



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 117th CONGRESS, FIRST SESSION

Vol. 167

WASHINGTON, TUESDAY, NOVEMBER 30, 2021

No. 206

Senate

The Senate met at 10 a.m. and was called to order by the Honorable JOHN W. HICKENLOOPER, a Senator from the State of Colorado.

PRAYER

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

Let us pray.

Eternal God, who protects us like a mighty fortress, thank You for providing our lawmakers with Your wisdom, guidance, and strength. Lord, continue to bless them, for You know their needs, motives, hopes, and fears. When our Senators grow faint and weary and the night overtakes them, renew their strength and enable them to soar on wings like eagles. May the different approaches expressed by both parties contribute to greater solutions to the problems in our Nation and world.

We pray in Your merciful 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. LEAHY).

The senior assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 30, 2021.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN W.

HICKENLOOPER, a Senator from the State of Colorado, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. HICKENLOOPER thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2022

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4350, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (H.R. 4350) to authorize appropriations for fiscal year 2022 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.

Pending:

Reed/Inhofe Modified Amendment No. 3867, in the nature of a substitute.

Reed Amendment No. 4775 (to Amendment No. 3867), to modify effective dates relating to the Assistant Secretary of the Air Force for Space Acquisition and Integration and the Service Acquisition Executive of the Department of the Air Force for Space Systems and Programs.

RECOGNITION OF THE MAJORITY LEADER

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

H.R. 4350

Mr. SCHUMER. Mr. President, after spending—this is on NDAA. After

spending months insisting that the Senate should take swift action on our annual Defense bill, last night, Republicans mounted a partisan filibuster, blocking this Chamber from moving forward on the NDAA.

For the information of all, before the vote closed last night, I changed my vote to “no” and then entered a motion to reconsider the cloture vote so we could find a path forward on this important bill.

Now, we have heard over and over and over again from Republicans, in some form or another, that the Senate must act on NDAA and must act quickly. One Republican colleague called it a core duty, a bare minimum. Yet another colleague said it was “the best way to thank our soldiers and sailors for their service.”

But, last evening, Republicans blocked legislation to support our troops, support their families, keep Americans safe, and support jobs across the entire country. Republican dysfunction has again derailed even bipartisan progress on our annual defense bill—an outrageous outcome that shows how the Senate and Republican leadership have changed in recent years.

Previous leaders, knowing that Democrats had offered Republicans a whole lot of amendments, would have said: “Let’s vote cloture”—but not this leader, not yet.

And there should be no mistake: The process that Democrats, and particularly my colleague Chairman REED, have offered Republicans on NDAA has been more than fair and reasonable. For months, my colleagues in the Armed Services Committee have been working to produce a bipartisan product that could come to the floor for a vote.

The bipartisan Reed-Inhofe agreement—a Reed-Inhofe agreement—was what we brought to the floor yesterday to vote on.

During the markup, Members considered 321 amendments and adopted 143

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



Printed on recycled paper.

S8805

bipartisan ones before reporting the bill out of committee by a vote of 23 to 3—23 to 3, bipartisan.

In preparation for the Senate floor, the managers worked on a substitute amendment, which had at least 50 amendments—27 of them, the majority, from Republicans. Senator INHOFE, the ranking member of the Armed Services Committee, worked with Democrats and had agreed to this.

And on top of all that, Senators REED and INHOFE also reached a bipartisan agreement to hold votes on 19 amendments here on the floor before Republicans blocked that proposal 2 weeks ago.

Nineteen amendment votes—19—that is more than the total number of amendments to NDAA that received votes under the Republican majority and under Leader MCCONNELL when we debated this bill in 2017, 2018, 2019, and 2020—not more than in each year, more than all of them put together.

We just had 2 amendments on NDAA in 2017, when MCCONNELL was majority leader. We had 5 in 2018, when MITCH MCCONNELL was majority leader; 3 in 2019; and 7 in 2020. Adding that up, that is a total of 17. That is over 4 years.

This year, we offered 19 amendment votes, including bipartisan measures to combat ransomware, repeal the 2020 Iraq AUMF, and support improved cyber defense of our critical infrastructure. But when we tried to get consent to move on this package of amendments, our Republican colleagues came down to the floor and objected not once but seven times.

So we have had ample debate. This has been a fair and reasonable process that has showed respect to the other side. But this is a new Republican Party, unfortunately, and it was not good enough for them even on the Defense bill.

Passing the annual Defense bill should not be in question, and Republicans' blocking this legislation is harmful to our troops, to their families who sacrifice so much, and to our efforts to keep Americans around the world safe.

Now, we Democrats are not going to let Republican intransigence stop us. We are going to keep working forward on a path forward, and we hope our Republican colleagues, as they discuss this among themselves, will see the light and come up with a fair proposal to allow this bill to go forward.

Nineteen amendments—a total of 17 on all the other NDAA bills—to say that we are being unfair, to say that we are not giving enough amendments is poppycock, and they know it.

Let's move forward. Let's move forward.

