



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 113<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 160

WASHINGTON, TUESDAY, MAY 6, 2014

No. 67

## Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. LEAHY).

### PRAYER

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

Let us pray.

Eternal God, we will remember Your works and Your wonders of old, meditating on Your mighty acts that bless us each day.

Lord, You have ordained that in the leadership of nations the care of the many will rest upon the shoulders of the few. Give our Senators this day the understanding, humility, and faith to be ambassadors of reconciliation. Lord, help them to have no anxiety about anything, as they trust You to empower them to do their best. Cleanse the inner fountains of their hearts from all that may defile them, sustaining them always with Your mercy and grace.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The President pro tempore 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.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### ENERGY SAVINGS AND INDUSTRIAL COMPETITIVENESS ACT OF 2014—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 368, S. 2262, which is the Shaheen-Portman energy efficiency legislation.

The PRESIDENT pro tempore. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 368, S. 2262, a bill to promote energy savings in residential buildings and industry, and for other purposes.

### SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican leader, the time until 11 a.m. will be equally divided and controlled between the two leaders or their designees.

At 11 o'clock this morning there will be a cloture vote on the motion to proceed to the energy efficiency bill.

The Senate will recess, as we do on virtually every Tuesday, from 12:30 p.m. to 2:15 p.m. for our weekly caucus meetings. I would advise all Senators that at 2:15 p.m. today we will do our congressional photo that we do every 2 years. So I hope everyone will make sure they are here on time so we have everyone in the photo.

Additionally, there will be a Members-only briefing, a closed briefing, tonight at 5:30 regarding Ukraine. I hope everyone would come to that. There are some things going on in Ukraine we should all know about.

### SLIPPERY PROGRESS

Mr. President, being from Nevada and having traveled the State, as I have, in rural Nevada, we have rodeos. I have been to a few rural rodeos in my life. They are always a lot of fun, and it is a unique form of entertainment. It is good for everybody, for families.

One of the things a number of these rodeos have around the country are greased-pig contests. For all those who do not know what a greased-pig contest is, here is what it is: The organizers get a little pig—a piglet—and they cover this little animal with tons of grease. It is a greasy little pig. Then they turn the kids loose. They invite these children to chase one of these pigs. Pigs are a little slippery to begin with, but if you cover them with grease, they are really slippery.

These kids run around the arena trying to grab this pig. They grab it and

fall. They have a great time. The children run as fast as they can. Some of them get smart and do not run so fast. They wait until the pig turns around—and they do a lot of times. But they try to scoop up this scurrying pig. It is really quite a spectacle, and it is a lot of fun to watch. There is no pain to the pig. It is kind of a painless ordeal for the pig. But it is a lot of fun, as I said.

It is obvious what happens every time they grab the pig. They slip. The pig goes on about its business, running. They fall into the dirt. They come out covered with grease and dirt. But eventually—eventually—one of these kids will wind up with the pig. Sometimes two kids grab the pig. They understand what happens, and they put the pig in one of their arms, and someone comes and takes the pig. But they have a good time.

The vast majority of the kids never touch the pig. They go away empty-handed, for sure. And that is regardless of how hard they try.

The reason I mention this, oftentimes working with my Senate Republican colleagues, it reminds me of chasing one of these little pigs in a greased-pig contest. Regardless of all of our efforts, anytime we get close to making progress, it seems as though we watch it slip out of our hands and the Republicans scamper away.

Take, for example, the legislation that is currently before the Senate—the Shaheen-Portman energy efficiency bill. This bill has bipartisan support. We tried to do the bill a year ago. Frankly, at that time the bill was good, but not nearly as good as it is now. It is a very substantive piece of legislation.

From the time last year to today, the committee—under the direction, then, of Senator WYDEN, who was chair of the committee, working with all the members on that committee—put other things in the bill, and the bill that is now before the Senate is much stronger than it was a year ago.

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



Printed on recycled paper.

S2681

This legislation will make our country more energy independent and protect our environment. It will spur the use of energy efficiency technologies in private homes and commercial buildings, at no cost to taxpayers. It is an energy efficiency bill, and it has bipartisan support.

This legislation will make our country more energy independent and protect our environment. It will also save consumers and taxpayers money, and lots of it. It will do it by lowering their energy bills, saving about \$16 billion a year—that is what they tell us—and it will create up to 200,000 jobs that cannot be exported.

