



United States  
of America

# Congressional Record

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

Vol. 160

WASHINGTON, WEDNESDAY, NOVEMBER 12, 2014

No. 137

## Senate

The Senate met at 2 p.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, our hope for the years to come, as we prepare to turn to a new chapter in U.S. Senate history, we pause to acknowledge that You are our light and salvation. Lord, You are the strength of our lives, enabling us to move confidently toward the future.

Empower our lawmakers who are coming and going, sustaining them in all of their tomorrows. Bless also the many other laborers who will be leaving us, who faithfully served without fanfare. Lord, reward their fidelity with Heaven's commendation. As our Senators seek to respond to the voices of the American people, may they make it their top priority to listen to Your whisper. May pleasing You be their greatest desire. Let Your Kingdom come and Your will be done on Earth as it is in Heaven.

We pray in Your sovereign 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.

### MARKETPLACE AND INTERNET TAX FAIRNESS ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 467, S. 2609, the Marketplace Fairness Act.

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

The legislative clerk read as follows:

Motion to proceed to Calendar No. 467, S. 2609, a bill to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

#### SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican leader, the Senate will be in a period of morning business until 5:30 this evening. During that time, Senators will be permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

At 5:30 p.m. the Senate will proceed to cloture votes on the nominations of Randolph Moss and Leigh Martin May; one is from the District of Columbia and the other is from the State of Georgia.

#### WORKING TOGETHER

Mr. President, I have always believed it wise to follow Will Rogers' admonition: "Don't let yesterday use up too much of today."

We have a lot of work to do and no time to dwell on the past. With just a few weeks left in this Congress—the 113th—there are a number of important legislative matters before this body that must be finished.

I congratulate the Republican leader who will soon become the new majority leader. The senior Senator from Kentucky and I have known one another for a very long period of time. We have been whips together. He was minority leader. I was minority leader and majority leader. We have been back and forth, so we understand these jobs. I appreciate his devotion to the State of Kentucky, to our country, and to the Senate. He knows I hold him in the

highest regard. I am ready to work with him in good faith to make this institution function again for the American people.

I saw firsthand how a strategy of obstruction was debilitating to our system. I have no desire to engage in that manner. I have been, as I mentioned before, and I mention again, the minority leader. I have been able to strike compromises with my Republican colleagues, and I am ready to do it again.

Regardless of how one may interpret last week's election results, it is clear the American people want us to join together to get things done for the middle class and all Americans, and we should be able to do that. After all, helping working families is not a partisan issue. Just last week we saw four very red States—Alaska, Arkansas, Nebraska, and South Dakota—vote to increase their minimum wages. Clearly, Republicans outside this building don't object to giving American workers a livable wage.

The minimum wage is just one example. There are other issues such as student debt relief for borrowers, pay equity for women, and a number of other issues that need to be addressed as well. There is absolutely no reason we can't work together on these issues and all issues so Democrats and Republicans can lend Americans the helping hand they so desperately need.

Although the desks in this great Chamber may move around and change, our duty to help working American families never will. Senate Democrats are ready to work in good faith with their Republican counterparts—whether it is today, tomorrow, January, no matter when it is—to help the middle class, and when we do that, we help all of our citizenry.

#### RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Republican leader is recognized.

#### LISTEN TO THE AMERICAN PEOPLE

Mr. MCCONNELL. Mr. President, last week the American people sent a

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



Printed on recycled paper.

S5885

strong message to Washington. They voted for a new direction. They called for a change in the way we do things in the Senate, and they sent a new team to Washington to carry their wishes forward, and we plan to do just that.

But several items remain for the outgoing Congress to consider and that is our immediate focus.

In the weeks that remain in this Congress, we should work to accomplish the essential task of funding the Congress and preventing retroactive tax increases. We must address the expiring authority passed earlier this session for the Department of Defense to train and equip a moderate, vetted Syrian opposition, and we must continue to support the efforts to address the Ebola crisis.

All of this will require cooperation from both sides of the aisle, from both sides of the rotunda, and from both ends of Pennsylvania Avenue. The actions of the next few weeks can help set a positive tone for the work of the next Congress. It is a tone that will depend largely on the administration's willingness to respect the message sent last Tuesday.

That is one of the things we discussed at the White House on Friday. It was a productive meeting. There is a lot both parties can accomplish together over the next couple of years. I hope that happens. In fact, I am optimistic. But working together requires trust.

I think President Obama has the duty to help build the trust we all need to move forward together—not to double down in the old ways of doing business. That is why I think moving forward with the unilateral action on immigration he has planned would be a big mistake, as was last night's announcement to essentially give China a free pass on emissions while hurting middle-class families and struggling miners here in our country.

Last Friday, the President said the American people would like to see more cooperation in Washington. He said he thinks all of us have a responsibility—himself in particular—to try and make that happen. That is the kind of tone the American people are looking for. Now it is on folks in Washington to calibrate their actions accordingly. So let's not do things to hurt the possibility of a cooperative partnership. Let's step back and focus on what can be accomplished together. Let's listen to the American people.