GOVERNMENT FUNDING

Mr. President, now on government funding, there is another critical priority that the Senate must also address before the week's end: passing a continuing resolution that will keep the government funded beyond the December 3 deadline.

As soon as tomorrow, the House is expected to take action to pass a CR that will fund the government into next year. Senate Democrats are ready to pass this legislation and get it done as quickly as possible.

To avoid a needless shutdown, Republicans will have to cooperate and approve the government funding legislation without delay. If Republicans choose obstruction, there will be a shutdown entirely because of their own dysfunction.

We cannot afford to go down that road. As winter begins, the last thing Americans need right now is an avoidable, Republican-manufactured shutdown that will potentially harm millions of Federal workers, harm their families, and harm local communities that rely on an open and functioning Federal Government.

Democrats are going to work all week to make sure no government shutdown comes to pass, and we urge our Republican colleagues to work with us.

DEBT LIMIT

Mr. President, on debt limit, also, soon the Senate must take action to assure that the United States does not—does not—default on its sovereign debt for the first time in history. I recently had a good conversation with the Republican leader about this issue, and I expect to continue those talks on achieving a bipartisan solution to addressing the debt limit.

By now we know the dangers of an unprecedented default. Secretary Yellen has warned that failure to extend the debt ceiling would “eviscerate” our economic recovery and says our country could yet again slip into “a deep recession.”

Both parties know that this is simply unacceptable, and so I look forward to achieving a bipartisan solution to addressing the debt limit soon.

BUILD BACK BETTER

Mr. President, finally, on Build Back Better, before we hit Christmas Day, it is my goal to have the Senate take action to debate and pass President Biden's Build Back Better legislation.

This week, Senate Democrats will focus on continuing to meet with the Parliamentarian so we can finish making the technical and procedural fixes necessary for reconciliation. Once that is complete, it will be time to bring Build Back Better here to the floor of the Senate.

I have said many times before that nobody should expect legislation of this magnitude to be easy. We have been at the task for several months, but we need to take a step back and recognize that we are, hopefully, less than a month away from acting on the largest investment the American people have seen in generations.

Here is what we are going to do in this bill: lower the cost of childcare, make pre-K universally accessible, cut taxes for parents and working and middle-class families, and take the next bold step in our fight against the climate crisis.

All this we want to tackle before the Christmas break. So we will keep working this week and until we get it done.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority whip.

REMEMBERING MAJOR IAN FISHBACK AND GUANTANAMO BAY CLOSURE

Mr. DURBIN. Mr. President, earlier this month, while we were all home for the Thanksgiving recess, an American patriot passed away. His name was MAJ Ian Fishback.

During his life, Major Fishback defended our Nation during four tours of duty in Iraq and Afghanistan. He was an accomplished scholar, with degrees from both West Point and the University of Michigan, and a lifelong champion of justice.

Tragically, like too many of our Nation's veterans, Major Fishback's life ended far too soon. He died at the age of 42. Though his time on Earth was short, he left behind a legacy. He changed our Nation for the better. He inspired the Members of the Senate to make a historic stand against injustice.

You see, in 2005, while Major Fishback was serving as captain in the U.S. Army infantry, he spoke out against America's inhumane treatment of detainees after 9/11. In a letter to then-Senators John McCain and John Warner, Major Fishback wrote: “I have been unable to get clear, consistent answers from my leadership about what constitutes lawful and humane treatment of detainees. I am certain that this confusion contributed to a wide range of abuses including death threats, beatings, broken bones, murder, exposure to elements, extreme forced physical exertion, hostage-taking, stripping, sleep deprivation and degrading treatment. I and troops under my command witnessed some of these abuses in both Afghanistan and Iraq.”

Major Fishback's courageous letter shed light on the atrocities that were being committed shamefully in the name of our Nation, and he felt that he had “failed” the servicemembers under his command. The reality is, our leaders failed Major Fishback.

In the wake of 9/11, the Bush administration tossed aside our constitutional principles as well as the Geneva Conventions. By condoning torture, they dishonored our Nation and actually endangered our servicemembers.

After reports emerged about horrific abuses at Abu Ghraib in Iraq, I tried for a year and a half to pass legislation to make it clear that cruel, inhuman, and degrading treatment of detainees was illegal. Two military heroes, my former colleague Senator John McCain and Major Fishback, turned the tide in this effort.

In speaking out, Major Fishback rallied the Members of this Chamber to support a torture amendment authored by Senator McCain and myself, which was added to the defense spending package for that year over a veto

threat from the George W. Bush administration. That provision explicitly banned inhumane treatment of any prisoner held by the American Government—on American soil or overseas. It set us on a course to restoring American values that were cast aside after 9/11—work that is still ongoing 20 years later.

We have a defense bill before us on the floor with many things in it that are positive, and I will vote for it. But it is a moment to also reflect that this bill does more than protect our Nation and help our troops; it also protects our values. That is why I have an amendment to this bill, which I hope we will have a chance to offer, that will close the detention facility at Guantanamo Bay once and for all.

