



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158

WASHINGTON, MONDAY, JUNE 11, 2012

No. 87

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, June 12, 2012, at 10 a.m.

Senate

MONDAY, JUNE 11, 2012

The Senate met at 2 p.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

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

Let us pray.

Lord God, hear our prayers. You are the source of all our blessings, the author of our liberty, and the guide for our future. Make us a people with reverence for Your Name.

Infuse our lawmakers with the spirit of Your kindness so that they may desire to give rather than to get, to share rather than to keep, to praise rather than to criticize, and to forgive rather than to condemn. May their lives be the reflection of Your goodness and grace, as they commit themselves to enjoy the privilege of working for You.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS 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. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 11, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

AGRICULTURE REFORM, FOOD, AND JOBS ACT OF 2012—MOTION TO PROCEED—Resumed

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. The Senate is considering the motion to proceed to the farm bill postclosure.

At 4:30, the Senate will proceed to executive session to consider the nomination of Andrew Hurwitz of Arizona to be a United States Circuit Judge for the Ninth Circuit. At 5:30 p.m., there will be a cloture vote on the Hurwitz nomination.

Mr. REID. Mr. President, Democrats and Republicans hold a different view on many issues. But the bipartisan work by Senators STABENOW and ROBERTS on the agriculture jobs bill demonstrates, despite our differences, we can still find common ground. I hope their cooperative spirit guides our work on this important legislation this week. American farmers are counting on us, and so is the economy.

Despite the uncertain economic times, America's farms are the most productive in the world, exporting \$136 billion worth of products last year and supporting 16 million private sector jobs. But to keep American farms strong, Congress must pass a strong farm bill.

This legislation creates jobs, cuts subsidies, and reduces the deficit. The bill includes important reforms to farm and food stamp programs. It saves \$23 billion, which will be used to reduce the deficit. And it will give farmers the certainty they need to maintain the largest trade surplus of any sector of our economy.

Helping American farmers thrive is an important part of our work to get the economy on a firm footing again. I commend Senators STABENOW and ROBERTS for their leadership on this issue. We are working now to come up with a list of amendments on this legislation.

It is a shame we are now wasting 30 hours postclosure on this bill. It is a bill that passed by 90 Senators agreeing that we should move forward to debate. But it now appears we are in a situation that we were in last week and the week before and the week before that, when the Republicans have made a decision that they would rather do anything they can to stop jobs from being created, hoping it will help them with the elections come November.

Too often in this Congress the Republican strategy has been to kill job-creating bills in the hopes of harming the economy and hurting President Obama. It forces the Senate to spend weeks passing consensus legislation that once was passed in a matter of minutes.

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



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They have held many important jobs measures hostage to extract votes on unrelated, ideological amendments. It appears we are in that same place right here on this bill.

I am disappointed, as I have already said, that they have caused us to waste 30 hours on procedural hurdles on this bill. We shouldn't have to do that. We shouldn't have to run that clock when 90 Senators agree we should move to the bill. That is what happened last week.

I hope my Republican friends will dispense with these delay tactics. This is a bill that creates jobs, cuts subsidies, and protects our working farmers.

We hear the hue and cry from our Republican friends all the time that they want to reduce the deficit. How about one bill, in one fell swoop, with \$23 billion of deficit reduction—a bill that will reduce subsidies, get rid of a lot of waste and abuse, and create jobs.

We are in this position where my friends have said, just as the Republican leader has said, that their only goal is to defeat Obama, not help our country, and that is too bad.

Would the Chair announce the business of the day.

RESERVATION OF LEADER TIME

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

Mr. REID. Mr. President, I note the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. JOHANNIS. 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.

Mr. JOHANNIS. Mr. President, I come to the floor today to discuss the farm bill that is now before the Senate. I want to say at the outset that this is a reform-minded bill that saves money and continues the evolution of farm policy in our Nation.

I commend the chair and ranking member of the Agriculture Committee for working to craft a farm bill that helps equip producers with improved risk management tools while being mindful of our very challenging budget situation.

