EXHIBIT 3

washingtonpost.com

Time Was GOP's Ally On the Vote

By David S. Broder
Washington Post Staff Writer
Sunday, November 23, 2003; Page A01

At exactly 3 a.m. yesterday, Rep. Richard "Doc" Hastings (R-Wash.), presiding over the House of Representatives, announced that time for debate on President Bush's Medicare reform and prescription drug bill had expired. "Members will have 15 minutes to record their votes," he said.

The forecast turned out to be wildly off the mark. It was nearly 6 a.m. when the longest roll call in House history ended, with Republicans cheering a 220 to 215 victory and embittered Democrats denouncing it as a travesty.

The 2-hour-and-51-minute ordeal -- more than double the previous record -- saw Democrats savoring the possibility of their biggest victory of the Bush years -- an apparent 216 to 218 rejection of the $400 billion plan -- for almost an hour. But in that final hour, the president, jet-lagged from his flight home from Britain, phoned recalcitrant Republicans from the White House, and his secretary of health and human services, defying custom, jawboned members on the floor.

Their exhortations, even when added to all the pressure and pleading from the usually efficient GOP leadership team, failed to crack a solid phalanx of more than two dozen conservatives who insisted they had not come to Washington to expand the popular but expensive Great Society entitlement program.

Several times, Speaker J. Dennis Hastert (R-Ill.) and his lieutenants were on the verge of conceding defeat and moving to reconsider the issue later, only to pull back and give their lobbying another try. In the end, they switched two of the conservatives by telling them of a Democratic legislative plot that may have been either fictional or real.

The outcome -- even more dramatic than the one-vote preliminary victory for the Medicare bill in the House last summer -- may have huge political ramifications in the coming campaign and beyond. Democrats -- as frustrated by the long count as they had been in 2000 by the 36-day aftermath to the presidential election in Florida -- denounced the process and the outcome. Rep. Steny H. Hoyer (D-Md.), the minority whip, said Republicans "stole" the victory through "undemocratic subversion of the will of the House." He vowed they would pay a political price when seniors examine the bill's contents.

But the president hailed the outcome and urged the Senate to add its stamp of approval, a step that would give Republicans bragging rights for the biggest expansion ever of a program that has been an icon of Democratic politics.

The debate opened with notable decorum, but tension mounted in the chamber as time passed.

Early in the evening, Republicans held a final caucus in the Capitol basement. Despite last-minute concessions on such issues as improved reimbursements for oncologists, Nancy L. Johnson (R-Conn.), the health subcommittee chairman, told a reporter, "We're not there yet."

Majority Whip Roy Blunt (R-Mo.) said in an interview last night, "We never thought we could win it just on the Republican side." In June, when the House passed its own version of Medicare-prescription drugs, 19 Republicans had defected, and it took lengthy efforts to squeeze out a one-vote victory.

The compromise House-Senate version up for a vote yesterday was even harder for some conservatives to swallow, because of features added to satisfy some Senate Democrats. Hastert said in an interview last night: "A lot of our folks, the hard-right guys, are not for Medicare. It's an entitlement they don't want to add on to. I had to convince them we had a chance really to reform Medicare and bend those cost curves so my kids don't end up paying 30 percent of their salaries for it."

One of the conservatives, Rep. Mike Pence (R-Ind.) said before the vote that the "hard-core" conservative opposition bloc had grown to 26, enough to sink the bill. But a leadership aide said that Rep. Calvin M. Dooley (Calif.), a middle-road Democrat who is retiring next year, had told Rep. David Dreier (R-Calif.) that if Republicans could show 208 votes from their side, "we'll give you 15" -- enough to pass it 223 to 212.

To Hastert, that suggested a majority of the House wanted the bill. But to pass it, he would have to deliver enough Republicans for the Democrats to come out of hiding. The problem, Blunt said, was that "17 of our members voted no almost immediately, and we didn't get our first Democratic vote until the 15 minutes were almost up." As a result, when the nominal time expired, the measure was trailing by 15 votes -- with 24 Republican defectors and only seven Democratic crossovers. Another 30 members, most of them Democrats, had not voted.

At that point, Hastert, Majority Leader Tom DeLay (R-Tex.) and Blunt swung into action, stressing to Republicans the importance of the issue to the party and the president. The margin of defeat narrowed steadily. By 4 a.m., it stood at 216 to 218.

But then it stuck. David Hobbs, the White House legislative liaison, operating from a room just off the floor, decided about 5 a.m. it was time to call in the president. Knowing Bush is an early riser by nature, he figured the president might be up even earlier, still tuned to London time. He was right. Bush, who had made a dozen or so calls to members en route home, made five or six more -- reaching members in their offices or on cell phones.