Since the first group of detainees was brought to Guantanamo in January of 2002, four different Presidents have presided over the facility. In that time, the Iraq war has begun and ended, and the war in Afghanistan, our Nation's longest war, has come to a close. A generation of conflict has come and gone. Yet the Guantanamo detention facility is still open, and every day it remains open is an affront to our system of justice and the rule of law. It is where due process goes to die. That is precisely why military officials, national security experts, and leaders on both sides of the aisle have demanded its closure for years.

The facility was virtually designed to be a legal black hole where detainees can be held incommunicado—beyond the reach of law—and subjected to unspeakable torture and abuse. In the words of a former senior official in the Bush administration, Guantanamo existed in “the legal equivalent of outer space.”

It was created to circumvent the Geneva Conventions. What are those conventions? We know. They were the internationally accepted standard of humane treatment for detainees and prisoners. Guantanamo was designed to circumvent it and other longstanding treaties. This subversion of justice has harmed detainees, it has undermined our moral standing, and it has failed to deliver justice, which it promised.

For two decades, the families of Americans who died on 9/11 have waited for the alleged conspirators, who are being detained in Guantanamo, to be brought to justice. For 20 years, they have been waiting, but the case still hasn't come to trial. Imagine. If justice delayed is justice denied, how can this be justice at Guantanamo? Instead, the facility has become a symbol for human rights abuse, lawlessness, and everything Major Fishback decried in his letter to Senator McCain.

The stories out of Guantanamo and CIA black sites are shocking. Let me tell you one of them.

Last month, Guantanamo detainee Majid Khan testified before a military jury about the abuse he suffered in the facility and in CIA black sites. It was the first time a detainee has described his torture at a CIA black site.

Let's be clear. Majid Khan is a former member of al-Qaida who should be held accountable for his actions, but there is no justification for torture.

Mr. Khan recounted being abused in unspeakable, unthinkable ways by our government, including being waterboarded and shackled to a ceiling until his ankles swelled with blood. In one part of his testimony, he described a CIA medic sexually violating him with a garden hose.

As Mr. Khan shared the excruciating details of his torture, the members of the jury listened closely. But pay heed: These weren't average citizens sitting on the jury; they were Active-Duty, senior military U.S. officials on the jury. When the hearing concluded, these high-ranking military leaders did something unheard of. Seven of the eight jurors signed a handwritten letter recommending clemency for Majid Khan. This is what they concluded, and I want to quote it word for word: “Mr. Khan has been held without the basic due process under the U.S. Constitution. . . . [He] was subjected to physical and psychological abuse well beyond approved enhanced interrogation techniques, instead being closer to torture performed by the most abusive regimes in modern history. . . . [T]his abuse was of no practical value in terms of intelligence or any other tangible benefits to U.S. interests.”

Remember, I have just quoted these senior U.S. military officials who sat on a jury where this man was being tried, and they, in a handwritten letter, wrote what I just read.

Now, that last point is crucial. The human rights abuses committed in Guantanamo and CIA black sites are not merely inhumane; they don't work. They are ineffective.

Khan testified: “I lied just to make the abuse stop.”

Torturing him brought us no clarity, brought us no truth, and brought us no closer to eradicating terrorism. Instead, stories about the torture of prisoners at Guantanamo have only galvanized America's enemies. They have been packaged into propaganda and recruitment tools for terrorism, which in turn endangers our service men and women as well as our allies.

These accounts of abuse have also diminished our international standing. How can we claim credibility as a nation? How can we hold authoritarian dictators accountable if they can point to our own legacy of cruelty and indefinite detention? The man was held for 20 years, and others are still being held without being brought to trial.

Worse yet, the degrading conditions at Guantanamo are being funded by American taxpayers. How much is the cost of Guantanamo? Astronomic, that is how high it is. We spend more than \$500 million a year to keep Guantanamo open—\$500 million. Half a billion dollars a year American taxpayers are wasting to detain how many people for half a billion dollars? Thirty-nine. Thirty-nine prisoners, \$500 million, and

13 have already been approved for transfer. That works out to nearly \$14 million a year on each prisoner like Majid Khan—\$14 million a year. Let me put that in perspective for a moment. That is enough money to expand Medicaid coverage to 1.5 million Americans over 10 years.

Setting aside the cost, we have to acknowledge the larger truth. Guantanamo does not reflect who we are or should be. Indefinite detention without charge or trial is antithetical to America's values. Yet more than two-thirds of the people detained in Guantanamo today have never been charged with a crime. How can that be any form of justice?

With or without the amendment I have introduced to this year's Defense authorization, we must accelerate the timeline to finally close Guantanamo. As I mentioned, 39 prisoners, \$500 million a year?

President Biden transferred his first detainee earlier this summer, but that pace—one every 6 months—is not going to set us on course to finally close Guantanamo. Like the war in Afghanistan, America's failures in Guantanamo must not be passed on to another administration or to another Congress. Can this Senate summon the courage to finally close this detention facility? I would like to test it on the floor of the Senate. As a matter of fact, isn't that why we are elected—to test a basic question like that?