This bipartisan bill will reduce the deficit by \$23.6 billion because of changes to every title and the elimination of nearly 100 Federal programs overall. It shifts farm policy further away from dependence on income support and, instead, focuses on risk management.

But to truly appreciate where we are in farm policy today, it is important to spend a minute examining how we got here.

In the 1930s, depression and disaster ravaged our country's farm sector. At the time a quarter of this country's population lived and worked on farms

and ranches, and most of what they produced was consumed relatively close to where it was grown.

When prices collapsed and dust storms swept the Plains, many were forced off their land to look for work in the cities. But oftentimes no work was to be found.

In response to this situation, Congress passed the first farm bill. It was called the Agricultural Adjustment Act of 1933. The act placed the Federal Government in the driver's seat in making farm production decisions. A structure to eliminate crop and livestock surpluses was established—the thought being, if that was done, it would drive up prices. Literally, crops were plowed under and livestock was slaughtered to reduce supply and then, hopefully, to increase farm prices, according to the thinking at the time.

The Agricultural Adjustment Act of 1938 made federally funded price supports mandatory for several crops. That would include corn, cotton, and wheat.

Then another law was passed in 1949. It mandated extensive government intervention to maintain parity with prices prior to World War I.

I am not going to start an argument today about whether all of this was the right farm policy during the 1930s and 1940s. I will leave that for another time. But I can say, with no hesitation whatsoever, it is absolutely the wrong approach for the farm economy today and virtually no one disagrees with that.

Over the past several decades, farm bills have improved from those early laws, and U.S. farm policy has slowly but surely become a more market-oriented policy. For a long time the main goal was to support prices for a list of crops. We set high prices in law which distorted markets and discouraged cultivation of crops that did not benefit from price supports.

In 1996, Congress began to shift away from the distorting farm policies of the past, and direct payments were introduced to temporarily support farmers as they transitioned away from an agricultural economy that was very reliant upon government intervention.

Removing the government from price and supply controls created new risks to farmers, and it created uncertainty from Mother Nature. Congress then responded with ad hoc disaster spending to help farmers and ranchers address losses due to weather and other disasters. In fact, since 1996, USDA's Economic Research Service estimates that \$43 billion has been spent on these ad hoc and emergency programs.

To help manage these risks in a more fiscally responsible way, a crop insurance program has emerged. This highly effective public-private partnership helps farmers customize protection for their individual operations. Over time, crop insurance has become the risk management tool for farmers.

These are policies sold by private companies for over 100 different crops,

and roughly 85 percent of acreage for major crops is now covered by crop insurance.

Last year, in spite of the drought in much of the southern plains and flooding in States such as Nebraska and many other States, farmers and ranchers did not call for emergency relief. In fact, I have heard clearly from farmers in Nebraska that crop insurance is working well.

Today's farmers are certainly some of the most sophisticated and talented businesspeople in our Nation. The fruits of their labor produce an abundance of healthy low-cost food for Americans and, for that matter, people around the world. In fact, trade currently accounts for more than 25 percent of all U.S. farm receipts, and 1 out of every 3 crop acres—1 out of 3—is now exported.

In 2011 agricultural exports reached \$136 billion. Our efficient export system, including handling, processing, and distribution of our food and agricultural products, creates millions of U.S. jobs. Given the projected global population growth of an additional 2.5 billion people by 2050, U.S. agriculture is positioned to experience significant growth in just a few years.

This farm bill ensures that USDA is focused on maintaining current export markets and gaining access to new emerging markets for U.S. farm and food products. This is the first farm bill in recent history that does not pay farmers a specific payment just because they are farmers. You see, farmers have come to realize that risk management is best handled with crop insurance. In fact, in many listening sessions I have had around the State, virtually no one asked for the continuation of direct payments.

The bill actually saves \$15 billion from commodity crop support by eliminating four programs, including direct payments; countercyclical payments; the Average Crop Revenue Election Program, called ACRE; and the Supplemental Revenue Assistance Program, called SURE.