Meantime, Health and Human Services Secretary Tommy G. Thompson, who had been working the Capitol all day, defied custom and moved onto the House floor. He and Hastert avoided the back rows where many of the conservatives were clustered, and targeted "no" voters such as Reps. John Shadegg (R-Ariz.) and Nick Smith (R-Mich.), who were standing or sitting alone.

The broad-shouldered speaker, moving through the crowded aisles like a fullback, plumped down next to Smith, who is retiring next year after 40 years in a succession of public offices. Hastert threw an arm around Smith's shoulder and leaned in as Thompson moved into the seat on the other side. Aides recounted that Hastert said Smith's help was vital to the party and the president -- a fitting gift at the end of a long career -- and suggested it would also help Smith's ***son***, who plans to run for the seat.

But the former dairy farmer, a budget hawk, waved his hands as if in dismissal and told Hastert that his ***son*** had advised him, "Do what is right." He was unmoved -- and remained so as Hastert and other legislators returned often to plead the case.

Meantime, a drama was unfolding on the Democratic side. Rep. David Wu, a third-termer and Portland, Ore., lawyer, was refusing to vote. A changing circle of Democrats surrounded the 48-year-old Taiwan-born Stanford and Yale Law School graduate, who remained stubbornly silent with a gaze one legislator described as "almost catatonic." Rep. Zoe Lofgren (D-Calif.), a friend, put her hands to his face, but he did not respond.

With still no movement on the Republican side, Hastert and Company were almost ready to concede. Reporters in the gallery thought they heard Rep. Bill Thomas (R-Calif.), chairman of the Ways and Means Committee, say, "It's over." Leadership aides said last night that the fallback plan being discussed was for DeLay to switch his vote to "no," so he could be on the prevailing side when the bill's defeat was announced, and then immediately move to reconsider the result -- as any member of the winning side can do. Democrats say they even received a message on their Blackberries advising there would be a reconsideration vote at 9 a.m. Saturday.

But each time DeLay was ready to move to the microphone, the whip team would spot another possible switcher -- and he stepped back.

The breakthrough finally came when seven of the "no" voters met with Hobbs and leadership people just off the floor to discuss the situation. Rumors were circulating on the House floor that if the measure were defeated, Democrats would seek to revive their own Medicare bill or the more liberal Senate version. Hastert said last night that he had been told that Minority Leader Nancy Pelosi (D-Calif.) was planning to move such a bill to a quick floor vote by a "discharge petition," a rarely used device requiring signatures from 218 members, a House majority.

Pelosi was not available for comment, but two well-connected Democrats, Reps. Rahm Emanuel (Ill.) and Albert R. Wynn (Md.), said they had heard such talk. Emanuel said the idea being discussed was to wed the more generous Senate bill with a House provision allowing reimportation of drugs from Canada -- a combination some thought might prevail.

But a senior House GOP aide said the threat of a Democratic bill was concocted to pry loose some conservative votes. "We didn't know what they [the Democrats] might do, but this was a logical step for them," he said. "We couldn't get the votes we needed by promising bridges or roads. The conservatives opposed this bill on policy grounds, so we had to give them a policy reason to be for it."

It worked. Two of the seven conservatives in the meeting -- Reps. C.L. "Butch" Otter of Idaho and Trent Franks of Arizona -- agreed to switch. It was not easy for either of them. Franks, a freshman, is a staunch conservative, a former consultant to Patrick J. Buchanan's presidential campaign. Otter had told a reporter just before the vote that "I could stomach this bill if we were going to pay for it, but borrowing that much money -- that means we're voting for the next election, not the next generation."

After his switch, still looking dazed, Otter told reporters he had turned down Bush's personal plea for support. But when faced with the prospect of a Democratic bill "with fewer reforms, less cost-containment and probably even higher spending," he said, he chose what he thought the lesser of evils.

A moment later, DeLay strode to the microphone. Many members thought he was about to concede at least temporary defeat. Instead, the scoreboard over his head now flashed new numbers: Yeas 218,

Nays 216. Within seconds, a flurry of last-minute converts had boosted the margin to five. Wu, the last to vote, was a Yea.

Pelosi fired off an angry statement, calling the extended vote an outrage. "We won it fair and square," she said, "so they stole it by hook or crook."

Hastert said last night he had no apologies. "They criticize me for keeping the vote open so long," he said, "but I've been working that issue for 20 years, and seniors have been waiting through three Congresses for a prescription drug benefit. So I don't think waiting three hours to get it done is too much."

Staff writers Amy Goldstein and Mike Allen and researcher Brian Faler contributed to this report.

© 2003 The Washington Post Company

[Previous Doc in Result List] [Next Doc in Result List]