I have commended a number of times—and I will do it again—Senators SHAHEEN and PORTMAN for their persistence in bringing this bill to the floor. This is a fine piece of legislation. But it seems, for the second time within a year, passage of this bipartisan legislation is in question because Senate Republicans keep changing their requests. This time around the minority party seems intent on a repeat performance of last year.

Remember last year. The same thing. We want this; we want this. But the clincher we were told was that—last year—they would not vote on the bill unless we brought a bill sponsored by the Senator from Louisiana—the name was not LANDRIEU; it would be the junior Senator from Louisiana—saying: I demand a vote, before we do this legislation, on doing away with the health insurance Senate staff have. Can you imagine that. But that was his demand, and it is his demand again. He called to tell me that.

In order to allow us to vote on this bill, I was told before the break that the Republicans wanted a vote on Keystone—a sense-of-the-Senate resolution. I thought about it, and I came back to them before the recess and said: OK, we will do that. We come back after the break, and they come to me and say: Well, we have changed our mind. What we want now is a straight up-or-down vote on the legislation. That is not the agreement we had. But, anyway, I said: OK, we will do that.

Well, now we are told that there are up to five amendments they want. And yesterday—last evening—I was told there is another one I never heard of. This is something about geothermal, but the extent of it I do not understand. But it is always something else.

We have these new provisions that have been added to the bill to make this legislation even stronger than last year.

To add further to the absurdity of what we are doing here, again the junior Senator from Louisiana wants a vote on taking away health care for our staffs. I said to him: But why would you do that? He said: Well, the higher paid employees, they can probably afford to get it themselves. I am paraphrasing because I remember the telephone conversation. He said—no, I am sorry; here it is—the lower waged sala-

ried employees in the Senate, they will get subsidies—a lot of them. I said: What about those who do not? He said: They could buy their own insurance.

These men and women who work in the Senate work very hard. They should be treated as other employees around the country. Their employer should help them with their insurance. But it appears as if it is a virtual reenactment of last September. It seems as though this is nothing but a game of diversion and obstruction to many Senate Republicans.

But it is not a game. Every time a group of Republicans feigns interest in bipartisanship, only to scramble away at the last moment, it is part of a calculated political scheme.

We know on the very night of President Obama's first inauguration, a group of Republican political consultants—there is some dispute as to who called the meeting, whether it was Frank Lutz or Karl Rove, but a meeting was held—gathered, the Republicans gathered, to discuss their plans for regaining power after President Obama won the election.

They devised a plan to oppose all legislation and all nominees in order to make President Obama and Democrats look ineffective—to make our country, I assume, look more ineffective. But their No. 1 goal was to make sure President Obama was not reelected.

They failed with that, but they have not failed at obstructing, filibustering, and stopping the legislative process. Instead of working with us to pass meaningful legislation that helps American families, Republican leadership has shown more interest in agreeing to nothing. So as Senate Republicans continue to play hard to get with Democrats who are working in good faith, the American people's frustration grows.

This bill presents a unique opportunity for all my Republican colleagues—a chance to work with us in crafting and passing bipartisan legislation that will help the country.

I and my 54 Democratic colleagues have been flexible throughout this process, and we hope to reach an agreement that gives both sides most of what they want. But time is running out on this good piece of legislation—running out again.

So I invite all of my Republican colleagues to work with us in good faith. Help us pass a bill which creates jobs, saves money, and puts our country on the track to energy independence.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. BOOKER). The Republican leader is recognized.

Mr. REID. Mr. President, I have the floor.

Please go ahead.

ENERGY AMENDMENTS

Mr. MCCONNELL. Mr. President, let me briefly make a few observations about some of the majority leader's opening comments this morning.

As he knows full well, Senator VITTER dropped his request for an

ObamaCare amendment days ago, before the weekend. I think it is important for everybody to understand, the minority in the Senate has had eight votes since July—eight votes since July—on amendments that we wished to vote on.

We have not had a fulsome energy debate in the Senate since 2007—7 years ago. What we are asking for here is four or five amendments related to the subject of energy—one of the biggest issues in our country. That is hardly obstructionism. It is laughable to suggest that it is obstructionism for the minority to be given four or five amendments on issues related to the underlying bill, particularly since we have only had eight amendment votes on amendments that we wanted to vote on since last July, and we have not had a fulsome, broad-ranging energy debate since 2007.

