



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 114th CONGRESS, FIRST SESSION

Vol. 161

WASHINGTON, TUESDAY, OCTOBER 27, 2015

No. 158

Senate

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

PRAYER

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

Let us pray.

Sovereign Lord, we have heard of Your greatness from generation to generation. You sit enthroned in majesty, for Your glory covers all the Earth.

Today, bless and sustain our lawmakers and their staffs. May their words and deeds honor You. Lord, guide them in righteous paths that will keep America strong. Equip them to conduct the work of freedom with justice and humility. Give them contentment that comes from knowing and serving You.

Guide America, making it a lighthouse for a dark and turbulent world. Lord, thank You for being our strength and shield.

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 PRESIDING OFFICER (Mr. COTTON). The majority leader is recognized.

FISCAL AGREEMENT AND CYBER-SECURITY INFORMATION SHARING BILL

Mr. McCONNELL. Mr. President, as colleagues have no doubt already noted, a fiscal agreement has been filed that addresses a number of important issues. Members currently have the op-

portunity to review it. I hope they will take that opportunity. I will certainly have more to say on the matter later. But for now, I encourage all our colleagues to examine the agreement.

On the legislation before the Senate today, the challenges posed by cyber attacks are real and they are growing. They don't just threaten governments and businesses; they threaten individuals as well. Everyone understands that a cyber attack can be a deeply invasive attack on personal privacy. Everyone understands that a cyber attack can be financially crippling. That is why everyone should want to see the bipartisan cyber security bill before us pass today.

Its voluntary information sharing provisions are key to defeating cyber attacks and protecting the personal information of the people we represent. We also know the bill contains measures to protect civil liberties and individual privacy.

It is no wonder the Senate voted to advance it by a large bipartisan vote of 83 to 14 last week. I want to thank Chairman BURR and Vice Chairman FEINSTEIN of the Intelligence Committee for their continued hard work on this legislation. We will consider a number of amendments from both sides of the aisle today. Then we will proceed to a final vote on the underlying bill. I urge every colleague to join me in voting to protect the personal data, privacy, and property of the American people.

ENERGY REGULATIONS

Mr. McCONNELL. Mr. President, on one final matter, the Obama administration recently published massive energy regulations that will not do a thing to meaningfully affect global carbon levels. It will not make a noticeable difference to the global environment. But it will ship more middle-class jobs overseas. It will punish the poor. It will make it even harder for

coal families in States such as Kentucky to put food on the table. In other words, it is facts-optional extremism wrapped in callous indifference. Senators from both parties are saying: Enough is enough.

We filed bipartisan measures that would allow Congress to overturn these two-pronged regressive regulations. I joined Senator HEITKAMP and Senator CAPITO on a measure that would address the prong that pertains to the existing energy sources. Senator MANCHIN joined me as I introduced a measure that would address the prong that pertains to new energy sources. Together these measures represent a comprehensive solution. Colleagues will join me to speak about these resolutions later today. I am sure they will say more about the measures we filed and the process associated with them.

But what everyone should know is this: The publication of these regulations does not represent an end but a beginning. It is the beginning of a new front to defend hard-working middle-class Americans from massive, massive regulations that target them. That front is opening here in Congress, and it is opening across the country as States file lawsuits and Governors stand up for their own middle-class constituents. The battle may not be short, and the battle may not be easy, but Kentuckians and hard-working Americans should know that I am going to keep standing up for them throughout this effort.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

BUDGET AGREEMENT

Mr. REID. Mr. President, Democrats have long called for bipartisan action to stop these devastating sequester cuts because they hurt our middle class

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



Printed on recycled paper.

and our military. With this agreement the Republican leader just mentioned, we have done just that. Democrats and Republicans have come to a responsible agreement that puts the needs of our Nation above the Republicans' partisan agenda. While this agreement is not perfect, it does address both investment in domestic priorities that benefit the middle class and defense spending. It helps us avoid a major threat to jobs and the general economy. The time to do away with the devastating sequester cuts that are harming our middle class and military is not in the future. It is right now. Democrats hope to end sequestration for the good of our great country.

Our work is not done. I hope that we can continue to work together—Democrats and Republicans—to pass this legislation and place the priorities of the American people ahead of partisan politics.

CYBER SECURITY LEGISLATION AND CLIMATE CHANGE

Mr. REID. Mr. President, it was 3 years ago this month that then-Secretary of Defense Leon Panetta warned the United States of a potential “cyber Pearl Harbor.” A cyber Pearl Harbor would be crippling, and it would be a cyber attack on our Nation’s banks, power grid, government, and communications network.

If it sounds scary, that is because it is scary. Cyber terrorists could potentially bring the United States to its knees. This potentiality is upon us. A catastrophic cyber attack is not far-fetched. Ted Koppel, the renowned journalist, has written another book, and the author reveals that our Nation’s power grid is extremely vulnerable to cyber terrorism. Imagine the toll of these attacks: massive power blackouts, no telephone, no Internet capability—that is on your cell phones or whatever phones exist—overwhelmed first responders and an infrastructure system reduced to chaos.

How vulnerable is our Nation to a cyber attack of this magnitude?

