United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 115th CONGRESS, FIRST SESSION

Vol. 163 WASHINGTON, MONDAY, APRIL 3, 2017 *No. 57*

Senate

The Senate met at 3:01 p.m. and was called to order by the Honorable TODD YOUNG, a Senator from the State of Indiana.

PRAYER

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

Let us pray.

Beautiful Savior, You have been our dwelling place in all generations, and we are sustained by Your steadfast love. Today, surround our Senators with the shield of Your favor as they labor to keep our Nation strong.

Lord, this week our lawmakers must make critical decisions that may affect this legislative body for years to come. Teach them to be obedient to Your commands, doing Your will, and following Your leading. May they be quick to listen, slow to speak, and slow to anger.

Lord, manifest Your power through their labors so that this Nation will remain a shining city on a hill.

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. HATCH).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 3, 2017.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TODD YOUNG, a Senator from the State of Indiana, to perform the duties of the Chair.

ORRIN G. HATCH,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

OLD VESSELS EXEMPTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 89, which the clerk will report.

The bill clerk read as follows:

A bill (S. 89) to amend title 46, United States Code, to exempt old vessels that only operate within inland waterways from the fire-retardant materials requirement if the owners of such vessels make annual structural alterations to at least 10 percent of the areas of the vessels that are not constructed of fire-retardant materials and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 5:30 p.m. will be equally divided in the usual form.

If no one yields time, the time will be charged equally.

The Senator from West Virginia.

NOMINATION OF NEIL GORSUCH

Mrs. CAPITO. Mr. President, I come to the floor today to express my strong support for the confirmation of Judge Neil Gorsuch to be the next Associate Justice of the U.S. Supreme Court. Few individuals over the last century have impacted the American legal discourse as profoundly as the late Justice Antonin Scalia.

In the wake of his untimely passing last February, Justice Scalia left behind a legacy of faithfully applying the law and upholding the principles of our Constitution. Judge Neil Gorsuch is a worthy successor to Judge Antonin Scalia.

Judge Gorsuch understands the protections granted in the Constitution, including the separation of powers, federalism, and the Bill of Rights. He knows that the Constitution provides Americans with an indispensable safeguard against government overreach.

His past opinions demonstrate that he will honor constitutional protections afforded through due process, the right to bear arms, equal protection under the law, and religious freedom.

Legal experts from across the political spectrum are very much in agreement with the Gorsuch nomination. The American Bar Association's Standing Committee on the Federal Judiciary unanimously gave Judge Gorsuch the highest possible rating of ''well qualified'' for the Supreme Court. I couldn't agree more.

One of Judge Gorsuch's associates, the chief judge of the Tenth Circuit who served with Judge Gorsuch, has said about him:

Judge Gorsuch brings to the bench a powerful intellect combined with a probing and analytical approach to every issue. He brings to each case a strong commitment to limit his analysis to that case—its facts, the record, and the law cited and applicable. He does not use his judicial role as a vehicle for anything other than deciding the case before him.

President Obama's former Solicitor General Neal Katyal penned an op-ed in the New York Times supporting Judge Gorsuch and wrote:

I have no doubt that if confirmed, Judge Gorsuch would help restore confidence in the rule of law.

His years on the bench reveal a commitment to judicial independence—a record that should give the American people confidence

that he will not compromise principle to favor the president who appointed him.

Those are the words of the Solicitor General who argued on behalf of President Obama's administration in front of the Supreme Court.

Judge Gorsuch has been through the confirmation process before—as we have heard many times on this floor—when Senators, some of them in this body today, approved his nomination to the Court of Appeals for the Tenth Circuit without opposition.

I was privileged to meet with Judge Gorsuch several weeks ago, and it was clear to me through our conversation, a thorough examination of his record, and watching last week's hearing in the Judiciary Committee that Judge Gorsuch will decide cases fairly, based on our Constitution and laws. Isn't that the way it should be? This is what West Virginians expect from a Supreme Court Justice.

Newspapers in my State have recognized this nominee's strong qualifications of independence and respect for the rule of law. The Charleston Daily Mail editorialized:

Gorsuch has strong legal credentials and deserves to be confirmed.