So I would say to my friend, the majority leader, I do not think there is anything at all unreasonable about what we are requesting. Far from obstructionism, it is about time we had a debate on energy. We are having an energy boom in this country. It is important to our constituents all across the land. Forty-five Republicans represent millions of Americans. We wish to have a chance to have our voices heard occasionally. Eight amendments for the minority since July? This is not the way the Senate ought to be run.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Responding to my friend, the reason we haven't had debates in the Senate on legislation is because Republicans won't let us get on bills.

Let's take the bill that we are talking about today. Could we step back just a minute and try to do something that is good for the country? Shaheen-Portman is a good bill for America from last year to this year.

My friend can say all he wants about the junior Senator from Louisiana. Everyone knows what he has done on legislation in the past. He called me and told me that we weren't going to move forward on this bill unless he got a vote—what I just talked about. But from the last time we did this bill, these are the amendments that are incorporated in this bill: Collins-Mark Udall on energy efficient schools; Bennet-Ayotte, Better Buildings; Franken amendment to require Federally leased buildings to benchmark energy use data; Mark Udall-Risch, amendment to promote energy efficiency in data centers; Whitehouse-Collins—every one of these bipartisan—on low-income housing retrofits; Landrieu-Wicker amendment on Energy STAR third-party testing; Landrieu-Wicker-Pryor amendment on Federal green buildings; Hoeven-Pryor amendment on water heaters; Hoeven-Manchin and Isakson-Bennet amendments on energy efficiency in Federal and residential buildings; and the Sessions-Pryor amendment on third-party testing.

Last month SHAHEEN and PORTMAN introduced a new version of their bill

incorporating all of these changes. The bill has 14 cosponsors, seven on each side. It is sponsored on the Republican side by Senators PORTMAN, AYOTTE, COLLINS, HOEVEN, ISAKSON, MURKOWSKI, and WICKER; and on the Democratic side by Senators SHAHEEN, BENNET, COONS, FRANKEN, LANDRIEU, MANCHIN, and WARNER.

It will be hard to find a more bipartisan, consensus piece of legislation. All of all of this is a bipartisan piece of legislation, but always it is a shell game. OK, we have got it here. I am trying to figure out where I put that shell. Is it here? Where is that dollar? Is it here?

Mr. McCONNELL. Would the majority leader yield for a question?

Mr. REID. I will yield in just 1 second.

This is what I talked about earlier. We have been going 5 years with this—5 years—trying to stop anything Obama wants to do. Obama would like to see this passed and so would a bipartisan group of Senators. But for 5 years we have put up with this. It doesn't matter what it is. If Obama wants it, they are against it.

We can have all this sweet talk about how the Senate shall operate. The Senate shall operate by allowing legislation to go forward. This is a perfect example but, no, no—I have told them, if they want a vote on Keystone, they have a vote on Keystone. That is not good enough for them. They add four or five other amendments.

It is never quite enough. So we can see what is going to happen. They are going to let us on the bill today, and they are going to say: Because we don't get our amendments, we are not going to vote to get off the bill.

It has happened time and time again. We waste hours on this.

With all this happy talk about how the Senate should operate—remember, we changed the rules. Why did we do that? Because we had scores of judges that we had to wait for them to give us permission to move to.

We changed the rules. We don't in any way apologize to anybody for having changed the rules.

This is where we are. Legislation is at a standstill, and we have on the books now 140 nominations that are held up. They have held everybody up. We get a few here and a few there.

But the one thing I can't hold up any more are judges. We are moving on the judges. We are going to get the judges done.

If they want to continue blocking ambassadors—we have the Secretary of State, the former chairman of the Senate Foreign Relations Committee, who is going to Angola. We don't have an ambassador there. We don't have an ambassador to Peru. In scores of countries we don't have an American representative there.

There are some political appointments. We can talk about those separately. Every President has political appointments, but I am not pushing

this. What I am pushing is the fact that we have these career Foreign Service officers who have waited an entire lifetime. They have worked in these countries in very difficult situations. They have been political officers, they have been economic officers, and now they get a chance to be an ambassador. It is like going to the Super Bowl in the diplomacy world, and they are not going to get that.

