



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 115<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 163

WASHINGTON, MONDAY, JANUARY 9, 2017

No. 5

## Senate

The Senate met at 2 p.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.

We acknowledge today, O Lord, Your power, mercy, and grace. We need Your power, for the challenges we face require more than human wisdom and strength. We need Your mercy, for we transgress Your law and fall short of Your glory. We need Your grace, for we cannot offer anything to merit Your favor or gain Your love.

Lord, empower our Senators for today's journey. Give them confidence to draw near to You, that they may find grace to help them in this time of need. May they pass their days in the companionship of Your everlasting mercy. Enable them to learn the stewardship of time, energy, and abundance. Temper their gifts with Your wisdom, as You help them with their decisions. Remind them that leadership can work miracles with cooperation, but accomplishes little with criticism and bitterness.

We pray in Your Holy 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.

### RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SULLIVAN). Under the previous order, the leadership time is reserved.

### CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 2017

The PRESIDING OFFICER. Under the previous order, the Senate will re-

sume consideration of S. Con. Res. 3, which the clerk will report.

The senior assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 3) setting forth the congressional budget for the United States Government for fiscal year 2017 and setting forth the appropriate budgetary levels for fiscal years 2018 through 2026.

#### Pending:

Enzi (for Paul) amendment No. 1, in the nature of a substitute.

Sanders amendment No. 19, relative to Social Security, Medicare, and Medicaid.

Sanders (for Hirono/Donnelly) amendment No. 20, to protect the Medicare and Medicaid programs.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged equally to both sides.

#### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

#### NOMINATIONS

Mr. SCHUMER. Mr. President, last week, I expressed my sincere hope that the majority leader and I could come to some agreement on the process of nominations. He has negotiated in good faith, and we have made some progress. I sincerely appreciate his willingness to work with us so far. I do want to clarify why Democrats are doing this.

Yesterday, my friend the majority leader went on television and suggested that we were raising concerns about the nominations out of pique or anger. He chalked up these "little procedural complaints" to "sour grapes," and he suggested that Democrats "grow up."

We are not doing this for sport. Democrats feel very strongly that pushing for a thorough and thoughtful vetting process is the right thing to do. Here is why. The Democratic minority was and is concerned about the hearing schedule, which is so jammed right now that several high-importance hearings will fall on the same day, depriving Senators and the American people a chance to properly participate in the vetting process of these nominees.

Our caucus was and is concerned about the timely completion of the standard paperwork and ethics clearance for nominees before proceeding full steam ahead with confirmation hearings and votes. Bear in mind, President-Elect Trump's nominees pose particularly difficult ethics and conflict-of-interest challenges. Many of them come from enormous wealth. Many have vast holdings in stocks, and very few have experience in government so they have not been appropriately vetted for something like a Cabinet post before.

What had been standard practice for the vast majority of nominees—the completion of a preliminary ethics review before their nomination—was skipped over for the vast majority of President-Elect Trump's nominees. In fact, the independent Office of Government Ethics went so far as to send a letter warning that "their [the Republicans] schedule has created undue pressure on OGE's staff and agency ethics officials to rush through these important reviews."

The OGE office is nonpartisan. It has never been political so this has nothing to do with politics. "I am not aware," wrote the Director, Walter Schaub, "of any occasion in the four decades since OGE was established when the Senate held a confirmation hearing before the nominee had completed the ethics review process."

The very same majority leader, my friend Senator MCCONNELL, who suggested that Democrats were raising concerns out of pique or resentment, in fact, raised the same concerns in 2009 when he was minority leader. In fact, then-Minority Leader MCCONNELL sent then-Majority Leader Reid a letter laying out his prerequisites for time agreements on the floor for President Obama's nominees. They are almost exactly what Democrats requested.

I don't bring this up to play gotcha. I am doing it to show that our requests are eminently reasonable and, in fact,

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



Printed on recycled paper.

S125

have been shared by leaders of both parties. I am going to read the letter because it is amazing how it mirrors our requests. It was sent to Harry Reid from MITCH MCCONNELL in 2009, just as President Obama became President.

Dear Harry:

The Senate has the Constitutional duty to provide its Advice and Consent on Presidential nominations, a duty which we take seriously. In consultation with our Ranking Members, we reaffirm our commitment to conduct the appropriate review of these nominations, consistent with the long standing and best practices of committees, regardless of which political party is in the majority. These best practices serve the Senate well, and we will insist on their fair and consistent application.

Therefore, prior to considering any time agreements on the floor on any nominee, we expect the following standards will be met:

1. The FBI background check is complete and submitted to the committee in time for review and prior to a hearing being noticed.

2. The Office of Government Ethics letter is complete and submitted in time for review and prior to a committee hearing.

3. Financial disclosure statements (and tax returns for applicable committees) are complete and submitted to the committee for review prior to a hearing being noticed.

4. All committee questionnaires are complete and have been returned to the committee. A reasonable opportunity for follow-up questions has been afforded committee members, and nominees have answered, with sufficient time for review prior to a committee vote.