He is the kind of pick that any president should make, Democrat or Republican, because of his proven qualities necessary for any justice: a strong understanding and respect for the nation's founding document, the U.S. Constitution.

The Wheeling Intelligencer and News Register wrote:

During hearings last week, Gorsuch's suitability for a high court post was made abundantly clear.

He is precisely the type of judge—faithful to the Constitution not ideology on specific issues—the nation needs.

And the Martinsburg Journal said:

Gorsuch seems to believe in using the plain language of the Constitution to decide cases, regardless of his own preferences.

That—someone who believes only the people not the courts can change the Constitution—is precisely the type of Supreme Court justice we Americans need.

The American people benefited from an open and transparent Supreme Court process that led to Judge Gorsuch being nominated.

During the 2016 Presidential election, both candidates were transparent about the type of Supreme Court Justice they would appoint if elected. President Trump released a list of 21 names, a list that included Judge Gorsuch, and promised voters that he would fill this Supreme Court vacancy with someone from that list. Voters paid attention.

According to an NBC News exit poll, 70 percent of voters said the selection of a Supreme Court Justice was either the most important factor in their vote for President or an important factor. Let me state that again—70 percent.

The American people weighed in, and President Trump acted wisely in selecting Judge Gorsuch. He is a mainstream judge who is well qualified for the U.S. Supreme Court.

Unfortunately, the Democratic leader has indicated that his party intends to engage in an unprecedented partisan filibuster of this nomination. A filibuster of a nominee of this caliber would be a tremendous mistake, I believe, that would harm the Senate as an institution. There has never been a Supreme Court nomination that has been defeated by a partisan filibuster of the type that the Senate Democrats are telegraphing. It is one thing to vote against a nominee on whatever grounds a Senator may wish, but it is quite another to filibuster in an effort to block a nomination that has been submitted by a duly elected President who has the support of the majority of the Senate.

Senators have always enjoyed the ability to filibuster nominations. That ability has remained available because Senators have shown restraint in applying the power that comes along with requiring unlimited debate. The clear tradition of the Senate—and this is a body of tradition, I have learned—over the course of its 230 years of history is a confirmation by a majority vote. That tradition has been demonstrated in recent Supreme Court nominations.

President Obama nominated both Sonia Sotomayor and Elena Kagan to the Supreme Court. Neither Justice Sotomayor nor Justice Kagan faced a filibuster in the Senate.

President George W. Bush nominated John Roberts as Chief Justice. There was no filibuster attempt against that nomination.

President Bill Clinton nominated Ruth Bader Ginsburg and Stephen Breyer to the Supreme Court. Neither faced a filibuster.

President George H.W. Bush nominated David Souter and Clarence Thomas to the Supreme Court. Neither Justice faced a filibuster even though 48 Senators voted against the Thomas nomination.

One recent Supreme Court nomination did require a cloture vote when a group of Democrat Senators attempted to block a vote on the nomination of Justice Alito's nomination, but a large majority of Senators—72, in fact—invoked cloture, which preserved the bipartisan practice of rejecting filibusters against Supreme Court nominees. Among those who rejected the Alito filibuster in 2006 were the two Democratic Senators from my State—Senator Robert C. Byrd and Senator Jay Rockefeller. There were 72 Senators who voted to invoke cloture on Justice Alito's nomination, but only 58 ended up voting for the final confirmation.

The Senate has a very clear history of rejecting the use of the filibuster on Supreme Court nominations, but there is no justification for a filibuster on the Gorsuch nomination. Neil Gorsuch is a mainstream judge with the highest possible rating from the American Bar Association. He was confirmed by the Senate, without objection, in the year 2006. His service on the Tenth Circuit Court of Appeals has earned him the respect of his judicial colleagues, and he has demonstrated the independence and respect for the law that the American people expect from a Supreme Court Justice. I hope that at least eight of my Democratic colleagues will join us regardless of how they, ultimately, will vote on Judge Gorsuch's confirmation. I hope they will recognize the need to invoke cloture on this nomination.

The Senate will confirm Judge Gorsuch to the Supreme Court. For the good of the Nation and for the good of the Senate, there should be no filibuster of this well-qualified nominee.

