



United States  
of America

# Congressional Record

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

Vol. 163

WASHINGTON, WEDNESDAY, NOVEMBER 29, 2017

No. 194

## Senate

The Senate met at 12 noon and was called to order by the Honorable JONI ERNST, a Senator from the State of Iowa.

### PRAYER

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

Let us pray.

Almighty God, King of Kings and Lord of Lords, thank You for this opportunity to boldly approach Your throne of grace, finding help during life's challenging seasons. It is at Your throne that we obtain mercy to sustain us through life's hardships.

Lord, we build these moments of silent anticipation into our day, aware of our need of You. Be for our lawmakers their shelter in the time of storm. Prepare them to meet whatever difficulties that may lurk in life's shadows as they seek to cultivate an experiential relationship with You. Lord, give them the wisdom to persevere through tough times and never give up.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Presiding Officer 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. HATCH).

The senior assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,

Washington, DC, November 29, 2017.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JONI ERNST, a Senator from the State of Iowa, to perform the duties of the Chair.

ORRIN G. HATCH,  
President pro tempore.

Mrs. ERNST thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2018—MOTION TO PROCEED

Mr. McCONNELL. Madam President, I move to proceed to Calendar No. 165, S. 1519.

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

The senior assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 165, S. 1519, a bill to authorize appropriations for fiscal year 2018 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

### TAX REFORM

Mr. McCONNELL. Madam President, during the last decade, hard-working American families have tried to get ahead, but they too often faced insurmountable barriers. The economy was sluggish, paychecks were stagnant, and jobs and opportunities stayed literally out of reach. The people we represent deserve a whole lot better than that, and it is time for us to deliver. It is time to take our feet off the brakes and get our economy going again and growing again. We could do that through tax reform.

Every American who has ever interacted with the IRS already knows that our Tax Code is broken. Rates are too high, deductions and loopholes are

too complex to understand, and it is too easy for well-connected elites to take advantage. Passing tax reform is the single most important thing we can do right now to shift the economy into high gear and deliver much-needed relief to American families.

The Senate Finance Committee has developed a bill that is the result of literally years of work, dozens of hearings, and a full committee markup. I once again commend Chairman HATCH for his leadership of this committee and thank him for producing legislation to unleash the potential of our economy, to create jobs, and to keep them right here in America.

Throughout this process, we have kept middle-class families at the center of our efforts. We want to make their taxes lower, simpler, and fairer. That is why our plan would give the typical family of four with a median income a tax cut of close to \$2,200 a year. A single parent raising his or her child on a modest income could also see a tax cut of nearly \$1,400. These are real savings that can help families plan for their future and actually get ahead.

The Finance Committee's tax reform proposal also provides substantial relief to small businesses. We want to make it easier for them to grow, to invest, and, of course, to hire. The bill also will remove incentives for corporations to ship jobs and investments overseas.

Finally, our tax reform proposal delivers relief to low- and middle-income Americans by repealing ObamaCare's individual mandate tax. For too long, families have suffered under an unpopular tax from an unworkable law. Repealing this ObamaCare tax will help those who need it most.

Yesterday, the Senate Budget Committee, under Chairman MIKE ENZI's leadership, reported out a bill, including our proposal to reform the Tax Code. I thank Chairman ENZI and the members of the Budget Committee for their outstanding work to get us to

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



Printed on recycled paper.

S7367

this important moment. They have been strong advocates for tax reform, and I appreciate their efforts. The committee's report also included Chairman MURKOWSKI's plan to further develop Alaska's oil and gas potential in an environmentally responsible way. Her legislation, which has the support of her Alaska colleague, Senator SULLIVAN, was designed to create good jobs, provide new sources of energy, and strengthen our national security. Now they will both advance to the Senate floor.

Today, the Senate will take the next important step toward fixing the Tax Code and helping middle-class families keep more of their hard-earned money. Members will vote to begin debate on this once-in-a-generation opportunity to reform our Tax Code so it works for the middle class. I encourage any Member who thinks we need to fix the problems of our outdated Tax Code to vote to proceed to this legislation. Anyone who thinks that rates are too high or that loopholes are too prominent should vote to begin debate. To Members who have ideas about how to make the bill better, I would urge them to vote for the motion to proceed and offer their amendments. I believe my mandate from the people of Kentucky is to vote yes, and I certainly intend to do so.