Next week, the Judiciary Committee is going to hold a hearing on how we can close Guantanamo once and for all. There are more steps the Biden administration can take to accelerate this closure. One is by appointing a special envoy to the State Department to negotiate transfer agreements for those inmates who are scheduled to be transferred—13 of the 39—to transfer them to other nations.

We must also reach swift resolution in the remaining cases where charges have been brought, instead of moving forward with military commissions. Let's finally accept the obvious: Military commissions are not the answer in Guantanamo and have not been for 20 years. If there is one lesson we can learn from the shameful legacy of Guantanamo, it is that we need to trust our system of justice. The use of torture and military commissions that deny due process have hindered our ability to bring terrorists to justice. Going forward, we should adhere to the long-held values of humane treatment and the rule of law.

Our Federal courts have proven more than capable of handling even the most serious, complex terrorism cases. Since 9/11, hundreds of terrorism suspects have been tried and convicted in our Federal courts, and many are now being safely held in Federal prisons. Compare that to the military commission case against the alleged conspirators behind 9/11. It still hasn't come to trial more than two decades after that horrendous attack. The families who

lost loved ones on that day deserve better. America deserves better. And American patriots like Major Fishback deserve better as well.

We all deserve better than these black holes that violate our national values and make true legal accountability impossible.

As Major Fishback wrote to Senator McCain all those years ago, "If we abandon our ideals in the face of adversity and aggression, then those ideals were never really in our possession."

It is time to live up to those ideals that our troops have risked their lives to defend.

It is time, at long last, to face reality and honestly say, Close the detention facility in Guantanamo. Let's put this dark chapter behind us once and for all.

And in the memory of Major Fishback and the U.S. officials on that jury who spoke out, I thank them. I know it wasn't easy. It is far easier to remain silent and to avoid the obvious. But they showed courage in disclosing to the American people what occurred at Guantanamo.

Now, do we even have the courage to even debate this issue and vote on it on the floor of the Senate?

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The Republican leader is recognized.

H.R. 4350

Mr. McCONNELL. Mr. President, yesterday, a bipartisan majority of Senators rejected the Democratic leader's efforts to shut down debate on the National Defense Authorization Act and block new measures to get tougher on Russia.

The Democratic leader wants to block the Senate from fully and robustly debating a number of important issues—from how to manage the fallout from the reckless Afghanistan retreat to how to respond to China's dramatic and destabilizing military modernization, to how to restore deterrence against an emboldened Iran.

The NDAA is supposed to be the bipartisan forum for debating and acting on these kinds of issues. Months ago, the Armed Services Committee moved this process forward—listen to this—23 to 3, but the Democratic leader has botched the floor process.

It is especially bizarre to see the Democratic leader so focused, so intent, on blocking the Senate from dealing seriously with the growing aggression from Putin's Russia. He seems downright desperate to block new bipartisan action on Nord Stream 2. It is really quite strange to see. Senators

Risch and Cruz have proposed language concerning this Putin pipeline that the House was able to pass almost unanimously. Unlike the House provision, the Risch-Cruz amendment includes a waiver provision that would give the President more flexibility, which makes the Democratic leader's effort to shut the process down and block their amendment all the more baffling.

If there is opposition to the amendment—if it can be improved with modifications—then, by all means, let's have a public debate.

Likewise, Senator PORTMAN has been a leading voice for bolstering our European partners and delivering more meaningful support to Ukraine's military. As Putin amasses forces on Ukraine's border, the Senate should debate how to help the Ukrainians defend themselves. The Democratic leader is trying to shut that down as well.

So the NDAA is not finished yet. So the Senate cannot be finished yet either. We need the same kind of normal, robust, bipartisan amendment process that always characterizes this bill, and we need the Democratic leader to stop trying to block the Senate from sanctioning Putin's cronies.

INFLATION

Now, Mr. President, on an entirely different matter, 88 percent of Americans are concerned about inflation—most of them are very concerned—and 77 percent of Americans say inflation has affected them personally. We have a big and diverse country. It is hard to get that many Americans to agree on anything. But President Biden did promise he would unite the country, and on the Democrats' watch, under the Democrats' policies, the American people are united in their fear and frustration at runaway prices, falling purchasing power, and all the consequences of inflation. The men and women of this country are spending 20 percent more than last year for beef at the grocery store, 50 percent more to fill up the gas tank, 26 percent more for less choice in used cars.

One recent article in the New York Times suggested that perhaps Americans should forget about trying to buy their family members normal gifts and settle for exchanging handwritten promises to tackle household chores, such as "washing out the reusable plastic bags." I guess the Grinch is doing some ghostwriting in his spare time.

Some weeks back, the White House Press Secretary tried to laugh off reporters' questions about the supply chain and inflation crises. She literally laughed at the idea that anybody would be worried about the "tragedy of the treadmill that's delayed."

Well, the President's staff are yukking it up, but working parents aren't laughing. Middle-class families aren't laughing.

A Kentuckian named Mike Halligan isn't laughing either. He runs a big food bank in Lexington called God's Pantry. They distribute more than 40 million pounds of food every year at the local pantries all across my State.