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. SCHUMER. 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 Democratic leader is recognized.

Mr. SCHUMER. Mr. President, first, let me thank my friend and colleague from Nebraska for her indulgence.

EXPLOSION IN SAINT PETERSBURG, RUSSIA

Before I begin, Mr. President, I want to express our concern here in the United States for our friends in Saint Petersburg, Russia, in the wake of an explosion on their subway system this morning. Russia has been in the news a lot recently, typically in adversarial terms. Today is a time to remember that, whatever our differences, we wish no ill to the people of any nation. Our thoughts and prayers are with the families of the Russians who were killed this morning. We wish a swift recovery to the injured and hope the perpetrators are soon brought to justice.

NOMINATION OF NEIL GORSUCH

Mr. President, I rise this afternoon on the nomination of Judge Neil Gorsuch to the Supreme Court, which was just advanced by the Judiciary Committee.

This afternoon, it has become clear that Judge Gorsuch does not have the 60 votes that are necessary to end debate on his nomination. So now the focus is shifting away from the issue of whether Judge Gorsuch will get 60 votes on the cloture motion and toward the fundamental question before us: Will the majority leader break the rules of the Senate in order to get Judge Gorsuch on the bench?

My friend, the majority leader, has said several times that Judge Gorsuch will be confirmed by the end of this week one way or another. What he really means when he says that is, if Judge Gorsuch does not earn 60 votes in the Senate, which is now the likely outcome, the Republicans must—underline ''must''—exercise the nuclear option to pass Judge Gorsuch on a simple majority vote.

I think the majority leader reasons that if he says it enough times, folks

will start believing it—that he has no choice—but they should not. It is a premise no one should swallow. The majority leader is setting up a false choice of supporting Judge Gorsuch or he will have no choice but to break the rules. Maybe, to the majority leader, the nuclear option is the only option, but there are many alternatives. The majority leader makes up his mind independent of what Democrats do on issue after issue, but on this one, he says he has no choice. Maybe he has no choice because the rightwing of the Republican Party—organizations like the Heritage Foundation—will go after him if he does not, but he certainly has a choice to do the right and courageous thing.

Instead, Republicans are playing the game of ''they started it.'' They say Democrats started this process by changing the rules for lower court nominees in 2013. They fail to mention the history that led to that change. The reason that Majority Leader Reid changed the rules was that Republicans had ramped up the use of the filibuster to historic proportions.

They filibustered 79 nominees in the first 4 years of President Obama's Presidency. To put that in perspective, prior to President Obama, there were 68 filibusters on nominations under all other Presidents—from George Washington to George Bush. Under President Obama, exclusively, in the first 4 years of his administration, Republicans filibustered 79 nominees. They deliberately kept open the DC Court of Appeals because it has such influence over decisions that are made by the government.

We all know the hard-right Federalist Society and the hard-right Heritage Foundation want to limit what government can do. The deal we made in 2005—a group of Senators, the so-called Gang of 14—allowed several of the most conservative jurists in the land to become judges and be confirmed to that circuit court. Yet, when President Obama came in, our Republican colleagues insisted on holding three seats of that court open. They, literally, said that they would not allow the seats to be filled at all by President Obama.

Sound familiar? Merrick Garland knows it is.

At the time, I pleaded several times with Senator ALEXANDER, my dear friend from Tennessee, to let us vote on some of the judges for the DC Circuit. I asked him to go to Senator MCCONNELL and say that the pressure on our side to change the rules after all of these filibusters was going to be large. Let's avoid it, I said. But Senator MCCONNELL said no.

Republicans had refused all of our overtures to break the deadlock that they had imposed. So if the majority leader wants to conduct this partisan ''they started it'' exercise, I am sure we could trace it all the way back to the Burr-Hamilton duel.

The fact is that the Republicans blocked Merrick Garland by using the most unprecedented maneuvers. Now we are likely to block Judge Gorsuch, and that means neither party has gotten its party's choice in the last 2 years.

