



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158

WASHINGTON, WEDNESDAY, FEBRUARY 15, 2012

No. 25

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Our Father and our God, who by Your word spoke the world into being, we acknowledge how little we often care about this world You love so much. We know little of where the world hurts and even less why.

Lord, use our Senators to ease the hurt in our world. As they encounter problems that seem to defy solutions, give them Your wisdom so they will not weary of well doing. May they be slow to anger and abounding in Your steadfast love.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND 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, February 15, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLI-

BRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mrs. GILLIBRAND 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. REID. Madam President, following leader remarks, the Senate will be in a period of morning business until noon. The Republicans will control the first 30 minutes, and the majority the second 30 minutes.

At noon the Senate will resume consideration of the Jordan nomination to be a circuit court judge for the Eleventh Circuit. Following that vote, the Senate will resume consideration of the surface transportation bill. There could be additional rollcall votes on amendments to the bill today.

AMERICA'S INFRASTRUCTURE

Mr. REID. Madam President, we are here today as a result of stalling by my Republican colleagues. We have a judge for whom the vote was overwhelmingly in his favor. It was 89 for him, with 4 or 5 against him on a motion to proceed. But now we are being forced to eat up 30 hours of valuable time, just sitting around and doing nothing. It is really unfortunate.

We have not confirmed the judge yet because under the rules I have had to file cloture on this noncontroversial judge. After I file cloture, and cloture is invoked, and then the Republicans get 30 hours under the Senate rules. This has happened scores of times—scores of times—during the past year,

all last year, and certainly it is already happening this year. We can't move to anything unless we file cloture.

Early in this Congress, Senators TOM UDALL of New Mexico, MERKLEY of Oregon, and others suggested the rules be changed, and in good faith a number of Senators believed: Well, let's see how the system works if we make a few minor changes—hoping things would get better because they were told they would get better. We were told the other side would not make us file motions to proceed to every piece of legislation that came up. Absolutely untrue. We have virtually had to file cloture on everything. We have wasted weeks of this Congress, months of this Congress, on dilatory tactics.

We have a bill before this body that is so very important, creating 2 million jobs. Is it something that Senator BOXER, the chairman of the committee, and Senator INHOFE, the ranking member, just dreamed up and said let's try something new for a change? No. The legislation allowing us to have a highway system expires at the end of March. So we have to do something.

This isn't something where Senator BOXER said: Well, I think this is a great idea. Her idea is not unique, nor is Senator INHOFE's idea unique. It goes back to when Eisenhower was a major in the Army, and he was asked to bring a caravan of vehicles across the country. He was struck with this idea when he saw that the roads were awful. So after his successful tour of duty in the military and he became President of our country, he decided he wanted to do something about it.

Here is what President Eisenhower did: He got the Congress to appropriate \$50 billion. In today's dollars, that would be \$½ trillion. He got that through Congress. He wanted to build about 50,000 miles of roads in this country so that when another young major was directed to bring military vehicles across the country, he would have roads, highways, and freeways to do

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



Printed on recycled paper.

S661

that. Eisenhower said it would free the Nation from the "antiquated shackles of secondary roads." That is what General Eisenhower said. It would give America a modern highway system for moving people and goods across the country.

Presidents since that period of time have recommitted to this idea. Johnson did it. Someone who spoke about it as much, if not more, than anyone since Eisenhower was President Reagan. Reagan said:

Common sense tells us it will cost a lot less to keep the [transportation] system we have in good repair than let it disintegrate and have to start over.

Since those 8 years of President Reagan, here is where we are today. We have 70,000 bridges in this country that are in a state of disrepair. They are unsafe.

I was in a meeting yesterday where they talked about a bridge in Reno, NV, that was built during the Depression by the Works Progress Administration. I was meeting with a flood control district from Washoe County, NV, and they said they have a bridge—a beautiful bridge—that is so unsafe they will not let schoolbuses drive over it anymore with kids in it. The bus can go without kids in it. There are hundreds and hundreds of bridges in our country in this same state of disrepair.

It is time to rebuild our crumbling infrastructure, and this bill does it in a good way. We talk about this system as if it didn't have any bearing on individuals, but people's lives depend on it—not only on the bridge I just talked about, but the highways I talked about and the sidewalks. We have a person injured or killed as a pedestrian every 7 minutes in the United States. Why? Because they are walking in unsafe conditions. There are lots of roads back here in Washington and lots of them in Nevada where there are no sidewalks. So investing in our infrastructure, as I have said, and I continue to say, will create 2 million jobs.

The Republican caucus is not doing this all in one big band. There are a few Republican Senators over there who are ruining it for everybody. No one can accuse JIM INHOFE of being some radical liberal. He represents the State of Oklahoma. So what do we have here? We have 100 amendments that have been filed already on this bill. Very few of them are related to the bill. We have an amendment that some refer to as an abortion amendment, we have some referring to an amendment dealing with contraceptives, and we have an amendment to cut off aid to Egypt.