It does not raise loan rates, the price levels that have traditionally triggered the making of payments. It focuses the farm program on revenue, not price—something I proposed as the U.S. Secretary of Agriculture when I served in the Cabinet.

I remind my colleagues that our job in writing a farm bill is not to protect the interests of specific commodity groups. Instead, the farm bill should be about preserving the health of our agricultural economy. This farm bill continues a history of steps in that direction.

It seeks to minimize distortions and allows farmers to respond to market incentives—not determined by artificial prices set in a Federal statute.

I am also glad to see a step forward on payment limits and changes to ensure that those who receive government payments are actively engaged in farming.

I am especially pleased with the efforts to streamline and simplify the conservation programs. That is an issue I have heard a lot about. This bill actually consolidates 23 conservation programs into 13. In fact, I proposed similar changes as Agriculture Secretary during the last farm bill process. The improvements reduce costs as well as make the programs more farmer friendly.

This bill also provides for the basic research at USDA, universities, and elsewhere that is needed to meet the demand for our farmers to produce more food, and on less land, and it does so in a way that includes new avenues to ensure that important work continues in these times of very tight Federal budgets.

Finally, I am pleased this bill builds on efforts to encourage beginning farmers and ranchers, veterans, and others looking for careers in agriculture.

It is important to me that we keep this farm bill as simple and streamlined as possible. I think we can agree that a bill that eliminates nearly 100 Federal programs does just that.

Given our Nation's daunting budget situation, it is appropriate that this bill saves \$23.6 billion, taking yet another step in the right direction to reforming farm policy for the 21st century.

I hope we can keep this bill moving to help ensure certainty for farmers, ranchers, and others in rural communities where livelihoods are impacted by these policies. But make no mistake, good farm policy does not end with a good farm bill. Our farmers and ranchers also deserve a more constructive regulatory environment and a fairer tax system. So while I support the bill, I hope we can get some amendments pending to make a good bill a better bill.

This is so important that I led a letter with 43 other Senators asking for an open amendment process. I look forward to the debate and to passing a very reform-minded farm bill.

Mr. President, I yield the floor and 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. GRASSLEY. 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.

(The remarks of Mr. GRASSLEY and Mr. KYL are printed in today's RECORD under "Executive Session.")

THE ECONOMY

Mr. KYL. Mr. President, I wish to comment on something the President recently said that is very much in the news.

Last Friday, the President of the United States said, "The private sector is doing just fine."

This is not taken out of context. He was talking about economically. His

office leader explained what he was really talking about is the comparison between the public sector and the private sector, and I take him at his word there.

The President said:

Where we're seeing weaknesses in our economy have to do with state and local government—oftentimes cuts initiated by governors or mayors who are not getting the kind of help that they have in the past from the federal government and who don't have the same kind of flexibility as the federal government in dealing with fewer revenues coming in.

I think that is generally true. But here are the two key points I would make in response: First, everyone—not just government employees—is suffering. They are struggling in the Obama economy.

Yes, the number of government jobs has decreased during the last 40 months since President Obama took office, but overall employment in government has increased on the whole in recent years, even with the reductions that have occurred in the last couple of years.

For example, according to the Bureau of Labor Statistics, total government employees added up to 21,847,000—rounded off—in January 2006. That is just a little over 6 years ago—21,847,000. By comparison, last month the total amount of government employees added up to 21,969,000. So there are a few more government employees today—State, Federal, and local—than there were just 6 years ago. I would just ask, how on Earth did we get by in this country with only 21,847,000 government workers in 2006? I think we were doing just fine.

The reality is, when a private firm faces financial difficulty, usually the first area the firm looks to in terms of saving money is its workforce. It is too bad, but frequently firms have to lay off workers because they simply can't afford to continue to pay that many workers.

I will just give the experience of a friend of mine in Arizona who said: This recession was probably the best thing that happened to us because it forced us to look at our workforce, how we did business, and whether we could make savings. He said: Today, we are making more money than we ever have, even with a lower workforce, because we found that we could make do and make the improvements that made us more efficient.