Here is what he says:

We've seen the cost of our "sharing Thanksgiving basket" go up this year by 14.5 percent. . . . We've seen our costs go up by about 50 percent. The transportation component of that is literally doubled.

And he also explained that, since inflation is also hammering his contributors, charities and nonprofits may face "donor fatigue" at precisely the time they cannot afford a fall-off. The Democrats' inflation is hitting, literally, every part of our society.

A famous economist once said that inflation is the only form of tax that can be levied without any legislation, but what is remarkable about 2021 is that Democrats did directly legislate a big chunk of this inflation into existence. It is unusually traceable to deliberate policy decisions they have made.

One of the most famous Democratic economists in the country, Larry Summers, tried to warn them. On February 4, he wrote that the Democrats' stimulus could "set off inflationary pressures of a kind we have not seen in a generation." He said the same thing all springtime long.

So did President Obama's CEA chair:

Jason Furman . . . said that the American Rescue Plan is definitely "too big for the moment," stating, "I don't know of any economist that was recommending something the size of what was done."

But Washington Democrats had already decided months ago they would try to use the temporary pandemic as a Trojan horse for permanent socialism.

Remember last spring, when one of the senior-most House Democrats called it a "tremendous opportunity to restructure things to fit our vision" or, earlier this fall, when President Biden himself said the pandemic "does present us with an opportunity."

For Democrats, this go-around, it has never been about what families need; it has only been about what activists want.

So we got the first massive spending bill in the springtime, and now a majority of Americans "worry they won't be able to afford what they need during the holidays due to inflation."

President Biden inherited an economy that was primed and ready for a historic comeback—a fantastic inheritance. Since then, they have had less than a year at the controls, and we have got more than half the country actively worried their checking accounts might not even get them through the holidays.

But Democrats aren't offering the country any contrition, any apology, or, more importantly, any course correction. Amazingly enough, they want to come back around for an even bigger bite at the apple. They want to try to inflate their way out of inflation.

Our colleagues have spent months huddled behind closed doors, neglecting the most basic governing duties, writing another reckless taxing-and-spending spree that even the most conservative estimates say would add about \$800 billion to deficits over the next 5

years alone. They want to take the inflationary fire they helped start and pour jet fuel on it. Even the CBO, which has to swallow most of the Democrats' gimmicky math, estimates this bill would spend nearly \$2 trillion and pile almost hundreds of billions more onto deficits over the next decade.

Perhaps more realistic are the outside, nonpartisan estimates that actually account for what we all know: Democrats would never let the new entitlements in their bill expire. Those more realistic estimates put the total cost—listen to this—just short of \$5 trillion, at a time when Chairman Powell, who has been willing to let the country run hot, is now warning that current uncertainties could keep inflation elevated to a troubling level.

Now, I could talk all day about how the actual contents of this bill would hurt American families even more, about how it would take another big step toward socialized medicine and pour cold water on the innovations and cures that save lives, how it would incinerate huge chunks of our energy sector and the jobs it supports in order to keep pace with green preferences of California liberals, how it would wrestle authority over intimate decisions about childcare away from American families and put it in the hands of Washington bureaucrats, but the overall picture is impossible to mistake: Inflation is hurting the American people, and Democrats want to print, borrow, and spend trillions more—the most out-of-touch agenda you could possibly imagine.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. PADILLA). Without objection, it is so ordered.

ABORTION

MR. THUNE. Mr. President, tomorrow the Supreme Court will hear oral arguments in the Dobbs case, which deals with a Mississippi law that would prohibit most abortions after 15 weeks of pregnancy. This case offers the best opportunity in many years to see *Roe v. Wade* overturned or modified—something that is long overdue.

Roe v. Wade was a bad decision that should long ago have been reversed. Legal scholars from across the ideological spectrum have criticized the decision, noting, in the words of one expert:

As constitutional argument, *Roe* is barely coherent. The court pulled its fundamental right to choose more or less from the constitutional ether.

As another legal scholar put it, *Roe* is “a very bad decision . . . because it is bad constitutional law, or rather because it is not constitutional law and gives almost no sense of an obligation to try to be.”

Now, I should note that both of the individuals I just quoted are actually supportive—supportive—of abortion. But like many others, both recognize that *Roe* is simply bad law.

In the *Roe* decision, the Supreme Court reached far beyond the Constitution in the Court's interpretive role to impose a new abortion regime on the entire country, and it is past time for this unconstitutional decision to be overturned and for the Court to return jurisdiction over abortion to the States.

It is important to note that overturning *Roe* would do just that: return jurisdiction over abortion to the States and to elected officials who can be held accountable for the decisions and ultimately to the American people.

Many assume, incorrectly, that overturning *Roe* would somehow automatically ban abortion nationwide. It would not. It would simply return jurisdiction to the people's elected representatives.

Abortion law would become the domain of States and Congress, instead of the domain of unelected, activist members of the judiciary.