The bottom line is this: We must vote to begin debate because once we do, we will be one step closer to taking more money out of Washington's pocket and putting more money into the pockets of the hard-working men and women we represent. This is our chance. This is our chance to deliver relief for the people who sent us here, and the way we can do that is by voting to proceed to the bill. Every Member will have the opportunity later today to answer the calls of American families by voting to begin debate. I will vote yes on the motion to proceed, and I would urge all of my colleagues to do the same.

#### NOMINATION OF DAVID STRAS

Now on another matter, Madam President, our colleague Senator GRASSLEY has done an outstanding job of processing the Senate's judicial nominees, beginning with the President's selection of Judge Neil Gorsuch to serve on the Supreme Court. Chairman GRASSLEY and members of the Judiciary Committee continue their important work today as the committee holds a hearing for three more of the President's judicial nominees, including two well-qualified nominees to our circuit courts, Justice David Stras and Mr. Stuart Kyle Duncan.

The committee's hearing today is particularly important because it means that one member of this body—in this case, the junior Senator from Minnesota—cannot singlehandedly block the committee from considering an extraordinarily well-qualified nominee to serve on our circuit court. That nominee is Justice David Stras of the Minnesota Supreme Court.

Justice Stras is an extremely qualified and widely admired member of Minnesota's highest court. He was raised by a single mother. He is the grandson of a survivor of the Nazi death camp at Auschwitz.

Justice Stras graduated first in his class from the University of Kansas Law School. He clerked on the court of appeals and the U.S. Supreme Court. He worked for several years in private practice until he joined the faculty of the University of Minnesota Law School. He was appointed to the Minnesota Supreme Court in 2010, and in 2012, Minnesota voters elected him to a full term on their highest court.

His reputation in the Minnesota legal community is impeccable. It is no wonder that the American Bar Association—hardly a rightwing organization—gave him its highest rating, unanimously "well qualified."

Nevertheless, the junior Senator from Minnesota does not support Justice Stras receiving so much as a hearing. That approach is untenable in light of the recent actions of our Democratic colleagues. A little more than 4 years ago, they eliminated the supermajority requirement for ending debate on lower court nominees. They did so, they said, because they believed that a minority of the Senate should not be able to prevent the confirmation of a nominee who enjoyed the support of a majority of this body.

Perhaps our Democratic colleagues now feel buyer's remorse over the change to the Senate rules they jammed through this body, but they should not be allowed to use the committee's blue-slip courtesy—which is neither a committee rule nor a Senate rule—as another way to block the consideration of nominees with majority support. As Chairman GRASSLEY has pointed out, that approach is not the way the blue-slip courtesy was first used, nor is it the way the vast majority of the Judiciary Committee chairmen have used it.

After Senate Democrats have changed the Senate's rules to prevent 41 Senators from stopping a nominee, our Democratic colleagues surely cannot now think it is tenable to give just one Senator absolute power to do so. They decided that 41 Senators ought not to be able to stop a nominee. How can they now argue that one Senator should be able to, in effect, block all the nominees?

In this case, the junior Senator from Minnesota acknowledges that it is "undeniably true" that Justice Stras is a "committed public servant whose tenure as a professor at the University of Minnesota underscores just how much he cares about the law." Yet our colleague objects to the committee even considering his nomination. Why does he want to block a widely respected and accomplished State supreme court justice from his own State whom his constituents actually support? Because our colleague doesn't agree with the U.S. Supreme Court Justices whom the

nominee admires, one of whom the nominee happened to clerk for.