I think that the American people understand what is going on. That is why, as a result of polls we have seen, people understand the game the Republicans have played for 5 years. The people are going to have to decide this November as to whether they want another 2 years of obstruction as we have seen it.

This is good legislative policy. The Shaheen-Portman bill would be good for the country, but as usual we have a lot that is good for the country—and we have had it. We don't get much done in the Senate.

Give us some amendments. This is what they say every time because no matter what we do, it is not good enough.

Shaheen-Portman is a good bill. We have 10 new provisions in it. That is not good enough.

We can give them a vote on Keystone—that is not good enough, and that is the way it always is. So there are no surprises to me in what they have done today and what they will probably do on Wednesday or Thursday.

The PRESIDING OFFICER. The Republican leader.

Mr. McCONNELL. My friend the majority leader wandered rather far afield. The subject for today is whether it would be inappropriate at 10:20 a.m. on a Tuesday for the minority to have four or five amendments of its choosing, sometime during the course of the week.

It is great that some amendments have been accepted by Members on my side. I am happy about that. The majority picked the ones they were willing to accept and accepted them. I think that is great.

But what about the rest of the Members of the minority, who are not suggesting that we would drop unusual amendments or amendments on an entirely different subject—four or five amendments during the course of the week, with relatively short time agreements, related to the subject of energy.

It strikes me that is simply not unacceptable. We have had eight votes on amendments of our choosing since last July—eight. This is not the way to run the Senate.

The minority represents a lot of Americans, millions and millions of Americans. We are entitled to have our ideas debated and voted on in the Senate as well, ones that we want to vote on, not ones that the majority leader picks for us.

That is the point. We don't think what we are asking is in any way unreasonable. It is certainly consistent

with the traditions of the Senate, particularly since we have only had 8 votes on amendments of our choosing in the last 7 or 8 months. I mean, goodness gracious. There is a way to finish this bill. It does enjoy broad bipartisan support.

The majority leader mentioned the President. I don't know that his name has come up in connection with this. We are simply asking for the opportunity to debate and vote on important energy amendments on an energy bill during the pendency of the week. That is all we are asking.

I wish to go on. I understand later the majority leader is going to do some procedural matters, so let me go on and make my opening statement.

#### ENERGY

Later today we expect the President to talk about the weather at the White House. Presumably, he will use the platform to renew his call for a national energy tax, and I am sure he will get loud cheers from liberal elites, from the kinds of people who leave a giant carbon footprint and then lecture everybody else about low-flow toilets.

But the vast majority of middle-class Kentuckians I represent actually have to worry about paying utility bills, putting food on table, and finding a job in this terrible economy. They are less interested in just doing something on energy. They want to do the smart thing.

What they want are practical solutions to the problems and stresses they are dealing with every single day. That is what we should be focusing on this week because this debate shouldn't be about alleviating the guilt complexes of the liberal elite. It should be about actually achieving the best outcome for the environment, for energy security and, most importantly, for the people we were sent here to represent.

One thing that seems clear is this. Even if we were to enact the kinds of national energy regulations the President seems to want so badly, it would be unlikely to meaningfully impact global emissions anyway unless other major industrial nations do the same. That means getting countries such as China and India on board.

The President knows that. The President also knows that much of the pain of imposing such regulations would be borne by our own middle class.

That is why this discussion has become so cynical, and it is part of the reason the President's own party couldn't even pass a national energy tax when it had complete control of Washington's Congress back in 2009 and 2010. If the American people weren't willing to go along with considerable domestic pain for negligible global gain then, it is foolish to think they would assent to a bad idea now.

Remember, even the President's own party in the Senate wouldn't bring up the President's proposal for a national energy tax despite their overnight speeches and complaints about every-  
one else.

Of course, none of this has stopped the President from trying to get his way anyway. That is why we have seen this administration's attempt to do an end run around the legislative process to try to impose a similar agenda through executive fiat.

It needs to be stopped. The President's regulations are hurting people, often people who are already struggling and vulnerable—the very people the President claims he wants to help.

Our constituents are being hurt because of a cynical political agenda, because of a war on coal and other sources off American energy that the far left like and the Democratic Party is simply demanding.

The middle class doesn't even have a meaningful say in this discussion because the President has decided the Congress the people elect doesn't really matter anymore. Republicans are trying to change that this week.

