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Senate

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.

O God, who is the strength of our lives. Let us live to tell of Your wondrous works. How magnificent are Your acts, O Lord. How deep are all Your thoughts. You will not give Your glory to another, for You are omnipotent. Help us to endure the discipline of Your loving correction. Empower us to decrease, so that Your spirit may increase in our lives.

Bless our lawmakers today. Give them an eternal perspective on the myriad issues they face. Renew their minds with truth and sharpen their skills in each important area of living. Bless the members of their staffs who labor into the evenings for freedom's cause.

Bring healing to the sick and comfort to those who mourn. Inspire us all to sow bountifully that we may reap bountifully. Blessed be Your Name forever and ever, for wisdom and power belong to You. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, 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, June 17, 2004.

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, this morning we will resume consideration of the Defense authorization bill. Under the order, Senator BOND will offer an amendment relating to energy employees, and I understand there may be a modification to the amendment. Therefore, the amendment may be accepted without a recorded vote.

The chairman and ranking member also discussed the possibility last night of considering several missile defense amendments this morning, and I defer to the chairman as to what debate times will be necessary on these amendments after discussion with the ranking member. I do anticipate roll-call votes will be required in relation to these amendments.

We will have a very busy session today as we continue to make progress on the Defense authorization bill. I am pleased with the progress that is being made, though last night I did file closure on the bill as a necessary tool, in my mind, to facilitate and help bring the bill to closure.

We will continue to discuss the issue of how best to bring the bill to closure.

I am in constant discussion with the Democratic leadership and with the ranking member and the chairman as to how we can best finish this important bill. We will be updating the Senate over the course of the day as to our progress.

Once again, I remind our colleagues that we will continue to schedule votes on judges throughout each day's session. We will set votes on those judicial nominations as we set votes on the defense amendments over the course of the day. I do want to thank Chairman WARNER and Senator LEVIN for their tremendous work on the bill thus far, and I look forward to another very full and very complete day.

I will defer for a minute as far as the schedule goes.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

VOTING

Mr. REID. If I could ask, through the Chair, to the distinguished majority leader, it is obvious we have a number of amendments to dispose of. As we talked publicly last night with the two managers, we have four missile defense amendments over here. There will be at least two second degrees, maybe more, that will be offered on those amendments. As we have said, as soon as we see them, I am sure we can set out a reasonable period of time to debate them and vote on them, and we should get rid of these with—I do not mean that in a negative sense but move on past these in a fairly short period of time.

We also have indicated that Senator BIDEN wishes to offer the amendment that has been no secret around here to take some of the higher bracket tax cuts and use those moneys for what is going on in Iraq.

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



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Anyway, all of this stuff is fairly known now, what we have to do. I believe we can move through these at a fairly decent rate.

Senator LEVIN mentioned last night that people have been waiting for several days to offer amendments, and we have to make sure they have that opportunity. The main reason for rising now is to say I hope that—I should not say I hope; I guess it should be in the form of a question—on Monday that we are going to have some votes on some substantive defense-related amendments, and I do not know what time the distinguished majority leader wants to do that. If it is going to be at the regular time, 5:30, we should know that. If it is going to be earlier, we should alert our folks to that now. Because of certain things that also are quite known around here, we will not have votes tomorrow, unless the majority leader decides to have a cloture vote. Other than that, there will not be any other votes, I am very confident of that.

Does the majority leader have an idea whether he is going to move things up on Monday?

Mr. FRIST. It is absolutely critical that we make today a productive day, and I think we have a good plan for today. Tomorrow needs to be a productive day. The scheduled cloture vote for tomorrow would likely be the only vote tomorrow, and again I think we need to discuss that over the course of the day and then see what the plan would be for Friday and Monday. We will be voting Monday absolutely. We will probably do it later in the day. Again, we will defer to the managers about that.

We need to make Monday a very full and productive day if we are going to finish this bill.

Mr. REID. Mr. President, I want to make sure everyone understands that tomorrow will be a tremendously good day to offer amendments. There would be time to debate whatever they want to lay down, and even though there would not be votes scheduled on them tomorrow that would sure be a good way to get things done. Some Members have already expressed to me that they would be willing to lay down their amendments tomorrow. So tomorrow, in addition to Monday, should be a productive day on this legislation.

Mr. FRIST. I agree, tomorrow would be a great day to lay down amendments if they are absolutely necessary and important amendments, but for amendments we do not need to consider or that can be considered later, we do not need to lay down too many amendments tomorrow because I want to be able to finish this bill. But tomorrow is going to be a productive day.