The PRESIDING OFFICER (Mr. MURPHY). The assistant minority leader.

MR. CORNYN. Mr. President, what happened on November 4 was the beginning of an opportunity—an opportunity we have to work together to restore faith in our Democratic institutions, to restore strong growth to our economy, and to restore a sense of purpose and principle to U.S. foreign policy.

Starting with the incoming majority leader, my good friend, the senior Senator from Kentucky, Republicans have been entrusted by our fellow citizens to

lead this Chamber next year. We understand the American people sent a strong message on November 4 that they were enormously frustrated by what they saw as dysfunction and the state of affairs in Washington, DC. We understand why they are eager for new leadership and a new direction. My party, the Republican Party, approaches this opportunity with humility and, above all, a clear-eyed commitment to address the top priorities of the American people. Of course, those priorities start with jobs and the economy.

I know the unemployment rate has continued to tick down little by little, but it is fairly misleading when we consider the fact that we are stuck with a 36-year low in the labor participation rate—the percentage of people who are actually looking for work. Indeed, there are still more than 7 million people looking for full-time work and working currently in part-time jobs. We know many people have become so discouraged that they have simply given up and they have quit looking, and that is a tragedy.

Then there is this problem: America's median household income is no higher in 2013 than it was nearly a quarter of a century ago, in 1989. That has been a silent tragedy—one that has been sustained by the middle class in America, who have seen no growth in their median household income for about a quarter of a century.

The median income was lower last year than it was the year President Reagan left the White House. That is simply astonishing. It has crushed the middle class. Addressing that should be one of our highest priorities in the new Congress starting in January.

Since 2011, our colleagues in the House of Representatives have been passing legislation they feel would boost job creation and increase wages. In the 113th Congress alone, they passed dozens of jobs bills. Unfortunately, as we know, those have not been taken up by the majority leader in the Senate, and they have been effectively declared dead on arrival.

Then we also know this strategy of blocking amendments on pending legislation to prevent vulnerable incumbents from being forced to cast tough votes has backfired, because many of our colleagues in the majority have not been able to point to a legislative record of effectiveness for their own constituents because of this flawed strategy of blocking the Senate from considering amendments and voting on them. It is one thing to be in the minority and have the amendments or suggestions I am offering added, but it is harder to explain to your own constituents if you are in the majority and you are being blocked out too. So I hope we are done with that.

I know the incoming majority leader, Senator McCONNELL, believes strongly in returning the Senate to its traditions as the world's greatest deliberative body, where anyone, regardless of

who they are or which political party they are affiliated with, can come to the Senate floor and offer constructive suggestions and get a vote. That is what we do—at least that is what we used to do, and that is what we can do again, and that doesn't mean just the majority party gets votes on their amendments; that means the minority party will get votes on their amendments. Hopefully, slowly but surely, we can begin to rebuild not only trust and confidence within ourselves and this institution, but regain the lost trust of the American people by showing that we can effectively solve problems on a bipartisan basis to the challenges they face as members of the hard-working middle class.

Then there is the basic job of governing. We will pass a budget next year—something our friends across the aisle have failed to do since 2009. Now, here is something I do not think anybody will excuse or defend: How in the world can it be that when every small and large business in America has to have a budget, when families have to have a budget so they can determine their priorities and how they can most effectively utilize their income, that they have to pass a budget but the U.S. Congress does not? That is, frankly, malpractice, in my view, and it has to end, and it will end next year.

I know Republicans and Democrats will continue to have policy disagreements. Nobody is suggesting that is not going to happen. But this is the place where those get debated, where they get voted on, and where majorities will actually pass legislation and send it to President Obama. And those will be largely, if not almost entirely bipartisan majorities, of course, by definition.

We know Democrats by and large continue to support the Affordable Care Act and Republicans continue to believe it was a mistake and should be replaced with patient-centered alternatives. But we do not have to choose between complete paralysis and actually functioning. Dysfunction is not the only choice we have, and now that that has been rejected by the voters resoundingly, we know a change is in order. The American people have demanded it, they deserve it, and they will get it.

So last week's election will not change some of the fundamental policy differences we have between political parties on ObamaCare, on what we need to do to preserve and protect Social Security and Medicare and the like, and it will not change people's points of view on other hot-button issues, but it will give us a chance to make some steady incremental progress on issues where we do agree.

When I came to the Senate, Teddy Kennedy, the liberal lion from Massachusetts, had been here about 40 years, and he was working on the Health, Education, Labor, and Pensions Committee with MIKE ENZI, a conservative Republican from Wyoming.

One day I went up to MIKE ENZI and I said: Well, how is it that you and Senator Kennedy, with such diametrically opposing views on what the Congress ought to do and how to solve these problems, can actually work productively together?

Senator ENZI said: That is easy. It is the 80-20 rule. The 80 percent we can agree on, we do. The 20 percent we cannot, we don't; we put off for another day.

That strikes me as eminently practical and a way for us to begin to get back to work again.