We can go back and forth and blame each other, but in the recent history of the vacancy caused by Justice Scalia's death, we have both lost. We lost Merrick Garland because of the majority leader's unprecedented blockade, and Republicans will lose on Judge Gorsuch because we are doing something we think is reasonable in asking that he be able to earn 60 votes as so many others have. We think the two are not equivalent, but in either case, we have both lost.

We are back to square one, and Republicans have total freedom of choice in this situation. No one is forcing them to break the rules. They don't have to treat the nuclear option as if it were their first and only option. It is a false choice.

To my friends on the other side, the answer isn't to change the rules; the answer is to change the nominee. Presidents of both parties have done so in the past when Supreme Court picks failed to merit confirmation. Again, the answer isn't to change the rules; the answer is to change the nominee.

The majority leader should have the vision and courage to see past this impasse, and I believe he should seriously consider a different option. The President, Senate Republicans, and Democrats should sit down together to come up with a mainstream nominee who can earn bipartisan support. We are willing to meet with them anywhere, anytime to discuss a consensus nominee.

Now, I know my colleagues on the other side will say Judge Gorsuch was a mainstream nominee and Democrats would never support any judge nominated by President Trump. We disagree. We probably can't support any nominee whose sole vetting is by the Heritage Foundation and the Federalist Society. They were the sole gatekeepers for the Scalia vacancy, and each is well known to be a rightwing, wealthy special interest group dedicated to moving the bench way to the right. Their selection of Judge Gorsuch shows it. Both the New York Times and the Washington Post did analyses done by experts that showed that Judge Gorsuch would be a very, very conservative—many would say rightwing—Justice on the bench. The New York Times said he would be the second most conservative Justice on the bench—second only to Justice Thomas—and more conservative than the late Justice Scalia. The Washington Post actually said he would be the most conservative Justice on the bench, based on his record—even more conservative than the very, very conservative Justice Thomas.

In fact, we Democrats have never let special interest groups be the gatekeeper. We have never said to any special interest group, as President Trump did: Give us a list, and we will choose from that list. That is what Republicans did. We have never done it.

In the past, Presidents have done just what we are suggesting for selecting Supreme Court Justices. President Bill Clinton sought and took the advice of Republican Judiciary Committee Chairman ORRIN HATCH in nominating Justices Ginsburg and Breyer instead of Bruce Babbitt. President Obama took the advice of Republican Senators when he picked Merrick Garland—a consensus, mainstream nominee.

President Trump, on the other hand, ignored the Senate and only sought the advice and consent of rightwing special interest groups when making Supreme Court picks. He was running. He had to shore up his support on the hard right. So he said: I am outsourcing the entire selection process to two groups—which, again, are not consensus groups. They would admit that themselves—the Heritage Foundation and the Federalist Society. Lo and behold, the process didn't produce a nominee who could earn 60 votes. By contrast, Justice Ginsburg earned 93 votes and Justice Breyer earned 87.

So we are offering President Trump and our friends on the other side a way forward. They don't have to break the rules to get a Justice on the bench. They don't have to break the Senate confirmation process, fundamentally weakening the constitutional principle of advice and consent, to get a Justice on the bench. President Trump could simply consult with Members of both parties to try and come up with a consensus nominee who could get approved and meet a 60-vote threshold.

The answer, again, isn't to change the rules. It is to change the nominee.

We Democrats are not going to oppose every Republican nominee. Of course, we realize a nominee selected this way would not completely agree with our views, but Judge Gorsuch is so far out of the mainstream that he isn't able to earn votes to pass the Senate. Even Justices Roberts and Alito—two very conservative judges—earned a bunch of Democratic votes, and each got more than 60—one, in his nomination, and the other, 72 votes in the cloture process.

So the Republicans are free actors. They can choose to go nuclear or they can sit down with Democrats and find a way forward that preserves the grand traditions of this body.

The majority leader himself has said the one thing the two leaders have always agreed upon is to protect the integrity of this institution. He continued, and this is a direct quote: ''I think we can stipulate . . . that in the Senate, it takes 60 votes on controversial matters.''

MITCH MCCONNELL: In the Senate, it takes 60 votes on controversial matters. He has long stood for that proposition for the many years I have been here.