Former Secretary of Homeland Security Janet Napolitano, in the book that was written, as I indicated, by Ted Koppel, stated that the likelihood of an attack on our Nation’s power grid is 80 to 90 percent—80 percent to 90 percent.

Craig Fugate, the Administrator of the Federal Emergency Management Agency, has had to think about a potential cyber attack. It is his job. Listen to his assessment:

We’re not a country that can go without power for a long period of time without loss of life. Our systems, from water treatment to hospitals to traffic control to all these things that we expect every day, our ability to operate without electricity is minimal.

A number of years ago we had, at the direction of Senator MIKULSKI—a long-time member of the Intelligence Committee—a meeting where such an attack was discussed and the implications of it. That was years ago. It was

frightening then, and it is even more frightening now. But as Mr. Fugate indicated, that is the scale of threat the United States faces with cyber terrorism.

We as a country must do more to protect ourselves against this cyber terrorism. It can be done if Republicans will work with us. Democrats tried to pass comprehensive cyber security legislation years ago. What happened? It was filibustered by the Republicans. They wouldn’t even let us on this legislation. They wouldn’t even allow us to debate the bill. Whatever their reasoning, I am glad the Republicans have finally changed course in this decision and allowed this simple bill to move forward. We support this legislative effort, but we recognize that it is far, far too weak.

Cyber terrorism and cyber attacks are part of today’s world. But Republicans are denying the seriousness of this, as they are denying something clear to everyone in the world except my Republican Senate and House Members. We have climate change taking place that is really hurting everybody, with rare, rare exception. Cyber terrorism and cyber attacks are part of today’s world, just like climate change. To not move forward with more comprehensive cyber security legislation and to ignore what is happening in our world dealing with climate change will in the years to come be considered legislative malpractice. I am sorry to say that legislative malpractice is not on our shoulders. We wanted for years to do something with climate change. We can’t. It is not even something that the Republicans will allow us to discuss. We wanted for years to do something with cyber security. They refused to do so. We have a bill before us that is better than nothing, and we support it. But it is far, far too weak.

Mr. President, I see the assistant Democratic leader on the floor. Would the Chair announce before he talks to us what we are going to do here today.

RESERVATION OF LEADER TIME

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

CYBERSECURITY INFORMATION SHARING ACT OF 2015

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 754, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (S. 754) to improve cybersecurity in the United States through enhanced sharing of information about cybersecurity threats, and for other purposes.

Pending:

Burr/Feinstein amendment No. 2716, in the nature of a substitute.

Burr (for Cotton) modified amendment No. 2581 (to amendment No. 2716), to exempt from the capability and process within the

Department of Homeland Security communication between a private entity and the Federal Bureau of Investigation or the United States Secret Service regarding cybersecurity threats.

Feinstein (for Coons) modified amendment No. 2552 (to amendment No. 2716), to modify section 5 to require DHS to review all cyber threat indicators and countermeasures in order to remove certain personal information.

Burr (for Flake/Franken) amendment No. 2582 (to amendment No. 2716), to terminate the provisions of the Act after ten years.

Feinstein (for Franken) further modified amendment No. 2612 (to amendment No. 2716), to improve the definitions of cybersecurity threat and cyber threat indicator.

Burr (for Heller) modified amendment No. 2548 (to amendment No. 2716), to protect information that is reasonably believed to be personal information or information that identifies a specific person.

Feinstein (for Leahy) modified amendment No. 2587 (to amendment No. 2716), to strike the FOIA exemption.

Feinstein (for Mikulski/Cardin) amendment No. 2557 (to amendment No. 2716), to provide amounts necessary for accelerated cybersecurity in response to data breaches.

Feinstein (for Whitehouse/Graham) modified amendment No. 2626 (to amendment No. 2716), to amend title 18, United States Code, to protect Americans from cybercrime.

Feinstein (for Wyden) modified amendment No. 2621 (to amendment No. 2716), to improve the requirements relating to removal of personal information from cyber threat indicators before sharing.

The PRESIDING OFFICER. Under the previous order, the time until 11 a.m. will be equally divided between the two leaders or their designees.

The assistant Democratic leader.

Mr. DURBIN. Mr. President, the debate which we will engage in today on the floor of the Senate is really one that parallels the historic debates that have occurred in the course of our Nation’s history. When a great democracy sets out to defend its citizens and to engage in security, it really is with a challenge: Can we keep our Nation safe and still protect our rights and liberties? That question has been raised, and that challenge has been raised time and again.

It was President Abraham Lincoln during the Civil War who suspended the right of habeas corpus. It was challenged by some as an overextension by the executive branch, but President Lincoln thought it was necessary to resolve the Civil War in favor of the Union. In World War I, the passage of the Alien and Sedition Acts raised questions about the loyalty of Americans who question many of the great issues that were being raised during that war. We certainly all remember what happened during World War II when, even under President Franklin Roosevelt, thousands of Japanese Americans were interned because of our concerns about safety and security in the United States. It continued in the Cold War with the McCarthy hearings and accusations that certain members of the State Department and other officials were, in fact, Communist sympathizers. That history goes on and on.

So whenever we engage in a question of the security and safety for our Nation, we are always going to be faced