Members of the radical pro-abortion lobby, which controls the abortion policies of the Democrat Party, are, of course, up in arms over the Dobbs case. They are terrified—terrified—that the Supreme Court will overturn *Roe*, and I suspect that the root of that fear is the knowledge that they need an activist Court for the radical abortion agenda.

Why? Because the American people do not agree with the radical abortion lobby on abortion.

For all its efforts to paint abortion on demand at any time up until the moment of birth as the only possible position, the pro-abortion lobby has completely failed to convince the American people.

Polls consistently show that a strong majority of the American people support at least some restrictions on abortion. Gallup has been polling on abortion for decades, and in all that time, the percentage of Americans who believe abortion should be legal under any circumstance has always remained under 35 percent. In fact, for most of the past several decades, that number has remained squarely under 30 percent.

An Associated Press poll from this June found that 65 percent of Americans believe that abortion should generally be illegal in the second trimester—or from about 13 weeks of pregnancy—while a whopping 80 percent of Americans believe that abortion should generally be illegal in the third trimester. And it is no surprise.

Despite the abortion lobby's attempts to dehumanize unborn children and portray them as nothing more than clumps of cells or unwanted growths, most Americans are well aware that an unborn child is a baby, a human being, an innocent human being.

And because Americans generally gravitate toward justice and the de-

fense of human rights and vulnerable human beings, they remain—despite the best efforts of the abortion lobby—fundamentally uncomfortable with unrestricted abortion.

And so I think the root of the abortion lobby's outrage is the knowledge that if *Roe* is overturned, their radical abortion agenda is unlikely to prevail nationwide because the American people simply do not agree with them on abortion.

The pro-abortion lobby and its allies in the Democrat Party would like Americans to believe that Mississippi's 15-week abortion ban is extreme, radical legislation. Well, nothing could be further from the truth.

In fact, the United States of America—the United States of America—is a radical outlier on abortion. We are one of only seven countries in the world that allows elective abortion past 20 weeks—one of just seven countries in the entire world. Among those other countries are China and North Korea, not exactly the kind of company you want to be keeping when it comes to defending human rights.

Forty-seven out of fifty European countries—47 out of 50—either require women to have a specific reason for seeking an abortion or limit elective abortion to 15 weeks or earlier. Thirty-two European countries, including France, Denmark, Switzerland, Norway, and many others, limit elective abortion to at or before 12 weeks' gestation.

Now, let's consider that for just a minute. A substantial majority of European countries limit abortion to at or before 12 weeks. In other words, Mississippi's 15-week abortion law is not on the radical fringe when it comes to abortion; it is squarely in the mainstream for Western democracies, and it is, in fact, more permissive than the abortion laws of a majority of European countries. And yet the abortion lobby would have us believe that Mississippi is pushing some kind of extreme abortion legislation.

Let's talk about unborn babies at 15 weeks. Fifteen-week-old unborn children have fully developed hearts that have already beaten more than 15 million times. They yawn. They make facial expressions. They suck their thumbs. They respond to taste and touch. Scientific evidence suggests that they can feel pain.

Pro-abortion activists may not like to hear it, but scientific evidence shows that the neural connections necessary to transmit pain are fully in place by around 20 weeks and that babies may actually begin to experience pain as early as 12 weeks.

So when we are talking about a 15-week-old unborn baby, we are talking about a baby who may very well already be able to experience pain and will certainly be able to experience it a few weeks later, if she can't now. Yet in this country, it is perfectly legal to kill unborn children who are able to

feel pain and kill them with an abortion procedure so brutal and barbaric it is difficult to even describe.

Yet it needs to be mentioned because we need to acknowledge the reality that we are killing unborn babies in this country capable of feeling pain, using a widely employed abortion procedure that involves dismembering the unborn child. As I said, it is incredibly hard—in fact, it is heartbreaking, really—to even talk about it.

The abortion lobby would like to draw a veil over what happens inside abortion clinics, but the truth is that abortions are brutal and inhumane—certainly to the baby but, in many respects, to the mother as well.

Since the Supreme Court handed down the *Roe v. Wade* decision, there have been an estimated 62 million-plus abortions in the United States. That number is so big, it is pretty much unfathomable. To put it in some kind of perspective, 62 million is nearly three times the population of the entire State of Florida. That is how many unique, unrepeatable human beings we have lost to abortion since *Roe*.

We are better than this, and we have to do better than this. Our country was founded to safeguard human rights. We haven't always lived up to that promise, but we have never stopped trying. And it is time for us to continue that work by standing up for the most vulnerable human beings among us: the unborn children, whose human rights are not protected and whose lives can be taken away at any time.

Thanks to medical advancements, it is possible for babies born at 22 weeks to survive outside their mothers. It is also perfectly legal to kill unborn children at 22 weeks. Now, something is radically wrong with that picture.

How can an unborn child of 22 weeks be regarded as a human being worthy of protection in one case and in the other case be regarded as nothing but a clump of cells to be disposed of in an abortion clinic?

The cognitive dissonance is mind-boggling.