I applaud Chairman GRASSLEY for not allowing the blue-slip courtesy to be abused in this fashion, and I look forward to learning more about Justice Stras's views from today's hearing.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

#### REPUBLICAN TAX PLAN

Mr. SCHUMER. Madam President, first, before I get to my main issue of taxes, I just heard the majority leader talk about taking away the blue slip. We hear the other side professing they want to work in a bipartisan way, but every step they take takes away bipartisanship. Reconciliation takes away bipartisanship. Getting rid of the blue slip takes away bipartisanship. Unfortunately, the majority leader has taken many steps this year to remove any hint of bipartisanship—most notably, reconciliation on this major tax bill.

This is the first time we are doing tax reform in 36 years, but then, it was done in a bipartisan way. The product lasted, and people, in retrospect, were proud of it. Because this bill is being done in such a partisan and narrow way and the idea—I even heard my friend from Utah say this: Join us. You don't put together a bill in the dark of night with just Republicans and then say: Come join us. That is not how tax reform was done in 1986. That is not how major, bipartisan efforts in this body have ever been done. It is a group from both parties sitting down and coming up with a plan. And to offer amendments and then to have them all defeated or ruled out of order and then say that is regular order? Who are we kidding? Who are we kidding?

This has been a very partisan bill. That is why it is not a great product. That is why the other side is rushing it through. This is not a proud day for this Chamber, and history will show that. History will show that.

Now I would like to talk about the specific plan, although we are still not sure what the plan will be. According to reports, Republicans are, right now, furiously debating changes in the bill, and who knows when they will put the bill on the floor. A bill like this deserves weeks of debate on the floor. At most, we will get 20 hours of debate—and maybe not that—depending on when the leader puts the new substitute bill on the floor. That is so wrong. That is so against the better angels of this Chamber and the history we have had for centuries. It is against the best practices that my dear friend from Utah, the chairman of the Finance Committee, has exhibited throughout his career. So I hope we can, even at this late moment, change that.

But we are only 1 day away, unfortunately, from a final vote on the bill to rewrite the entire U.S. Tax Code, and significant parts of the Republican bill

are still up in the air. By the time we vote, no one will have a definitive analysis of how the bill would impact the economy—no one. No one will know how the last-minute provisions Republicans add will affect American taxpayers and businesses.

If this bill should pass—and I sure hope it doesn't, for the sake of America and for the sake of the middle class—my Republican friends will regret rushing it through in such a brazen way. There will be unintended consequences. The rush to get something—anything—done will haunt my Republican colleagues in years to come and, I dare say, in November of 2018.

I would understand the rush if the Republicans were sure they had a great tax bill, but they are not sure. I know so many of my colleagues have expressed real misgivings about this bill. They say that it is better than nothing, but that is not the alternative. It is not either this bill or nothing. We Democrats are ready to sit down and work on a bipartisan bill—it will take a couple of months—and come up with a much better plan that will get 70 or 80 votes on the floor of this Chamber, of which we can all be proud.

Every independent analysis has shown that millions of middle-class people will get an increase in taxes. The Tax Policy Center estimates that 60 percent of middle-class families will see a tax increase at the end of the day, while folks making over \$1 million will get an average cut of \$40,000. Do millionaires need a tax cut at all? Are they doing so poorly? Is there any study that shows this kind of tax cut will make them work harder or create more jobs? No. No. None. So the individual side here, which reduces the top rate by 1 percent, if that is still in the bill they are going to put before us, is misguided.

Corporations will get permanent breaks while individuals' will expire after only a few years. For estates, right now the only estates that pay any tax are worth over \$11 million, and they will get a tax break while 13 million fewer Americans—middle income, low income—will get health insurance. Why rush to pass a bill like that?

It is no wonder the bill is so unpopular with the American people. In every survey that I have seen and in every State survey that I have seen, the numbers who dislike the bill exceed—in most cases, by a lot—those who like the bill, just like healthcare.

Now, corporate profits are at an all-time high. Companies are flush with cash. The richest 1 percent of Americans receive 20 percent of the overall national income. The richest 1 percent get 20 percent of the income. God bless them. I don't like that percentage, and that percentage hasn't been matched in nearly a century since the roaring twenties. But do they need a tax break? Come on.

Corporations and the wealthy are doing great right now. God bless them. They don't need a tax cut. To lavish

them with huge tax breaks and ask the middle class to bear so much of the cost—that gets it backward. That is not a bill anyone in this Chamber can be proud of, whether your views are for tax cuts or not.