We are asking that to be done in government. Government doesn't have a right to continue to grow and grow. Government should be as efficient as the private sector, including with respect to the number of people it hires to do the work that has to be done. After all, the private sector has to take care of paying both the employees in the private sector and the employees in the government sector. Who pays government employees? All of our constituents, the people in the private sector.

So we in the government have an obligation to run the governments—Fed-

eral, State, and local—as efficiently and leanly as we possibly can. If we find we can run the government with just a few more employees today than we had, for example, 6 years ago, then all the better for our economy and all the better for the taxpayers who have to pay their salaries.

So there isn't some right of the Federal Government to continue to grow its workforce at a rate higher than the private sector. Rather, we should be trying to run the government on as few a number of employees as necessary to do the work the American people want us to do. But here is the larger point: As the Wall Street Journal points out, the reason the government workforce has shrunk since January 2009 is not due to smaller budgets or dwindling aid, as the President suggested. As the Wall Street Journal notes, revenues to State and local governments have increased during the last 2 years, according to census data. The main problem is rising health care and pension costs for government workers, and we have seen the experience in a State such as Wisconsin in having to deal with that to make some reductions, which caused a lot of political turmoil in the State. But at the end, the voters of the State said: We agree. We need to cut government cost as it relates to the health care and pension commitments we have made to our government employees.

While government has experienced some job losses, it is important to remember that benefits enjoyed by government workers are far superior to those enjoyed by those employed in the private sector. For example, according to an article in the National Review magazine, on an hourly basis private sector employees' benefits cost their companies \$2.15 an hour. State and local government workers cost taxpayers \$4.72 an hour—219 percent more.

For retirement benefit costs, the private sector figure works out to \$1.02 per hour. The State and local workers sum, \$3.37 an hour—a 330-percent premium.

This is where the extra costs are for government workers. You can't blame State and local governments for trying to provide more efficiency for their operations by conforming their practices for health care and pension benefits more to those in the private sector.

Why do government employees deserve more? I guess that is the question. As is a matter of fairness—and especially when compared to people who are paying their salaries—I don't think anyone can argue that government employees should have twice as much or three times as much of a benefit as somebody in the private sector.

The second point I would make is this: At 4.2 percent, according to the latest data from the Bureau of Labor Statistics, the unemployment rate among government workers is also far below that of the private sector. We know the average in the country is 8.2 percent, and that is only the people who are still looking for work. If we

took all the people who are out of work, it would be about 11.1 or 11.2 percent. But among government workers, the unemployment rate is 4.2 percent.

Compare that with unemployment in some other sectors. In agriculture, it is 9.5 percent; 8.1 percent in the wholesale and retail trade; 9.7 percent in leisure and hospitality, to name just a few industries. In each of these I named—I think each of them would be thrilled to have unemployment at 4.2 percent. When the President says the real problem is with government employment, the private sector is doing just fine, the facts simply belie that. The President was wrong; he was incorrect.

Finally, let me address his theory of how an economy grows. Unemployment, as I said, is 8.2 percent nationwide. Labor force participation is at historic lows—the number of people actually working or looking for work. GDP growth in the first quarter of 2012 was a very anemic 1.9 percent. This is not enough for this country to grow and prosper and the President wants to borrow or raise taxes from that segment of our society so taxpayers can finance more government workers? That does not make sense.

I think not only is the President wrong on the facts about the private sector doing just fine, he has it wrong as to what the solution would be. The solution to help government workers is to have the private sector do better so it can afford to help—to hire more government workers and to pay them better benefits. Government stimulus spending and aid to States has not grown the economy so far and it is obviously not going to do so in the future.