The more we learn about unborn children, the more we see their humanity. It is impossible to look at an unborn baby kicking her feet and sucking her thumb on an ultrasound and see her as anything but the human being that she is. Science, medical advancements, and plain old common sense all point inexorably to the humanity of the unborn child.

And human beings deserve to be protected. A good place to start would be with laws like Mississippi's, laws that would bring us into the mainstream of abortion laws worldwide. As I have said, the United States is one of just seven countries in the entire world, including China and North Korea, that allow elective abortion past 20 weeks of pregnancy. I would like to think that we can do a better job of protecting unborn children's human rights than China and North Korea.

So I hope that the Supreme Court will uphold Mississippi's law and open

the door to greater protection for unborn children. But win or lose—win or lose—I and many, many, many others will continue to stand up for the human rights of unborn Americans; and I am confident that, in the end, right and justice and life will prevail.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. BARRASSO pertaining to the introduction of S. 3287 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BARRASSO. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF COREY HINDERSTEIN

Mr. KING. Mr. President, I have the responsibility and the privilege to be the chair of something called the Strategic Forces Subcommittee of the Committee on Armed Services.

Strategic forces is a euphemism for nuclear weapons, and it is one of the most serious threats that we continue to face. We face threats all over the world from pandemics, from terrorism, from a rising China, from a belligerent Russia, but one of the most serious that sometimes gets lost in the discussion is the unthinkable catastrophe that would be a nuclear exchange.

Throughout the last 70-plus years, our principle strategy for dealing with that threat has been deterrence, the idea that if you use nuclear weapons against the United States of America, you will pay the heaviest of prices, and that deterrence has worked. There hasn't been a use of nuclear weapon since 1945, and there are now several—I can't say the exact number for classification reasons—but there are a number of nuclear countries in the world, nuclear-armed countries, China and Russia among them. China is expanding its nuclear capability exponentially. Over the past several years, they have been embarked on an enormous buildup of their nuclear capability.

But I want to talk about a nuclear threat today in the context of the nomination that I am going to move in a few moments that, to me, is one of the most terrifying because it is a nuclear threat that deterrence doesn't work on—a nuclear threat that deterrence, the fundamental strategy of our prevention of nuclear conflict for 70 years, doesn't work.

What is that threat? The threat of nuclear terrorism. If you are not representing a country and if you don't care about dying, then the idea of a nuclear response doesn't scare you. It doesn't deter you from taking that kind of action.

How do we defend against that? What is deterrence 2.0 in the current world where international terrorism—although it has not been on the front pages recently—is still there?

ISIS-K, ISIS, al-Qaida, al-Qaida in the Arabian Peninsula are all still there. Boko Haram in Africa—they are all still there. They are all plotting. They are all working on ways that they can attack the West and the United States of America.

If they could get ahold of the nuclear technology and nuclear building block, which is enriched uranium, they would use it. The terrorists who killed 3,000 people on September 11 would kill—would have killed 3 million if they could have.

And so keeping nuclear materials and nuclear technology out of the hands of terrorists is, to me, one of the most important functions that our government can perform.

And that brings me to the nomination of Corey Hinderstein for the position of Deputy Administrator for Nuclear Nonproliferation. She is immensely qualified and has worked in this field for almost 20 years; has worked on nuclear proliferation and nonproliferation issues for most of those years, both in the government and in the private sector. I would venture to say there is probably no one in the United States who knows as much about this subject as she does.

Ms. Hinderstein will be responsible for a major part of the budget—\$1.9 billion—but she is responsible for controlling the proliferation of nuclear materials, and that is so critical in light of the threat of nuclear terrorism. The only way we can keep them from attacking us is intelligence, knowing what is coming, and keeping these materials out of their hands; and that is why this job is so important.

She was approved by the committee and recommended to the Senate 40 days ago. It is time to move this nomination. Nominations can be held up for a variety of reasons and some policy reasons, and I understand that, but not in this case. And I am happy to report that it appears that this nomination will not be held up because I think all of our colleagues realize how important this function is in the government.

The most—the best nuclear strike is the one that doesn't occur. The only way to prevent that is to stop the proliferation of nuclear materials. This problem is only growing. We know that Iran is now enriching uranium to a much higher extent than they did under the JCPOA. We know that North Korea is pursuing its own nuclear ambitions. India, Pakistan both have nuclear programs. So this is a clear and present danger to the United States of

America, and that is why this nomination is so important.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. KING. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination, Calendar No. 475; that the Senate vote on the nomination; the motion to reconsider be considered made and laid upon the table; that no further motions be in order to the nomination; that any statements related to the nomination be printed in the Record; and that the President be immediately notified of the Senate's action and the Senate then resume legislative session, all with no intervening action or debate.

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

The clerk will report the nomination.

The legislative clerk read the nomination of Corey Hinderstein, of Virginia, to be Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration.

Thereupon, the Senate proceeded to consider the nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Hinderstein nomination?

The nomination was confirmed.

LEGISLATIVE SESSION

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2022—Continued

The PRESIDING OFFICER. The Senate will now resume legislative session. Mr. KING. Thank you, Mr. President. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. LUJÁN). Without objection, it is so ordered.