A Supreme Court seat, I believe, meets the majority leader's standard

for 60 votes. I hope that instead of crippling the Senate in a partisan way—removing that 60-vote threshold for controversial matters like the Supreme Court—my Republican friends consider the option of working together to find a solution we can both accept. It may seem like a novel concept around here, but that option is always on the table.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

WORKPLACE ADVANCEMENT ACT

Mrs. FISCHER. Mr. President, I rise this afternoon to discuss a true American value: equal pay for equal work. This is something that we all believe in, and tomorrow is National Equal Pay Day. It is a meaningful reminder that equal pay remains among the challenges before us.

Women make the world work. We are breadwinners for our families. We are also financial planners, nurses, and teachers. We have always been a powerful force, and our progress has been hard-earned.

Women today are managers, entrepreneurs, public servants, and CEOs, and our country is stronger for it. But despite these great strides, there is more work to do to encourage prosperity for America's families.

For nearly 4 years in this body, I have led discussions about equal pay. I am encouraged by the interest from the White House on addressing the workplace challenges that women face today. To that end, I have reintroduced a proposal I believe will make a real difference for families. It is called the Workplace Advancement Act.

The idea behind it is fairly universal and straightforward: equal pay through empowerment. The bill aims to empower employees—especially women—with information about wages so they can be informed advocates for their compensation. When it comes to discussing wages in the workplace, sometimes it can hurt to ask. A culture of silence and fear of retaliation can keep people in the dark about how their compensation compares to others. The Workplace Advancement Act would lift that fear, free up information, and create a more transparent workplace.

A simple principle is at play here. When workers, especially women, have more information, they can more confidently pursue favorable work and wage arrangements. Knowledge is power. With this flexibility, women can better negotiate arrangements that make sense for them. For example, they might be willing to accept less pay if they can have Fridays free for doctors' appointments or family time or simply as a day for self-care.

The Workplace Advancement Act contains language similar to an Executive order that President Obama issued in 2014. Many congressional Democrats requested this action, which is actually more limited in scope than my legislation. Some even praised it. Senator HEINRICH called the action ''a critical step to ensure that every woman has a fair shot at fairness and economic success.'' Congresswoman SUSAN DAVIS of California said the action was a ''historic step forward.''

Importantly, for employers, the Workplace Advancement Act would not impose new Federal regulations, and no employer would be compelled to disclose salary information. It simply prevents retaliatory action against employees who ask after it.

Fifty-three Republicans and five Democrats in the Senate supported a version of the Workplace Advancement Act last Congress. With bipartisan support like this, this bill is possible.

Let's take advantage of this rare moment when we have common ground on a commonsense and straightforward solution. Let's come together so we can look families in the eye and say: We heard you. We have heard you on this issue, and we are going to take action on it.

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 MAJORITY LEADER

The majority leader is recognized.

NOMINATION OF NEIL GORSUCH

Mr. MCCONNELL. Mr. President, this week is an important one for the American people, for the Supreme Court, and for the Senate. The Judiciary Committee just reported out Judge Neil Gorsuch's nomination—the next step in considering the Supreme Court nominee before the full Senate. It was unfortunate to see our Democratic colleagues on the committee break with recent precedent and not support this clearly well-qualified and widely respected Supreme Court nominee.

I would remind colleagues that in addition to simply agreeing to an up-or-down vote on their nominations on the Senate floor, Republicans offered each of the last four first-term Supreme Court nominees of Democratic Presidents Clinton and Obama at least some bipartisan support in the committee votes. Judge Gorsuch is no less qualified than those four nominees of Presidents Clinton and Obama, and it is disappointing he didn't get the same bipartisan support in the committee today.

It now seems apparent that this well-qualified and widely respected judge will be subject to the first successful partisan filibuster in the history of the Senate—the first successful partisan filibuster in the history of the Senate. This is a new low but not entirely surprising given that the Democratic leader announced before the nomination was even made that it was hard for him to imagine a nominee this President would nominate whom he could support. He even went so far as to say that he would be willing to fight the nomination ''tooth and nail'' and might even ''keep the seat open'' in perpetuity. It is not too late for our Democratic colleagues to make the right choice.

