today and tomorrow. I have a couple of things I want to discuss, including commenting on the bill for tomorrow morning and also trying to go to the child custody protection.

Anything else on the schedule to address?

Mr. REID. No.

UNANIMOUS CONSENT REQUEST—H.R. 748

Mr. FRIST. Mr. President, let me go to the Child Custody Protection Act. This is a bill that earlier this week I asked unanimous consent to go to conference on, a bill we passed last week with strong bipartisan support, 65 to 34. The assistant Democratic leader objected to this request on the grounds

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



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that he wanted assurance that language offered in an amendment by Senator BOXER would be retained. He was referring to the only amendment that the Senate agreed to on that bill. This amendment clarifies that a father who victimized his daughter by incest would not be able to transport her across State lines for an abortion or to sue anyone who did. This amendment offered by Senator BOXER and cosponsored by Senator FEINSTEIN passed the Senate 98 to 0. I obviously voted for it. It improved the bill. I fully support the amendment.

To accommodate the concern that was expressed, I pledged I will not support a conference report or any consideration of a conference report that does not retain that Boxer-Ensign language we agreed to July 25. I take the Democratic leader at his word and want to address his concern. Thus, I make it clear I give my word that the language he wants will be included and his request will be met. I trust that by addressing his stated concern we will be able to move forward.

I now ask for unanimous consent the Senate immediately proceed to consideration of H.R. 748, provided that all after the enacting clause be stricken, and the text of S. 403 be inserted in lieu thereof, the bill then be read the third time and passed, the Senate insist on its amendment, request a conference with the House, and the chair be authorized to appoint conferees with the ratio of 3 to 2.

Mr. REID. Reserving the right to object, first of all, I voted for this legislation. I support it. However, there are Senators on this side of the aisle who do not. Senator BOXER appreciates the assurance that has been given to her through the public statement of the leader. She has heard from others that does not bind what the House would do with this piece of legislation.

That is one of the problems we have when you spend so much time on issues that are taking far too much time. We talked about the estate tax endlessly. There are ways, even though there are people on this side of the aisle who object to going to conference, that this matter can be taken to conference. We pass bills all the time by sending a bill to the House and having them accept it. If that does not work, there are procedural methods that can be taken.

The bill passed by 70 votes or even more, far more than enough to overcome any procedural hurdles anyone could stand in the way of. Steps just have to be initiated.

As a result of that, on behalf of Senator BOXER and others, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. FRIST. Mr. President, I shortly will move to a statement on the Family Prosperity Act, but both of my distinguished colleagues from Nevada are here. If I could briefly yield to my distinguished colleague, the sponsor of the bill we were just talking about.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, the Child Custody Protection Act is an important piece of legislation. During the debate, we heard from people from around the country that this is an important piece of legislation, and they want to see it move forward. We had heard the last couple of years that neither side of the aisle would cooperate with the other side. During the child custody debate, we cooperated. There was an agreement between the leaders. We had a certain number of amendments. The whole tenor of the debate, on a very emotional issue, was cooperative. Even though we disagreed on the issue, there was cooperation. I worked with Senator BOXER on the amendment. We had several amendments. We ended up getting it down to basically a Boxer-Ensign amendment that strongly improved the bill. I asked her if she wanted a voice vote on the bill. She said no, she wanted a recorded vote to make sure it stayed in conference. I told her, that is great, we will have a recorded vote. Saying she wanted that recorded vote to stay in conference indicated to me that there would be cooperation to go to conference. We had a recorded vote. It is an amendment I feel strongly about and want to see it stay in the bill in conference.

To now block, via a parliamentary move, an important piece of legislation simply because we are at the end of a session and the other side knows we do not have the time to go through all the procedural maneuverings is outrageous, especially because this Senate operates with some kind of collegiality. When you are cooperating, you should cooperate.

There were accusations made that we should not bring up this legislation because we don't have the time and we should be talking about more important issues. What the other side is doing, by some Senators blocking this, is saying you should spend more time on this issue. If they were truly genuine in what they were saying, that we shouldn't spend too much time on this issue, then let's go to it.

It is a simple unanimous consent agreement that doesn't take any more floor time. It is boom, it is done, we are done with this bill, and we can go to conference and work out the differences. We will strongly support the Senate side the way the bill came out of the Senate. There may be some small changes we have to make in conference, but the bottom line is we should move forward with this legislation.

The instructions being put out by the other side are wrong. I hope the American people can get involved and let their Senators know they are unhappy about it.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, one final issue to address is with regard to tomorrow's vote on the Family Prosperity Act. Tomorrow, we will be vot-

ing on whether to proceed to the consideration of the Family Prosperity Act, which is the compromise—I emphasize compromise—permanent solution to the death tax; second, extending important tax provisions such as college tuition deductions, research and development, sales tax deductibility; and, third, raising the minimum wage with a 40-percent increase.