When I talk about the easy stuff we can do, I am referring to the bipartisan majority that supports things such as the Keystone XL Pipeline authorization, increasing our natural gas exports not only for the job creation and economic boost it gives us here in America but also because it changes the geopolitics of the world, where people such as Vladimir Putin cannot put a bootheel on the gas supply to Europe or Ukraine and use that for their own purposes.

I am confident we can find common-sense safeguards from an overreaching Federal bureaucracy. We can agree on things such as improving workforce training programs and do things that make it much easier to launch new infrastructure and construction projects. We can do things we should have done last year or this year, such as reforming our broken patent system to discourage abusive and costly litigation. We actually had a bipartisan bill in the Judiciary Committee, but it did not come to the floor because the majority leader would not bring it up because one of his constituencies simply objected to it. Well, no one should have a trump card when it comes to good, bipartisan legislation, and they will not next year. We will vote on patent reform.

Then there are things such as mitigating some of the burdens of ObamaCare, restoring the 40-hour workweek, and repealing the medical device tax, and there is strong bipartisan support for repealing that tax which has driven medical device manufacturers and their jobs overseas. I have constituents, for example, in Dallas in that business, and they say they are building their business in Costa Rica because of the impact of this medical device tax and its negative impact on medical innovation and job creation here.

I do know there is bipartisan support for abolishing the Independent Payment Advisory Board under Medicare. This is 15 bureaucrats who basically get to decide who gets medical care and who does not, with no real appeal or recourse. In the Judiciary Committee, on which I serve, we have had very impressive bipartisan support for things such as prison reform and even sentencing reform.

Those are important issues of substance the Senate ought to be discussing, debating, voting on, and try-

ing to find ways we can work together to achieve solutions. Each of the things I have mentioned has bipartisan support. If we can pass these measures with strong support on both sides of the aisle and send them to the President for his signature, it will be much easier to establish the trust and cooperation necessary to do the harder stuff. So starting with the easy stuff we have already identified that has bipartisan support—demonstrating we can actually do that—then I think we will have confidence in ourselves, and the American people will have confidence in us and their government to begin to tackle some of the more challenging issues.

Senator MCCONNELL, the Republican leader, mentioned this, but it bears repeating: that the President is still threatening to go around Congress and use an Executive order to implement a new, radical change in our Federal Government's immigration policy, and I think it is a terrible mistake.

At this same luncheon that the Senator from Kentucky mentioned, a number of us went down the line and said: Mr. President, please don't do this because if you do, it will make it even harder for us to take a step-by-step approach to immigration reform that enjoys bipartisan support. It will poison the well—not to mention the fact that what the President is proposing to do is unlawful and it will also make it harder for us to do the other things I have mentioned already that have bipartisan support. It will poison the well.

Why in the world would the President want to do that at the start of a new Congress in the last 2 years of his term in office? Don't you think he would want to have some legacy that he could point to in those last 2 years, saying: Well, I might have been dealt a tough political hand with Republican majorities in the House and the Senate, but we were actually able to be productive.

I think that is why most Senators have come here—to be productive.

So I would urge the President, as others have done, in the very strongest of terms to abandon his plan for this Executive amnesty and to heed the message—the very clear message—voters sent last Tuesday. After a 6-year experiment in unfettered liberalism and big-government policies, the American people are asking for a new direction. I am not under any illusion that all of a sudden they have fallen in love with my side of the aisle. That is not true. But what they are willing to do is put us on probation and give us all a chance to demonstrate that we can change our course, we can listen to the American people, and we can do things together that they want to see us do.

My constituents—6.5 million Texans—are sick and tired of watching the Federal Government waste their money, selectively enforce the law, and try to micromanage their lives as if the Federal Government knows better than

they do what is good for them and their families. It is not true, and they know it, but that has not stopped the efforts over the last 6 years.

What my constituents want, I believe—and I believe it because they have told me this—they want leaders who will respond to their practical day-to-day concerns, leaders who appreciate and will address the biggest threats to the American dream, leaders who will uphold the timeless principles of our Constitution.

I believe there is a nascent, bipartisan, emerging consensus here that we can actually do this. This is not too hard for us to do. Yes, I have read what some of the pundits have said. They said it is going to be even worse with Republicans in charge. Well, it better not be worse or there will be a heavy price to pay, and most of that will be paid by the American people, who will not be well-served if we simply refuse to change and if we refuse to listen. And that goes for the President, that goes for Republicans, and that goes for Democrats.

So for my part and I believe for our part on this side of the aisle, we are eager to work together to solve our country's problems, to help unleash this great American job-creating engine known as our economy, and to restore the rule of law and constitutional government. As for President Obama, we can only hope he decides to work with us rather than against us and against the best intentions and desires of the American people.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I would like to speak for up to 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

#### KEYSTONE XL PIPELINE

Ms. LANDRIEU. Mr. President, I was hoping to catch the Senator before he left the floor because I wanted to ask him—and I am not sure he is going to slip back in here, but I was going to ask him if he thought maybe—because I agree with him that that new approach to bipartisanship could start today. I do not think we have to necessarily wait until January. There are some of us who have been ready, who have worked in a bipartisan way, literally for years, getting very important things done for our Nation. I am