



United States  
of America

# Congressional Record

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

Vol. 163

WASHINGTON, WEDNESDAY, DECEMBER 13, 2017

No. 203

## Senate

The Senate met at 12 noon 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.

Our Father in Heaven, thank You that our life's pilgrimage is a process and discovery. Open our eyes today that we may see wonderful things in Your precepts, gaining wisdom from Your world. Help our lawmakers to strive to ensure that their thoughts, words, and deeds will please You. Today, we surrender to Your providence, trusting You to order our steps. Lord, teach us to illuminate our world with the wisdom of Your Divine insights, so that Your will may be done on Earth. Transform life's deserts so that they will blossom like roses. Bring flowing springs to the parched grounds of our lives, so that we may live abundantly.

We pray in Your loving 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 (Mrs. ERNST). The majority leader is recognized.

### NOMINATION OF JAMES HO

Mr. MCCONNELL. Madam President, this week, the Senate is continuing to consider President Trump's outstanding judicial nominees. Yesterday, we confirmed a talented individual to

be a circuit court judge, and soon we will confirm another. Next, we will advance the nomination of James Ho to be a judge of the Fifth Circuit Court of Appeals. Mr. Ho is another well-qualified individual, and, like all of President Trump's judicial nominees, he is dedicated to upholding the rule of law and serving as an impartial arbiter on the bench.

Similar to Justice Willett, whom I discussed yesterday, Mr. Ho has an inspirational story. Immigrating to the United States from Taiwan at the age of 1, he learned English by watching "Sesame Street." He went on to graduate from the University of Chicago Law School with high honors and earned a clerkship with Judge Jerry E. Smith of the Fifth Circuit. In 2001, Mr. Ho joined the Department of Justice as the Special Assistant to the Assistant Attorney General for Civil Rights and later worked in the Office of Legal Counsel. In addition to his service in the executive branch, he worked here in the Senate as chief counsel for the Judiciary Committee's Subcommittee on the Constitution. Afterward, he went across the street to clerk for Associate Justice Clarence Thomas.

After his distinguished and successful legal career in Washington, Mr. Ho returned to Texas, joining a top law firm and specializing in appellate litigation. He then served as the solicitor general of Texas, succeeding our colleague Senator TED CRUZ. It was while he was serving in that role that he won the Supreme Court Best Brief Award from the National Association of Attorneys General. He went on to earn the award two more times. After his time in State government, Mr. Ho returned to his private practice firm and currently serves as the cochair of its appellate and constitutional law group. He has presented oral arguments in State and Federal courts around the country, including the Supreme Court.

It is clear that Mr. Ho possesses impressive credentials, with the experi-

ence necessary to excel on the Fifth Circuit. He also earned the praise of prominent Democrats who believe he will make an excellent addition to the Federal court.

Ron Kirk, the Obama administration's Trade Representative and the former mayor of Dallas, supported Mr. Ho's nomination to the Judiciary Committee. He wrote:

Jim possesses the temperament, integrity, and intellect that anyone, Republican or Democrat, should insist on in a federal judge. He is wickedly smart, and is among the most brilliant appellate lawyers in the United States. If there is one thing that my liberal and conservative colleagues agree on, it is that Jim just has it in his DNA to be a great judge.

A Commissioner on the U.S. Commission on Civil Rights appointed by President Obama also recommended Mr. Ho in a letter to the Judiciary Committee. She knows him from his volunteer work with the National Asian Pacific American Bar Association. She wrote that he "has a strong reputation as an intelligent, reasonable, fair and principled lawyer."

I would like to commend President Trump for another very strong nomination. I would also like to express my gratitude to Chairman GRASSLEY and the members of the Judiciary Committee for their work to process the President's judicial nominees.

I look forward to advancing Mr. Ho's nomination soon.

### THE INTERNET

Mr. MCCONNELL. Madam President, one of the great advances of our time has been the development and expansion of the internet and wireless technologies. The internet connects people across the globe in an unprecedented way. It brings together producers and consumers, students and educators, and even Members of the Senate with our constituents.

It is difficult to exaggerate the impact the internet has on our society

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



Printed on recycled paper.

S7979

and our economy each and every day. Even a few decades ago, the technologies many of us take for granted today would have been totally unfathomable.

But the success of the Internet wasn't an accident. Today's internet—and all the incredible innovations that utilize it—aren't the product of unnecessary and burdensome government regulations that hindered growth. Instead, they were the direct result of a bipartisan desire to create an environment of advancement—one that utilized a light regulatory touch. Innovators were free to create and develop what they wanted to, without having to think about complying with overbearing Washington regulation.

As the internet grows, so does the United States. Our Nation has led the world in internet technology, and citizens throughout the country and the world have enjoyed the benefits.

However, the previous administration seemed bent on subjecting the internet to a whole host of new regulations—rules designed in the age of the rotary phone and rooted in the railroad era of the 1800s. Through unprecedented government overreach, the Obama administration argued that this change would fix a problem. But there wasn't a problem that needed fixing.