This Senate will decide tomorrow morning whether these issues are sufficiently important to people across this country who are paying attention or whether they are not sufficiently important to bring to the Senate. That is what this vote is all about.

A "yes" vote tomorrow morning to proceed to the bills tells the American family that we are listening to you, that we are with you, that we hear you, that we understand your daily challenges. A "no" vote to proceed to the bills tells the American family these issues are simply not sufficiently important for the Senate to consider, a permanent solution to the death tax, extending those tax provisions, raising the minimum wage.

Friday's vote—tomorrow morning—is an important vote. I made it very clear that we will not split up the bills. I made it clear this is a package and we will move to proceed to them as such. Each Senator will, of course, be accountable to their constituents over the recess for how they vote, either with the American family or against the American family.

Earlier this week, one of my distinguished colleagues came to the Senate and quoted President Truman and his whistlestop campaign and the "do nothing Congress." Why? Because my colleague does not believe the issues addressed in this particular bill, the Family Prosperity Act, are matters of importance to the American people. Some do not believe eliminating the death tax is important to the American people, some do not believe extending tax relief is important to the American people, and some don't believe raising the minimum wage is important to the American people.

Yet the majority of the American people believe each one of these issues is important and does deserve consideration. If you look at the permanent death tax, roughly 70 percent of Americans support repeal of the death tax. This is not repeal. We brought that to the floor and we got 55 votes, so we are moving in that direction, but that is not sufficient. So we have a compromise permanent solution. This is an issue that touches the lives and livelihoods of Americans from Washington, DC, to Washington State.

Back home in Tennessee, Ann Bennett's family has farmed the same piece of land in Kingsport for the past 70 years for one generation and the other two generations make it a total of 130 years. Already, they have paid over \$100,000 in death taxes so her father could inherit the farm from his father. When Ann's father passes on, Ann

and her sisters have to come up with \$2 million just to hold on to that family farm.

At its core, the death tax is a cruel and unfair burden inflicted on America's small businesses, on farmers, and on families during a time of grieving and pain. It punishes everyday Americans such as Ann Bennett by forcing them to give up businesses that their loved ones worked their entire lives to build and to pass on.

Whether it is farming or ranching or construction, they are all capital intensive, they are all labor intensive. But the cost of passing these enterprises on to future generations in one piece is often prohibitive.

Partly as a result of the death tax, about 90 percent of family businesses don't survive for a third generation.

Even those who manage to pass their family business on are adversely affected. Instead of spending money to innovate—to grow their businesses or to invest in new jobs that help our economy—they pay the Federal Government.

We have allowed time to address many pressing issues already this Congress. We have acted. We have done something.

And now it is time for us to do something about the death tax. It was imposed as a temporary measure during World War I. But since then it's managed to wedge its way tightly into our Tax Code.

Americans have waited long enough for Congress to take the death tax burden off their backs with a permanent solution. Today is our chance to act.

Similarly, for nearly 20 years Tennesseans waited for Congress to restore State sales tax deductibility. It is one of the provisions in the so-called "tax extenders".

From 1986 until 2004, hard working Tennesseans were placed at a disadvantage—simply because Tennessee was one of seven States that choose to raise revenue primarily through a sales tax instead of an income tax.

Congress and President Bush acted in 2004 to restore the State sales tax deductibility—and to restore fairness to Federal tax policy.

But the provision expired last year—and more than 640,000 Tennessee families will suffer if the tax relief isn't extended. That is unacceptable.

The State and local sales tax deduction is just 1 of more than 20 tax policy extensions included in the Family Prosperity Act.

These extensions will keep taxes low, helping Americans find and keep work. They help families tackle the increasing cost of living. And they strengthen the economic security of hardworking Americans everywhere.

To me, that is important.

The final piece of the Family Prosperity Act increases the minimum wage. Specifically, it raises the minimum wage rate \$2.10 over 36 months in three increments of 70 cents. That is a 40 percent increase in the minimum wage.

It includes a tip credit provision that protects employee wages at their current level. In the seven States where there is no tip credit, this bill would allow the credit to apply only against future State increases in the minimum wage.

It would not result in any workers' wages being lowered. Some have said otherwise, but that is simply not the case—and colleagues should not be misled by opponents of this bill into believing something that is simply not true.

For young workers entering the job market for the first time—the minimum wage hike is welcome news. We're helping them meet the increasing cost of day-to-day living.

As I said earlier this week, this—the Family Prosperity Act—is the last chance—the last chance—the Senate will have during the 109th Congress to give these workers a boost.

There will always be new, emerging challenges to address here on the Senate floor. And it is our responsibility to address them—to deliver effective solutions in a timely manner.