BUILD BACK BETTER

Mr. CORNYN. Mr. President, our Democratic colleagues in the House and, to some extent, here in the Senate have talked about how the so-called Build Back Better legislation is popular, but I think the main reason it is popular is because, frankly, many Members of Congress and certainly the public at large don't know what is in it. So I would like to spend just a few minutes talking about that.

First of all, there is the size of the bill. Originally, the Budget Committee chairman, the Senator from Vermont, floated a \$6 trillion spending bonanza.

This, of course, was on top of about \$5 trillion we spent last year in a bipartisan fashion dealing with the COVID-19 pandemic. But, of course, this \$6 trillion more was designed to be passed with a pure party-line vote through the reconciliation process.

After some pushback, the \$6 trillion figure that Chairman SANDERS proposed was cut back to 3.5, and now our colleagues in the House and elsewhere are touting a new pared-down bill which spends only—and I underline the word “only”—\$1.75 trillion. I dare say that is a number that none of us can fully comprehend given its magnitude, but it has become—sort of rolls off our tongues like everybody understands what a trillion dollars is like everybody knows what a million is or a thousand or a hundred or ten dollars. But it is an enormous number.

As our colleagues have slimmed and trimmed this bill to reach a pricetag that could get consensus in the House, some of their favorite provisions have fallen off the chopping block. They realize that programs like free college actually cost a whole lot of money. So to live within this new number, which I will talk about in a moment, Democrats in the House kept cutting and cutting, but they found—instead of real cuts, they found another solution to their problem of a topline. What they have basically done is to create the illusion of a lower pricetag without making any real, substantive, long-term cuts. How do you do that? Well, it is the old-fashioned way; it is called budget gimmicks.

Rather than remove these expensive programs entirely, they chose to create a number of arbitrary cliffs, sunsets, and expirations. That way, they could pretend to pass these bills at a lower cost with the tacit promise to continue them at another time and on another day.

One example of this was the expanded child tax credit. Our Democratic colleagues originally crafted this as a temporary measure in their partisan bill that became law in March, just 8 months ago. The first payments had barely gone out the door when they decided to call for making those temporary provisions permanent in the BBB, the so-called Build Back Better bill. Our colleagues knew that a permanent extension and expansion would have been far too expensive to meet their topline, so they pretended to cut it by making it a temporary extension.

Earlier drafts of this bill would have extended this policy through 2025. As time went on, the pricetag was still too high, so it was scaled back to a 1-year extension. But the truth is, nothing has really changed. Calls to make the expansion permanent have not gone away. I have seen no indication that our colleagues across the aisle are content to let this extension expire after just 1 year.

The same is true of the earned income tax credit, which also was expanded in March. A number of our col-

leagues have spoken here on the Senate floor about the need to make this expansion of the earned income tax credit permanent.

But the not-so-temporary extensions don't end there. This bill extends the Affordable Care Act's premium tax credits through 2025, which our colleagues claim will enable more Americans to afford healthcare coverage. But at the same time, this bill cuts funding to safety net hospitals and States that did not expand Medicaid. If their goal was to expand access to low-income individuals under the Medicaid Program, their bill cuts that funding to safety net hospitals in States like mine that did not expand Medicaid. These cuts specifically target hospitals that treat underinsured and uninsured patients.

In short, our colleagues are manipulating the budget process in a way that appears to extend access to healthcare while at the same time cuts funding to our most vulnerable patients—all in the cause of pushing America closer to a single-payer system, something like Medicare for All. I have no doubt that our colleagues across the aisle will, if possible, not let these temporary provisions expire.

In the immortal words of Ronald Reagan, though, “The closest thing to eternal life on earth is a [temporary] government program.”

We have seen this movie before, time and again. It is smoke and mirrors. It is budget gimmickry. It is starting new programs and claiming to cut them off after a year, knowing that, inevitably, Congress will be tempted to extend them much, much longer.

Well, before this bill comes to a vote in the Senate, I hope our Democratic colleagues will agree with me that we need to know precisely how much this bill will cost the American people. We know that our colleagues across the aisle have struggled to try to make a \$6 trillion bill appear to be a \$3.5 trillion and now a \$1.75 trillion bill, but I don't think anybody is really fooled or confused. Because they have strategically chosen start dates, sunsets, and expiration dates to make it appear that these programs cost less, we know that eventually, if they have the votes, they will be extended through eternity.

Our colleagues gamed the Tax Code to partially fund the bill while handing out massive tax breaks to millionaires and billionaires. I am glad to see the chairman of the Budget Committee say that we really shouldn't be focused on tax cuts to millionaires and billionaires in blue States and cities like New York or San Francisco, which is exactly what the Democratic bill tries to provide—tax cuts to millionaires and billionaires in blue States.

This bill is really chock-full of inconsistencies. It claims to extend access to healthcare while cutting off access to Medicaid or some of the safety net programs in States like mine. It claims that, well, we are going to tax the rich folks while at the same time providing