We have asked the majority leader to allow votes on energy amendments that would let our constituents have a say for once. My constituents in Kentucky should be able to weigh in on an EPA rule that would negatively impact existing and future coal plants. Kentuckians deserve a real say on ongoing regulatory efforts to tie up mining permits and the red tape that is stifling the creation of good jobs in coal country.

Our constituents should finally be truly heard on the Keystone Pipeline they overwhelmingly support. The American people deserve a real debate on how we can best tap our own extraordinary natural resources to achieve energy independence at home and how we can help our allies overseas through increased exports of American energy.

These are the proposals we should be voting on this very week, proposals that can help our economy, boost the middle class and jobs while strengthening our national security and lessening our dependence on foreign sources of energy.

But we can't move forward if the Democrats who run the Senate keep trying to protect the President at the expense of serving their constituents. We know they are getting pressure from the White House to shut down a real debate on energy. One of the President's aides yesterday made it clear that it will be leaning on Democratic Senators to "get the right outcome."

In other words, this is to do the White House's political bidding and to once again ensure that struggling middle-class Americans get the short end of the stick from the Democrats here in Washington.

The American middle class is hurting, absolutely hurting. By a 2 to 1 margin Americans say the country's economic conditions are poor. Only about one-quarter say there are enough jobs available where they live, and they have been suffering from years of spiking electricity prices that would only get worse if the President's agenda were fully realized.

These are the people who deserve our attention. They are the ones who are struggling, not the far left, not the activists who yell the loudest and appear to care the least about who their ideas actually hurt, and not the President's political fixtures in the White House. These are not the people on whom we should be focusing.

It is time—way past time—to start paying attention to the people who actually sent us to the Senate. They deserve a robust debate about how to develop policies that can actually lead to lower utility bills that can put coal families back to work, that can help create well-paying jobs, that can help increase energy security, and that can help prevent energy from being used as a tool of war and oppression by global adversaries.

That is why we were sent to the Senate to debate these kinds of things.

If Democrats have good ideas on energy too, this is the time to share theirs.

What is wrong with having amendments from both sides on this bill. We want to hear everybody's serious ideas.

The American people have waited 7 long years, as I said earlier, for a serious energy debate in the Democratic-run Senate—7 years. It is about time they got it, and this is the perfect week to do it.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. To belittle the President of the United States for wanting to talk about climate change is pretty obviously wrong. One can mischaracterize all they want the fact that President Obama recognizes climate is changing worldwide, but it is truly a mischaracterization if anyone thinks this is not something that is serious.

It always appears when we get into a serious debate about a subject, whether it is energy efficiency or climate change, the Republicans want to change the subject, to divert or to obstruct. So what is the Republican answer to this climate change, which is real: more oil production—that is one of their solutions—block regulations to protect health and the environment, deny climate change is happening at all.

The senior Senator from Oklahoma says it is a hoax. It is not a hoax. It is real, and I am very happy the President is saying something about this.

#### EXECUTIVE SESSION

#### NOMINATION OF INDIRA TALWANI TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS

Mr. REID. Mr. President, I move to proceed to executive session to consider Calendar No. 655.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Indira Talwani, of Massachusetts, to be United States District Judge for the District of Massachusetts.

#### CLOTURE MOTION

Mr. REID. I ask the cloture motion be reported.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the cloture motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Indira Talwani, of Massachusetts, to be United States District Judge for the District of Massachusetts.

Harry Reid, Patrick J. Leahy, Mazie Hirono, Dianne Feinstein, Al Franken, Jack Reed, Amy Klobuchar, Robert P. Casey, Jr., Sheldon Whitehouse, Benjamin L. Cardin, Tom Harkin, Barbara Boxer, Richard Blumenthal, Edward J. Markey, Richard J. Durbin, Charles E. Schumer, Elizabeth Warren.

Mr. REID. I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

#### LEGISLATIVE SESSION

Mr. REID. I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

#### EXECUTIVE SESSION

#### NOMINATION OF JAMES D. PETERSON TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WISCONSIN

Mr. REID. I move to proceed to executive session to consider Calendar No. 656.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of James D. Peterson, of Wisconsin, to be United States District Judge for the Western District of Wisconsin.

#### CLOTURE MOTION

Mr. REID. Mr. President, there is a cloture motion at the desk and I ask that it be reported.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the cloture motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the