But it is also our responsibility to address those challenges that compound over time—the challenges and burdens that develop slowly and affect Americans with latent urgency.

The death tax is one of those issues. So are tax relief extenders and raising the minimum raise.

That is why we are taking up the death tax once again. That is why we are extending key tax relief provisions for other 2 years. And that is why we are raising the minimum wage.

We are not "doing nothing." We are doing something—about issues that concern hardworking Americans across the Nation.

Mr. REID. Mr. President, I try to read the newspapers very well every day. I am one who reads the editorials. I read people such as E.J. Dionne, who represents important, progressive writers. But I am a fan of Robert Novak. That may surprise someone, but I read Robert Novak's column whenever it appears. It may also surprise people to know that I am a friend of Robert Novak. I don't agree with him much of the time, but some of the time I do.

I want to start my presentation this morning following the suggestion made by the majority leader. In papers today all over the country is the column of Robert Novak. Among other things, he said—because of the legislative proposals we have before us that the leader says is our last chance—because of this "Republicans cast doubt on what they really believe."

He goes on to say, among other things, that "A lame-duck committee chairman"—we all know that is Chairman THOMAS—"overpowering Congress connotes weak leadership in both the House and the Senate and a President detached from legislative activity."

I couldn't say it better myself. I give that to Bob Novak.

He goes on to say that Thomas, last week, combined them with the extend-

ers bill—minimum wage and estate tax legislation.

He went on to say:

Arrogant, acerbic and authoritarian, the chairman was going out with a bravura performance [refusing to walk across the Capitol to meet with Senators].

He refused to come to the Dirksen building.

He said further:

Last week Senators cooled their heels for hours while waiting for Thomas and other House Members to attend a meeting.

And among other things, he said, "But Grassley"—Chairman of the Finance Committee here in the Senate—"was undercut by Senate Majority Leader Bill Frist's support of the Thomas plan."

As a young man I had my first trip to New York City. That is a long way from Searchlight. But I was there among the great big buildings. I was fascinated by some people on the street. They had little containers on a table there. They were asking people for a few cents to find out where the money was. I watched that. I watched people come up and give them money. It was magic. It was a shell game. I had never seen one before. The guy in the shell game never lost. I don't know how he did it. He would move these things around right in front of us. And when you picked it up, it wasn't there.

That is what we have going on here. This is a shell game with fancy names such as "Family Prosperity Act." Is that something similar to the Clear Skies initiative that pollutes our skies? Is that something similar to Leave No Child Behind but leaves all of our children behind? Is that something similar to the budget deficit reduction plan which increased the deficit?

This is a shell game. I am going to have a more complete statement before we vote on this.

I wish to make a couple of comments regarding my distinguished colleague's assertion. He gives the name of somebody on a farm.

One of the sitting Senators from the State of California, with 35 million people—California feeds most of America and other parts of the world. It is the agricultural capital of the world, the great Imperial Valley and other places in California that produce wonderful fruits and vegetables.

The Farm Bureau, which supports passage of the repeal of the estate tax for reasons no one can understand because the California Senator asked the head of National Farm Bureau: During the past 10 years, give me the name of a farmer or farmers or ranchers who lost their farms as a result of the estate tax. Zero, none. That is a myth.

I will bet every Democratic Senator thinks we should do something to change the estate tax a little bit.

When I was in law school, the ceiling was \$60,000. It is now \$2.5 million—whatever it is, an escalating level, but it is a lot more than it was then.

I am terribly disappointed with the situation we have in the Senate today.

This should have been the day we were doing our victory laps prior to going home for the August recess. We should have felt good. I felt good. We were finally going to be able to do something about coastal erosion, to restore the coasts, especially around New Orleans. I have been worried about that. I was twice chairman of the Environment and Public Works Committee. We finally had an opportunity, and what do we do? We should be leaving feeling good. We should feel good today about what Senators BAUCUS and GRASSLEY did for us in taking care of the pensions bill, which directly affects 45 million people and indirectly affects 145 million Americans. It was done. It was signed.

That is what Robert Novak is talking about. It was done—the pension bill was done. It had the extenders on it.

That is when Chairman THOMAS, as indicated here, showed that he could outsmart the House leadership and the Senate leadership. And as indicated here, GRASSLEY was undercut by Senate Majority Leader BILL FRIST in supporting the Thomas plan.

It was all done. It would have taken an hour here. The extenders would have been done, and the pension bill would have been completed. It was done, agreed upon by the House and Senate conferees.

We should have been leaving today feeling so good about that. We should be leaving today feeling good about having given the money to our beleaguered troops, which is so badly needed.