MEDICAL LITIGATION REFORM

Mr. FRIST. Mr. President, I know we are going to go straight to the bill, but first I want to make a few comments on another very important issue, and

now during leader time is the most appropriate time for me to comment. It is an issue that is very close to my heart and an issue that has tremendous impact on people in every State.

I will speak to one State, that is Massachusetts, on the issue of medical liability.

It was just this week that the American Medical Association added another State—Massachusetts—to its growing list of States that can be classified as being in medical crisis because of out-of-control medical litigation system.

For several months, as we brought a series of bills to the floor to try to bring this issue to debate and to focus the attention of this body on it, we have been using the number of 19 States. Now it is 20 States in this great country of ours that are in medical crisis because of this single issue.

According to the AMA, access to quality health care is increasingly endangered. What this means is decreased access to doctors. If you need a doctor, if you are in an automobile accident or if you are a mom or future mom and you need an obstetrician, access to care is increasingly endangered due to a broken medical litigation system. It is a problem in all States and in at least 20 it is a crisis. It is spreading across the country and that is why I take this opportunity to at least mention it and shine a light on it once again. It is a problem, it is a growing problem, and we have a responsibility to address it.

Three weeks ago, I had a wonderful opportunity to present what is called the Shattuck lecture before the Massachusetts Medical Society. I had done my training in Massachusetts and I have tremendous respect for that organization. They report that the litigation crisis has become so severe in Massachusetts that numerous high-risk specialists, such as obstetricians, neurosurgeons or trauma surgeons, have reduced their scope of practice. This applies to 29 percent of general surgeons,—a general surgeon is the one who might come to the emergency room to sew up your child if they have a laceration—36 percent of obstetricians, 41 percent of orthopedic surgeons, and greater than 50 percent of all neurosurgeons. If you are in an accident and you are going to a hospital, you want a neurosurgeon there to evaluate and appropriately treat.

Those are the percentages of those who have said they are reducing their scope of practice. In other words, if you are a neurosurgeon, you might do elective cases but you might not put your name on the list to show up in the middle of the night to treat somebody. Why? Because your insurance would go from \$100,000 to \$300,000, just so you could have the opportunity to come in late at night to treat somebody. That is about as simple as I can say it. The problem is quality of care is being affected.

The facts in Massachusetts reflect a growing trend. I gestured going up. It

should be going down, because it is almost like a downward spiral that is occurring over the last several weeks and months and years. We have heard it again and again on the floor with anecdotes reinforcing what the medical societies are telling us, what hospitals are telling us, and what physicians are telling us, and that is that doctors are leaving and narrowing the scope of their practice. They are leaving the opportunity to deliver babies, maybe just to do the medical aspects of gynecologic care, or no longer taking calls in trauma centers, or they are moving to less litigious States.

I was in Pennsylvania a few months ago. I believe 1,400 doctors in the last 2 years have left the Philadelphia area and they cite the high medical liability rates they are paying as the No. 1 reason they are forced to leave. Many doctors are retiring from practice altogether.

Neurosurgeons and obstetricians are being hurt the most. If you talk to people in the emergency room or if you have friends, nurses, or technicians there, just ask them because emergency rooms are having an increasingly difficult time getting the high-risk specialists, and those are the people you want if an injury occurs. If driving home tonight you are in an accident, you want somebody there or someone who can get there very quickly. That is what is at risk.

I keep mentioning the doctors. It is not just the doctors; it is the patients who are ultimately hurt. The doctors probably will be OK. They will move and incomes can sort of adjust. It is ultimately the patients who are being hurt when health care is being threatened.

The good news is we know how to address the crisis. It is not just a problem that is getting worse that cannot be fixed. We actually know how to address the crisis. Commonsense comprehensive medical litigation reform, which has taken place in some States, has been proven to be overwhelmingly successful. It strengthens our system by addressing the abuses in the system. We want a strong tort system. We want to make sure medical malpractice is aggressively addressed. What we don't want are frivolous, unnecessary lawsuits that drive up the cost of health insurance for the physician, but ultimately the cost of health care throughout the system, and destroy the quality of the great health care that we do have in this country.

Being a physician, obviously this is close to my heart because I see it and I happen to be around physicians a lot and I happen to be around patients a lot. I am not going to give up on this issue. We are going to keep bringing it back again and again until we make headway on this increasing problem.

I don't know how many more States it will take. Massachusetts was added this week. I don't know how many more States we are going to have to add to this medical crisis before we act.