5. The nominee is willing to have committee staff interviews, where that has been the practice.

6. The nominee has had a hearing.

7. The nominee agrees to courtesy visits with members when requested.

8. The nominee has committed to cooperate with the Ranking Member on requests for information and transparency.

There will be additional requirements, honoring the traditions of the Senate, for judicial nominees. These common sense standards and long standing practices will ensure that the Senate has had the opportunity to fairly review a nominee's record and to make an informed decision prior to a vote.

Sincerely,

MITCH MCCONNELL,  
*Republican Leader.*

Mr. President, I ask unanimous consent to have printed in the RECORD the letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
OFFICE OF THE REPUBLICAN LEADER,  
February 12, 2009.

Hon. HARRY REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

DEAR HARRY: The Senate has the Constitutional duty to provide its Advice and Consent on Presidential nominations, a duty which we take seriously. In consultation with our Ranking Members, we reaffirm our commitment to conduct the appropriate review of these nominations, consistent with the long standing and best practices of committees, regardless of which political party is in the majority. These best practices serve the Senate well, and we will insist on their fair and consistent application.

Therefore, prior to considering any time agreements on the floor on any nominee, we expect the following standards will be met:

1. The FBI background check is complete and submitted to the committee in time for review and prior to a hearing being noticed.

2. The Office of Government Ethics letter is complete and submitted to the committee in time for review and prior to a committee hearing.

3. Financial disclosure statements (and tax returns for applicable committees) are complete and submitted to the committee for review prior to a hearing being noticed.

4. All committee questionnaires are complete and have been returned to the committee. A reasonable opportunity for follow-up questions has been afforded committee members, and nominees have answered, with sufficient time for review prior to a committee vote.

5. The nominee is willing to have committee staff interviews, where that has been the practice.

6. The nominee has had a hearing.

7. The nominee agrees to courtesy visits with members when requested.

8. The nominee has committed to cooperate with the Ranking Member on requests for information and transparency.

There will be additional requirements, honoring the traditions of the Senate, for judicial nominees. These common sense standards and long standing practices will ensure that the Senate has had the opportunity to fairly review a nominee's record and to make an informed decision prior to a vote.

Sincerely,

MITCH MCCONNELL,  
*Republican Leader.*

Mr. SCHUMER. Mr. President, I plan to return the exact same letter to my friend, the majority leader, with the same requests. In 2009, the then-minority leader called these benchmarks "common sense standards" and "long standing practices."

I agree with him. These standards do not indicate a lack of maturity. They show an abundance of common sense, just as his letter said. I remind the majority that several, if not most, of the nominees have actually failed to meet the qualifications laid out by this letter given the hearing schedule.

The majority leader is fond of mentioning that many Obama nominees passed quickly in 2009 and he asks that we do the same, but there is a big difference between 2009 and today. President Obama's nominees met all the standards laid out in then-Minority Leader MCCONNELL's letter. President-Elect Trump's nominees have not.

In 2009, every Obama Cabinet nominee had an ethics agreement in before their hearing. Every Obama Cabinet nominee underwent a full FBI background check before the Senate considered their nomination. President-Elect Trump's nominees are way behind that mark.

I only ask, respectfully, that the Republican majority follow the same set of standards they had in 2009 when the shoe was on the other foot, especially because these nominees raise particular concerns. The standards we have laid out as leaders of both parties address conflict of interest and security concerns.

Of course, those are prime concerns, but there is another concern as well. These nominees have, even collectively, very little experience or record in government. Many of them have taken positions quite different from the President-elect. They need to be

thoroughly vetted, not just before the U.S. Senate but before the American people. If, for instance, Representative PRICE is for the privatization of Social Security, but President-Elect Trump said he is not, what position is nominee PRICE going to take? Jamming all these hearings into 1 or 2 days, making members run from committee to committee makes no sense. After all, these nominees are going to hold incredibly powerful positions for potentially the next 4 years. To spend an extra day or two on each nominee, even if it takes a few weeks to get through them all in order to carefully consider their nominations, is well worth it. It is only fair that they are given a thorough and thoughtful vetting and they abide by the "long standing" ethics practices that were established—and laid out quite clearly by the majority leader himself—to ensure Cabinet officials were in good standing to work on behalf of the American people.

Thank you, Mr. President.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BARASSO). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

#### OBAMACARE

Mr. MCCONNELL. Mr. President, earlier today I had a good conversation up in New York with President-Elect Trump about a number of pressing issues. We talked about the upcoming Senate agenda, the President-elect's nominees, and the way forward on repealing and replacing ObamaCare. As I told him, the Senate's focus this week will remain on the process to repeal ObamaCare and keep our commitment to the American people.

ObamaCare has been a flawed system from the start, and things have gotten progressively worse over the last 7 years. From skyrocketing premiums to dwindling insurers in the exchanges, ObamaCare has corroded insurance markets across the country to a point that is simply unsustainable. That is why we are taking action to bring relief to countless American families who have been hurt by ObamaCare. Unfortunately, there are some who will never accept the realities of this failed partisan law. They seem more interested in messaging exercises than replacing ObamaCare with real solutions to improve health care. Catchy slogans, expensive campaigns, or messaging amendments are not going to undo the damage ObamaCare has caused.

Our Nation cannot continue on this trajectory as ObamaCare continues to