We learned this week that a month ago the President got a message from his generals that the war machine was worn out. They wanted \$17 billion—yesterday—to refurbish the fighting forces we have. Our valiant soldiers are fighting, but they are doing it with equipment that needs repair.

We learned a day later from the head of the National Guard that they are underfunded by \$34 billion. The Nevada National Guard followed up by saying, as a number of our Guard around the country said—a lot of our equipment is still in Iraq.

We should have left feeling that we had completed work on the Military Construction bill and the Defense appropriations bill. But no; we have been jammed into this situation that we have here today.

Of course, we should have felt good about these extenders that now we have been threatened: We are not going to do them at all—which we know we will do before we leave. We are going to do them.

This should not be called the “trifecta” bill—as it has been referred to too often by my friends in the majority—but the “defecta” bill.

The minimum wage issue is absolutely so hard to comprehend. We know—and Bob Novak talks about it—the Republicans hate the minimum wage. He is the mouth of the conservatives. He says Republicans hate the

minimum wage. And they give us a bill so they can say “minimum wage”—but it is a pay cut for people in seven States. Then it is spread out over 3 years.

They couldn't bring themselves to do a pay increase right away.

The richest man in the world is named Warren Buffett. He has more money than all of the Saudi princes. He has \$34 billion in the bank, cash money. He is opposed to repealing the estate tax.

Bill Gates of Microsoft—he and his father are opposed to repealing the estate tax.

What I say about the “defecta” bill is let us vote on the motion to proceed right now—right now. Set it up and make it so each side will have half an hour of debate on it. Let us vote on the motion to proceed right now. We don't need to wait until tomorrow morning. We are ready to do it right now, so that we can get to work on the Defense bill, so that we can do the extenders; otherwise, we are just churning time.

Let us vote on it.

The Family Prosperity Act is for 8,100 in this country. It really is. That is how many this applies to with repeal of the estate tax—8,100 of the richest of the rich.

It is time to put the charade to bed. We are ready to end this circus. Let us have the cloture vote now so we can get on with the business of the American people. The Senate has already spent far too much time on the No. 1 priority of the Republicans. The road to “legislative heaven” of the Republicans is the estate tax repeal.

We have spent more time on this issue in this do-nothing Congress than anything else—far more time than we have spent on our troops in Iraq—on 8,100 families. Is this the legacy of the Republican majority, to spend all of our time on repealing the estate tax and threatening—threatening—Democratic Senators, Republican Senators, and the American people: Either do it with the “defecta” bill or we are not going to do anything?

We need to vote. We need a new direction in this country, and it should start right now.

Mr. President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

#### RESERVATION OF LEADER TIME

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

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 5631, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5631) making appropriations for the Department of Defense, for the fiscal year ending September 30, 2007, and for other purposes.

Pending:

Kennedy amendment No. 4802, to require a new National Intelligence Estimate on Iraq.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alaska.

AMENDMENTS NOS. 4777, 4821, 4789, 4837, 4823, AND  
4838

Mr. STEVENS. Madam President, I have another managers' package that has been prepared and has the approval of Senator INOUE and myself. Let me state it for the Senate.

It contains amendment No. 4777, for Senator SMITH, regarding landing systems; amendment No. 4821, for Senator LANDRIEU, regarding first-aid kits; amendment No. 4789, for Senator STABENOW, regarding Stryker combat vehicles; amendment No. 4837, for Senator BENNETT, regarding all-terrain vehicles; amendment No. 4823, for Senator DURBIN, regarding the training of military nurse educators; and amendment No. 4838, for Senator MCCAIN, regarding grants. These have been cleared by both managers. I send this managers' package to the desk and ask unanimous consent that it be considered immediately, the amendments be adopted immediately, and the motion to reconsider be laid upon the table.

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

The amendments were agreed to, as follows:

#### AMENDMENT NO. 4777

(Purpose: To make available from Research, Development, Test and Evaluation, Air Force, up to \$4,000,000 for the Transportable Transponder Landing System)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. Of the amount appropriated or otherwise made available by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE”, up to \$4,000,000 may be available for the Transportable Transponder Landing System.

#### AMENDMENT NO. 4821

(Purpose: To make available from Operation and Maintenance, Marine Corps Reserve, up to \$3,500,000 for the Individual First Aid Kit)

At the end of title VIII, add the following:  
SEC. 8109. Of the amount appropriated or otherwise made available by title II under the heading “OPERATION AND MAINTENANCE, MARINE CORPS RESERVE”, up to \$3,500,000 may be available for the Individual First Aid Kit (IFAK).

#### AMENDMENT NO. 4789

(Purpose: To make available from Research, Development, Test and Evaluation, Army, up to \$8,000,000 for the Advanced Tank Armament System)

At the end of title VIII, add the following:  
SEC. 8109. Of the amount appropriated or otherwise made available by title IV under