This week, the Senate will continue to debate Judge Gorsuch's nomination here on the floor. This is a matter of great importance, which is why we are planning to dedicate this week's floor time almost entirely to continued robust debate of this nomination rather than double-tracking it with legislative items, as has been done in the past. Already, several Members from both sides of the aisle have come to the floor day after day to offer their viewpoints on Judge Gorsuch. I would encourage Members to take advantage of this time to continue discussing his excellent credentials, judicial background, and broad support from across the political spectrum in our country.

Let me remind colleagues the many ways in which Judge Gorsuch has shown himself to be an outstanding nominee to serve on the High Court.

Judge Gorsuch was unanimously confirmed to his current position as a Federal judge. Not a single Democrat opposed him then, including Senators Obama, Clinton, Biden, LEAHY, and SCHUMER. He has participated in more than 2,700 cases since then. He has been in the majority 99 percent of the time. He has enjoyed the unanimous support of his fellow judges 97 percent of the time.

The American Bar Association—a group the Democratic leader called the ''gold standard'' for evaluating judicial nominations—awarded him its highest possible rating, unanimously ''well qualified.''

He has amassed a wide array of supporters, including Democrats and Republicans, current and former colleagues, the legal community, and editorial boards all across our country. They say Gorsuch is eminently well-qualified. As Judge John Kane, a Carter appointee, put it, ''I'm not sure we could expect better [than Judge Gorsuch], or that better presently exists.''

They say that Gorsuch is independent. Neal Katyal, President Obama's former Acting Solicitor General, said he has ''no doubt that if confirmed, Judge Gorsuch would help to restore confidence in the rule of law'' because Gorsuch's ''years on the bench reveal a commitment''—a commitment—''to judicial independence.''

They say Gorsuch is fair and impartial. The Denver Post editorial board noted that ''Gorsuch is a brilliant legal mind and talented writer whom observers praise for his ability to apply the law fairly and consistently.'' They went on: ''[W]e appreciate his desire to strictly interpret the Constitution,'' the paper continued, ''based on the intent of our nation's founders, even when those rulings might contradict his personal beliefs.''

They say Gorsuch is highly revered by Democrats and Republicans. As USA TODAY noted in its editorial endorsing Gorsuch's confirmation just today, ''He has gotten an array of glowing references, including from some Democrats and liberals.'' I mentioned some this morning; there are many more.

Here is just one additional example of how praise for Judge Gorsuch has bridged the political divide: Despite their ideological differences, former Colorado Governor Bill Ritter, a Democrat, and former Colorado attorney general John Suthers, a Republican, agree that Judge Gorsuch should be confirmed. They said:

Gorsuch's temperament, personal decency and qualifications are beyond dispute.

It is time to use this confirmation process to examine and exalt the characteristics of a judge who demonstrates that he or she is scholarly, compassionate, committed to the law, and will function as part of a truly independent, apolitical judiciary. Judge Gorsuch fits that bill.

It reminds us of what David Frederick, a board member of the left-leaning American Constitution Society and longtime Democrat, recently said: ''The Senate should confirm [Gorsuch] because there is no principled reason to vote no.''

''There is no principled reason to vote no.'' He is absolutely right. So it goes without saying that there is no principled reason to block an up-or-down vote on this supremely qualified nominee, either.

I look forward to joining my Senate colleagues in supporting Judge Gorsuch's nomination to the Supreme Court later this week.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. ERNST). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

AMENDING THE VETERANS ACCESS, CHOICE, AND ACCOUNTABILITY ACT OF 2014

Mr. TESTER. Madam President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of S. 544 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 544) to amend the Veterans Access, Choice, and Accountability Act of 2014 to modify the termination date for the Veterans Choice Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. TESTER. Madam President, I know of no further debate on the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 544) was passed, as follows:

S. 544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF TERMINATION DATE FOR VETERANS CHOICE PROGRAM.

Section 101(p)(2) of the Veterans Access, Choice, and Accountability Act of 2014 (Public Law 113–146; 38 U.S.C. 1701 note) is amended by striking '', or the date that is 3 years after the date of the enactment of this Act, whichever occurs first''.