Now, tell me, what in the world does aid to Egypt have to do with this highway bill? We have a Foreign Relations Committee. They have TV cameras there. Let them have a hearing in that committee, and the person offering the amendment can make his speech before the Foreign Relations Committee. There is no chance of this amendment passing. None. Zero.

Senator MCCAIN is going to Egypt next week. Why? Because he is a person

who is an expert in foreign affairs. He is respected around the world, and he is going to go there to try to work with the Egyptians to resolve some of these problems. He does not even want this amendment to be voted on. He has told me that.

We have an amendment to keep poisons out of the air. It is called Boiler MACT. It is to keep arsenic and mercury and stuff out of the air—excuse me, to keep it in the air. I thank the Senator from California, chairman of that committee.

We have an amendment that takes us back to Keystone—building a pipeline from Canada to the southern part of our country. I would consider that or take a look at it. If they were going to use American products in doing that and the oil would be used in the United States, I might even consider that. I am not sure, but I would consider it. But that is not where we are.

So we have a handful of Republican Senators holding up what we are doing.

Mrs. BOXER. Would the Senator yield for a question?

Mr. REID. I would be glad to yield to my colleague.

Mrs. BOXER. I thank the leader.

First, I just want to thank the Leader so much for his remarks this morning. They are so close to my heart. Frankly, they are close to the hearts of the members of the Environment and Public Works Committee and all the committees that have done their work in a bipartisan way. It is a unique moment when we have four committees complete their work and here we sit.

Before I ask my question, I think the people of this country need to understand what is going on. We are wasting, as my friend said, minute after minute, hour after hour, day after day because Republican Senators, for whatever their reasons, want to bring progress in this country to a halt, to a stop. We have to wonder, is this politically motivated?

As my friend said, 2 million jobs are at stake. I would say to my friend, it is actually up to 2.8 million because there are 1.8 million jobs we protect, and up to 1 million new jobs we would create because of the bipartisan cooperation we have had across the board in the Senate on the highway bill. So I thank my friend.

My question is, Is my friend aware we have more than 1,000 organizations representing millions of Americans who are Republicans and Democrats and Independents, who work out there on the roads or who are the business leaders from the Chamber of Commerce to the AFL-CIO, to the general contractors or the granite people—it goes on and on—the cement people, to the coal ash people, and the fact is a thousand groups are out there and they are watching us, minute after minute?

I hope this is an opportunity to tell them to activate their people and let them know why we are not passing a bill that will save or create 2.8 million jobs and help our businesses across the

board and help our States. When we talk about safety, as my friend pointed out, Senator INHOFE tells an eloquent story of a woman killed in Oklahoma walking with her child under a bridge and concrete falls on her. She is gone, and he is so motivated by that.

So I hope my friend will address whether he is aware of the broad support in America for this bill regardless of party label.

Mr. REID. I say through the Chair to my friend from California that yesterday I gave some remarks, and the outline of the speech mentioned there were scores of organizations supporting this bill. I looked at that and said to myself: There are hundreds and hundreds of organizations supporting this bill. So I recognize that, I say to my friend, the chairman of that committee.

To rub salt in the wound of what we are going through, the House of Representatives, led by the Republican caucus—which is overwhelmingly tea party—decided they were going to do some legislation.

That is dandy. Their legislation is so bad that the Congressional Budget Office said it would bankrupt the trust fund. We are trying to replenish the trust fund; they are bankrupting the trust fund. But as I hear on the news this morning, the Republican caucus over in the House is fractured, and now they can't figure out what to do with that bill. They are thinking, maybe we will break it into three different pieces. Even with the power of the tea party, it is so obnoxious and so out of control, that piece of legislation, they appear they are not going to allow a vote to take place on that bill itself because it is so bad.

There is a simple way to avoid this headache; that is, Democrats and Republicans work together. We are here. We want to do this. Let's assume that I decide to file cloture on this bill. What I would do is have a substitute amendment. Let's say I decide to do that. I can't imagine why the Republicans wouldn't join with us in doing that. If there is something in the substitute that I disagree with, the amendment process is still there. To not allow the bill to go forward is repulsive. I can't imagine how a majority of the Republicans who say they want this bill done wouldn't allow us at least to get on the bill itself and move forward with amendments.

I am terribly disappointed where we are. I hope the House will take a page out of our playbook over here and work together, as BOXER and INHOFE have done, to come up with a bill that is a good bill. That bill we are trying to get through was passed unanimously out of committee. So I am cautiously optimistic that the American people will see what is going on and put some pressure on my Republican colleagues to get this bill passed. It is just unfair what is happening on this and other pieces of legislation.

MEASURE PLACED ON
CALENDAR—S. 2105

Mr. REID. Madam President, there is a bill due for a second reading, S. 2105.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The assistant legislative clerk read as follows:

A bill (S. 2105) to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

Mr. REID. Madam President, I object to any further proceedings with respect to this bill at this time.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

Mr. REID. Madam 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.

Mrs. HUTCHISON. 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.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 12 noon, with Senators permitted to speak therein for up to 10 minutes each and with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the second 30 minutes.