Rather than divide the country into public versus private sector workers, Federal versus State and local workers, rich versus poor, men versus women, as the President is wont to do, I hope we work hard to represent all Americans. No one benefits in the long run from an enormous government with an appetite to grow more and more, crushing economic growth and crowding out the private sector, a government that drives up costs for job creators and forces companies to lay off private sector workers. None of us benefits from that. Yet that is what we are seeing playing out right now. The total number of unemployed and underemployed is over 23 million people in the United States. Think of that. That is the number of people who are looking for work who have stopped looking for work or who do not have the kind of work they could be doing. Economic growth last quarter, as I said, was only 1.9 percent; only 69,000 new jobs added. We need more than twice that many jobs added each month in order to keep pace with the new workers coming into the economy, so we are losing ground in terms of jobs created. I don't think the President's solution of more spending on government employees is the answer. I think that is a recipe of another 40 months of 8 percent-plus unemployment. At that rate we are not going to get out of the economic difficulties we

are in right now. Let's do things that support the private sector, things that help the private sector. The healthier the economy is, the more growth we have, the more we are able to do for the public sector as well. That is the ultimate answer.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF ANDREW DAVID HURWITZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination.

The legislative clerk read the nomination of Andrew David Hurwitz, of Arizona, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate equally divided and controlled between the two leaders or their designees.

Mr. LEAHY. Mr. President, I understand that the intent was to have the vote at 5:30.

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I ask unanimous consent that the time be divided in such a way that the vote will occur at 5:30.

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

Mr. LEAHY. Last week's confirmation of Jeffrey Helmick to a judicial emergency vacancy in the Northern District of Ohio marked the 150th confirmation of a Federal circuit or district court nominee of President Obama's. I do not say that for self-congratulations because we should acknowledge that we had already confirmed 150 of President Bush's circuit and district court nominees 9 months earlier, in September of his third year in office.

In other words, to have matched what we had done so far for President Obama, we would have had to have had this number late last year. I mention that because it is one measure of how far behind we are in the consideration of President Obama's nominees. Part of that is because a very large number of nominees who went through the Judiciary Committee unanimously last year who would normally be confirmed by voice vote within 1 week or so after they went through Committee were delayed on the Executive Calendar until this year.

I would point out another thing, which is that today is June 11, but by

June 15 of President Bush's fourth year in office, the Senate had already confirmed 180 Federal circuit and district court judges—150 for President Obama, 180 for President Bush—30 more judges for President Bush than we have been allowed to consider and confirm during President Obama's administration to date.

There are still more than 70 judicial vacancies around the country. That is more than when President Obama came into office. One of the reasons it is more is that when Democrats were in control, we moved President Bush's nominees much faster than Republicans have allowed us to move President Obama's.

The unprecedented delays in the consideration of President Obama's nominations were confirmed by a recent Congressional Research Service report on judicial nominations. The median number of days President Obama's circuit court nominees have been delayed from Senate consideration after being voted on by the Judiciary Committee has skyrocketed to 132 days. As the report notes, that is "roughly 7.3 times greater than the median number of 18 days for the 61 confirmed circuit nominees of his immediate predecessor, President G.W. Bush." Similarly, district court nominees are being unnecessarily delayed. The median time from Committee vote to Senate vote has gone from 21 days during the George W. Bush presidency to 90 days for President Obama's district nominees.

There are 18 judicial nominees sitting here waiting for final Senate consideration. They have been approved by the Judiciary Committee with bipartisan votes. It is my hope the Senate will be allowed to consider those other nominees and make real progress.

In fact, today the Senate is voting on whether to end a partisan filibuster against the nomination of Justice Andrew Hurwitz of Arizona to fill a judicial emergency vacancy in the Ninth Circuit. He is supported by both the Senators from Arizona, Mr. KYL, the deputy Republican leader, and Mr. MCCAIN. Last month, the Senate finally began taking actions I have been urging for months. We were finally able to consider and confirm the nominations of Judge Jacqueline Nguyen and Judge Paul Watford of California to judicial emergency vacancies on the United States Court of Appeals for the Ninth Circuit. The delay in the consideration of all these nominees follows the pattern also seen with Judge Morgan Christen of Alaska last December despite the strong support of the senior Senator from Alaska, Senator MURKOWSKI. I commend Senators from both sides of the aisle who rejected the misguided effort to filibuster the nomination of Judge Watford.

Normally, on a nomination such as Justice Hurwitz's, we would not even