SEC. 2. ELIMINATION OF REQUIREMENT TO ACT AS SECONDARY PAYER FOR CARE RELATING TO NON-SERVICE-CONNECTED DISABILITIES AND RECOVERY OF COSTS FOR CERTAIN CARE UNDER CHOICE PROGRAM.

(a) IN GENERAL.—Section 101(e) of the Veterans Access, Choice, and Accountability Act of 2014 (Public Law 113–146; 38 U.S.C. 1701 note) is amended—

(1) in the subsection heading, by striking ''OTHER HEALTH-CARE PLAN'' and inserting ''RESPONSIBILITY FOR COSTS OF CERTAIN CARE'';

(2) in paragraph (1), in the paragraph heading, by striking ''TO SECRETARY'' and inserting ''ON HEALTH-CARE PLANS'';

(3) by striking paragraphs (2) and (3);

(4) by redesignating paragraph (4) as paragraph (2); and

(5) by adding at the end the following new paragraph:

''(3) RECOVERY OF COSTS FOR CERTAIN CARE.—

''(A) IN GENERAL.—In any case in which an eligible veteran is furnished hospital care or medical services under this section for a non-service-connected disability described in subsection (a)(2) of section 1729 of title 38, United States Code, or for a condition for which recovery is authorized or with respect to which the United States is deemed to be a third party beneficiary under Public Law 87–693, commonly known as the 'Federal Medical Care Recovery Act' (42 U.S.C. 2651 et seq.), the Secretary shall recover or collect from a third party (as defined in subsection (i) of such section 1729) reasonable charges for such care or services to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such third party if the care or services had not been furnished by a department or agency of the United States.

''(B) USE OF AMOUNTS.—Amounts collected by the Secretary under subparagraph (A) shall be deposited in the Medical Community Care account of the Department. Amounts so deposited shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—Paragraph (1) of such section is amended by striking ''paragraph (4)'' and inserting ''paragraph (2)''.

SEC. 3. AUTHORITY TO DISCLOSE CERTAIN MEDICAL RECORDS OF VETERANS WHO RECEIVE NON-DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE.

Section 7332(b)(2) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

''(H)(i) To a non-Department entity (including private entities and other Federal agencies) that provides hospital care or medical services to veterans as authorized by the Secretary.

''(ii) An entity to which a record is disclosed under this subparagraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.''.

Mr. TESTER. Madam President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

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

Mr. TESTER. Madam President, I want to thank Senator MORAN and members of the Veterans' Affairs Committee for all their good work, Senator MCCAIN for his good work, and Chairman JOHN ISAKSON for his good work on this bill.

This Veterans Choice Program Improvement Act is an important piece of legislation that is going to really ensure that veterans can access care in their communities. It is a critically important piece of legislation that we should get done and get done now.

I think this body could learn from the work that was done on the Veterans' Affairs Committee under the leadership of Chairman ISAKSON for the veterans of this country. I don't think my home State of Montana is any exception. Veterans have been waiting far too long for an appointment at the VA and oftentimes had to drive 100 miles for an appointment. That is why we set up the Choice Program. It was supposed to allow these veterans to get their healthcare closer to home. Unfortunately, it did not work the way it should have. And we were inundated with redtape and a government contractor that struggled to schedule appointments with providers on time.

This Veterans Choice Program Improvement Act is not the end all. It is not what is going to fix the Choice Program in its entirety, but it certainly is a step in the right direction, a step that needed to be taken, and I commend the body for allowing this step to be taken.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. MORAN. Madam President, I thank the Senator from Montana for his efforts to see that this legislation gets passed. I am pleased to see that we have been joined in a unanimous way by the Senate, Republicans and Democrats working together to see that our veterans receive better care.

In addition to the Senator from Montana, I thank Mr. MCCAIN, the Senator from Arizona, who is joining us on the floor. I also thank Senator ISAKSON in particular, the chairman of the Veterans' Affairs Committee, for his leadership in seeing that we are here today to bring this legislation across the finish line.

The House passed legislation similar to this, so this is an opportunity for us to get an accomplishment—not for a pat on our backs but for the improvement in the care of those who served