SURFACE TRANSPORTATION ACT

Mrs. HUTCHISON. Madam President, I wish to comment on the remarks of the leader just a few minutes ago.

I came to talk about the budget, which I want to do, that was produced by the President. But I will say we had a vote on going to the highway bill last week and the vote was 85 to 11. So Republicans are ready to go to the highway bill.

We have talked about what a great job Senator BOXER and Senator INHOFE did in the committee, working together, to produce a bill. Senator ROCKEFELLER and I have negotiated what is a good settlement on the Commerce part of that bill, and I think we are going to have to have separate votes on the party-line committee vote that was made in Commerce and have a compromise that I think Senator ROCKEFELLER and I will both support going forward.

But I think we just need to get on it. It is just time to go. We don't need to stand here and talk about not being able to move. Let's move. Republicans are ready. Let's go.

THE BUDGET

Mrs. HUTCHISON. Madam President, I do wish to speak about the fiscal year 2013 budget that came out this week from the President, and I guess I would start by saying here we go again. Here we go again.

We have another budget given to us by the President that increases spending and increases taxes to a huge extent. It is stunning, \$1.9 trillion in tax increases in the President's proposal over the next decade.

Instead of coming forward and giving responsible solutions to a \$1 trillion annual deficit—which is what we have, \$1 trillion. My gosh, we didn't even have debt that was \$1 trillion. Now we have debt that is almost \$16 trillion, and we are talking about more deficits?

Most important, the President didn't put anything in his budget on entitlement reform. So he gave us another budget proposal that spends too much, borrows too much, and taxes too much, which is the same thing that happened last year.

The President's request proposes \$11 trillion in gross new debt—\$11 trillion in gross new debt—over the next 10 years that would make our total national debt, if we stuck to this budget, \$25.9 trillion in 2022. Oh, my gosh, \$25.9 trillion, and we are talking about this as a serious proposal? These numbers are untenable. It is a path that is unthinkable for this country.

So \$1.4 trillion of the President's proposed tax increases over the next decade would fall on individuals. The budget that the President put forward explicitly states: Immediate broad tax cuts for the middle class are far more effective at creating jobs and growing the economy. I would agree with that. Broad tax cuts for the middle class would be effective at creating jobs and growing the economy.

But the President fails to acknowledge where the tax increases fall. It is on the people who own and work in small businesses, and they are the ones who have the ability to hire if we would let them.

According to the Joint Committee on Taxation, 50 percent of all flowthrough business income will be subject to the proposed tax increases. The National Federation of Independent Business reports that 75 percent of small businesses pay taxes on their business income at the individual tax rate because they are organized as flowthrough businesses, such as partnerships, S corporations, LLCs, and sole proprietorships. So the President is going to the heart of the potential hiring in our economy; that is, small business, and they are going to increase taxes.

I would say the constant drumbeat of this administration for new taxes is

putting a blanket on present-day potential hiring. It is putting a blanket on growth because our small businesses see the President continuing to come forward again and again and again and talk about new taxes on the people who could create jobs.

Incredibly, the \$1 trillion in new taxes doesn't even pay down the debt. It doesn't lower the deficit. The new taxes the President is proposing just increase spending. Oh, my gosh. Instead of cutting deficits and responsible spending cuts, we are talking about new taxes and new spending.

Where have we heard this before? We have heard it out of Washington, DC, for years. It is the wrong approach, and it is why we are in trouble right now with a \$15 trillion debt.

Instead, we need to have sensible spending reductions that meet the caps set under the Budget Control Act and carefully considered investments in strategic, nationally important projects that will have a long-term effect on job increases because of creativity and entrepreneurship.

We must cut spending. It is simple. That is it. We have to cut spending if we are going to get our fiscal house in order.

Most important, we need to address entitlements, which the President did not do in his budget proposal. If there is anything urgent in this country that the President should take the leadership position to do, it is a bipartisan approach to entitlement reform. Our fiscal problems are inextricably linked if we can't fix our broken entitlement system.

Today, mandatory spending—entitlements—are approximately 55 percent of our Federal budget. So we have less than half the budget in the discretionary spending that we pass appropriations for each year. If we don't take that other 50 percent and stop that growth, do you know what is going to happen?

According to the Congressional Budget Office, our mandatory spending by 2022—10 years from now—will be approximately 74 percent of total Federal spending. Over seventy percent of Federal spending will be mandatory. This is out of control.

If we are going to stop this growing deficit and debt cycle, we have to address entitlements. People are living longer than they were living when Social Security was passed in 1935, but we have not addressed that change in our demographics to make sure the program will last. The longer we put it off, the harder it is going to be. If we do not solve this problem, current and future retirees will confront a guaranteed 23 percent cut in benefits in 2036. In today's dollars, that would be a \$271 cut in a beneficiary's monthly payment. There is not anyone here who wants that to happen—we know that.

I have introduced legislation with Senator KYL, the "Defend and Save Social Security Act." It gradually increases the retirement age over 11