Therefore at the behest of President Obama in 2015, the partisan majority at the Federal Communications Commission rejected our decades-old approach and reclassified broadband internet access. This overreach subjected it to new burdens and regulations and threatened the marketplace freedom and innovation that brought us the internet we have come to know today.

It shouldn't shock any of my colleagues to hear that an increase in burdensome regulations created uncertainty for businesses of all sizes and negatively impacted investment. In the last 2 years, broadband investment has suffered a serious decline, even though many Americans, including large numbers in rural States like Kentucky, lack access to crucial internet services at home.

Earlier this year, President Trump changed direction from the previous administration. He elevated Ajit Pai to serve as the Chairman of the FCC, and tomorrow, the Commission will vote to repeal the misguided 2015 rule.

Chairman Pai submitted a proposal to restore freedom to the internet and to classify broadband internet access once again as an information service, just like it was until 2015.

When the FCC votes tomorrow, they will be voting to return the internet to a consumer-driven marketplace free of innovation-stifling regulations.

Opponents of Chairman Pai's plan have expressed their concerns about unfair or disruptive business practices that may hurt consumers' access to the internet. However, his proposal will actually restore the Federal Trade Commission's authority to protect consumers and police companies that engage in unfair practices.

Chairman Pai's proposal will also require internet service providers to clearly disclose how they treat their customers' data so that consumers can choose the services that are right for them.

I look forward to their vote in support of the open internet and to Congress's actions in the future to keep the internet open for consumers in a lasting way.

Before I continue onto another matter, I feel that it is necessary to take a moment to discuss the vitriolic and divisive debate over this topic.

As my colleagues know, I am a strong defender of political speech, and I have fought for decades to protect the rights of all Americans to question government policies. However, the discussion on this issue took on a new tone. While the First Amendment protects political speech, it is no excuse for bad conduct.

Instead of debating the effects of a proposal, some of the far left engaged in personal attacks, even going as low as to promulgate attacks citing Chairman Pai's children. This type of behavior does nothing to elevate our Nation's discourse or forward a particular policy. I hope that we can all agree that this type of harassment deserves universal condemnation.

#### FUNDING OUR MILITARY

Mr. McCONNELL. Now, on another matter, Madam President, over the last eight years, our foreign policy was guided by a Commander in Chief who wished to draw down conventional military power from across the globe. Iran, China, and Russia have sought to fill this vacuum and exploit the perception that America was withdrawing.

This Republican Congress has made a commitment to work with President Trump to rebuild our military and give our men and women in uniform the resources they need to face the challenges of a dangerous world.

We know there is more work to do in restoring our military's combat readiness and meeting the full needs of the force. Earlier this year, we passed a funding measure that was an important departure from the Obama years.

The President has renewed our commitment to Afghanistan, and is trying to train and equip a force that can meet the daunting challenge posed by North Korea.

To begin rebuilding our military, we ignored the Obama-era demand that any increase in defense funding must be equally matched to nondefense increases. We did that earlier this year, and we must do it once again.

As we continue to discuss a plan to fund the government, we must prioritize efforts to provide for our warfighters. The Defense Department suffered a disproportionate reduction under the Budget Control Act—one that has real consequences for readiness. If we are not able to come to a funding agreement, our military—and

many other critical functions of the Federal Government—will suffer intolerable budget cuts next year.

I hope that my colleagues on the other side of the aisle will work with us in a serious manner to make sure that we are able to responsibly fund the government so that our military has the tools it needs to keep us safe.

#### TAX CUTS AND JOBS BILL

Mr. McCONNELL. Now, on one final matter, Madam President, later today, the Tax Cuts and Jobs Act conference committee will host an open meeting to discuss its progress in resolving the differences between the House and Senate versions of the bill.

The conferees have been working diligently to produce a report that both Chambers can vote on soon. Once they complete their work, Congress will be able to fulfill our commitment to the American people and deliver real tax reform.

For too long, the hardworking men and women of Kentucky and our Nation have endured a struggling economy and a broken tax code. Rates are too high. The structure is too complicated to understand, and it is too easy for the wealthy and the well-connected to exploit. Incentives are so nonsensical that some actually encourage corporations to ship American jobs overseas.

It is time for a change. Passing pro-family and pro-growth tax reform is the single most important action we can take right now to grow our economy and help the middle class get ahead.

Families deserve a tax system that works for them; and along with President Trump and his team, this Republican-led Congress is working to deliver. This is our chance to set a new course—to undo the damage that our outdated Tax Code has inflicted on the economy over the last decade.

For the Americans who were left behind by the Obama economy, this is our opportunity to provide relief. We want to make your taxes lower, simpler, and fairer. We want to bring investment and jobs back home and keep them here. The bottom line is this: We want to take more money out of Washington's pocket and put more money into the pockets of the middle class. I am confident the conference committee will finalize a bill that does just that.

It will also repeal ObamaCare's individual mandate tax, delivering relief to low- and middle-income Americans who have struggled under an unpopular and unworkable law.

In addition to this once-in-a-generation tax relief, our legislation will also provide for our Nation's energy future. By further developing Alaska's oil and gas potential, this bill will help create jobs, support energy independence, and promote our national security.

The forthcoming conference report represents our chance to provide a real