The main argument my Republican colleagues use to counter these damning facts—what I say is the core argument of their tax plan—is that a massive corporate tax cut would grow the economy and make it easier for companies to invest in their workers. The argument that a massive corporate tax cut leads to more jobs and higher wages is a flimsy house of cards that falls down under the slightest scrutiny.

Just yesterday, Bloomberg published an article citing the CEOs of major companies like Cisco and Coca-Cola, who said, according to the report, that “they’ll turn over most gains from the proposed corporate tax cuts to their shareholders, undercutting the President’s promise that his plan will create jobs and raise wages for the middle class.”

We have seen similar quotes by major corporate leaders on earnings calls over the past several months. They admitted that this big corporate tax break will go, in large part, to stock buybacks, dividends, which we all know go to the wealthiest people in America. The preponderance of it goes to the wealthiest people in America. The additional profits from corporate tax cuts will not go to new investments or higher wages but to CEO bonuses, stock buybacks, and dividends.

Perhaps the most compelling testimony was given to top White House economic adviser Gary Cohn himself, who spoke at the Wall Street Journal CEO Council earlier this year. The gathering of business leaders was asked to raise their hands if they planned to invest the money they got from corporate tax cuts into their companies.

Gary Cohn had to ask: Why aren't there more hands up?

Again, you say: Well, they were afraid to say so. They didn't want to reveal their plans. Well, corporate executives are revealing their plans in their earnings calls. And when reporters ask them, so many of them say: I am not going to invest this in jobs; I am going to invest it in dividends and stock buybacks, send it back to the shareholders.

The harsh fact of the matter is that tax cuts don't result in the kind of economic growth and job growth my Republican friends predict. It didn't happen after the Bush tax cuts. It didn't happen in Kansas, where there were so many promises: If we cut taxes in Kansas, there will be huge growth and new jobs. Well, it was a dramatic flop, what happened in Kansas, that our Republican colleagues are repeating. They are not learning from history. Kansas's job growth last year was much lower than the national average, despite all the big tax cuts they gave.

I am afraid my Republican colleagues and friends are willing to paper over

their serious reservations with this bill in order to say that they got something done. They are willing to look past the fact that 60 percent of middle-class families will see tax increases by the end of the day, that healthcare premiums will rise 10 percent, that 13 million fewer Americans will have health insurance, and that the tax bill will exacerbate inequality in an economy that is already perilously unequal—all in the name of deficit-busting corporate tax cuts that will not create the kind of economic growth and job growth they are predicting.

I heard the majority leader speak a minute ago and say: The focus of this bill—these are his words, in effect; I don't know his exact words, but they are like this. He said: The focus of this bill is on the middle class.

It is only on the middle class if you believe in trickle-down economics, that giving money to the wealthy corporations and giving money to the wealthiest of people will create jobs—trickle-down. It has never worked. According to a recent poll, 77 percent of Americans don't believe that big corporations should get tax breaks. They don't believe in trickle-down. The only people who believe in trickle-down seem to be the Members of this Chamber and the big corporation leaders who will get the benefits. Nobody else seems to believe it. Trickle-down is wrong. This bill could be entitled “the trickle-down tax bill.” Let's hope and pray, middle-class people, that when we give most of the breaks to the wealthiest and biggest corporations, you might get a few crumbs. Nobody wants that. We could do much better, working together in a bipartisan way.

In conclusion, I would say to my colleagues on the other side of the aisle, particularly those who aren't sold on this bill: We can create a better product by working together. Democrats and Republicans agree on many principles in tax reform. We both want to lower rates and close loopholes. We both want to reduce burdens on the middle class and small businesses and simplify the code. I think many on the other side agree with us that it should be deficit-neutral. This bill is none of those things.

If we start over and pursue tax reform in the right way, the bipartisan way, the open way, the sunlight way, I genuinely believe we can find a product that both sides can be proud of and one that will be much, much better—and much better received—by and for the American people.

I yield the floor.

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, with Senators permitted to