careers. We have heard so many speeches from the other side about deficit reduction. I think my colleagues were sincere. Why are they abandoning it now?

Every one of our colleagues knows that we could do a lot better job in a tax bill at reducing the deficit than we have here. From the very beginning, Democrats have told our Republican colleagues that we want to work with them on tax reform, we want to lower taxes on the middle class, we want to reduce burdens on small businesses, we want to erase the incentives that send jobs overseas and bring jobs back home, and we want to do all these things in a way that doesn't add to the deficit.

From the very beginning, Republicans have said to us: We are not interested in working with you. We are going to draft it ourselves and use reconciliation so we don't need your votes, and you can vote for our bill if you want.

That is not bipartisanship, what the Republican leadership has done.

I know there are some Republicans on the other side who wish we could work together. Well, we can. Today at 11 a.m., I think more than a dozen—certainly a large number of Democrats went to the Press Gallery and said: We want to work with our Republican colleagues to create a better bill.

They came and visited me last night. I encouraged them to do it. This leader—this leader—is not going to stand in the way of bipartisan reform that meets the goals we have talked about: helping the middle class, reducing the deficit, not unduly or in any way aiding the 1 percent.

Bipartisanship and compromise are very possible on tax reform. It is an issue crying out for a bipartisan solution. There are a lot of areas in which we agree. We have to work to find a middle ground that is acceptable to both parties. I daresay it would be a better bill for the American middle-class than the one we are looking at right now.

NOMINATION OF GREGORY KATSAS

Mr. SCHUMER. Finally and briefly, Mr. President, because I know my colleagues are waiting, on the Katsas nomination, the DC Circuit is often called the second most powerful court in the Nation because it adjudicates so many highly charged political issues, including cases that deal with the limits of Executive power and regulations issued by Federal agencies. As examples, major cases on climate regulations, the CFPB, and gun safety laws in the District of Columbia are now before that court. On such a court, we should prize independence and moderation and look warily at candidates with highly political backgrounds.

Unfortunately, Gregory Katsas has been intimately involved in a number of the most partisan and legally dubious Executive orders of the current administration. He was involved in the President's controversial travel ban, his decisions to terminate DACA, to end transgender service in the military, and to establish an election integrity commission based on the lie that 3.5 million people voted illegally in the last election.

His tenure and views in the Trump administration raise important questions about his independence and moderation, particularly on a court that will likely hear cases related to the very same issues he worked on in the White House. He appears to be another example of the Republican majority pushing judges from a political extreme of their party as a way of advancing their interests in lieu of a legislative agenda, which has floundered.

I will vote no on his nomination and urge all of my colleagues to do the same.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session and resume consideration of the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Gregory G. Katsas, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 4 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 4 p.m. and reassembled when called to order by the Presiding Officer (Mr. STRANGE).

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. Under the previous order, there are 90 minutes of debate remaining on the Katsas nomination, equally divided between the leaders or their designees.

The Senator from Oklahoma.

THE DEFICIT

Mr. LANKFORD. Mr. President, I want to address this body and talk about an issue that we do not talk about enough—the deficit. It is an issue that, for whatever reason, we have stopped talking about in Washington, DC. We talk about tax policy, which we should. We talk about disaster relief areas, which we should. We talk about healthcare policy, which we should, and a lot of other things. We have stopped talking about the debt and deficit, and I think that is a mistake for us.

You see, after 2011, the trend moved from a high point. Deficit spending that year was $1.3 trillion—overspending in a single year. After that point, the deficit went down a little bit each year until 2015. In 2016 our deficit number—that is a single year of overspending—started going back up. It went up in 2016, and it went up again in 2017. It is turning in the wrong direction. As you will recall and as many people in this body will recall, deficits were a major topic for us starting in 2010. Each year, Congress was trying to find ways to be able to reduce the deficit. That does not seem to be the issue anymore.

What I bring is a set of solutions and a set of ideas. How do we get out of this? Are there bipartisan solutions to actually deal with deficit overspending? There are priority things that we need to spend money on, and we should spend money on those things. Yet, as to the things that are nonessential for us and on which we might all find some way to agree that there is a better way to be able to spend our dollars, we should.

So this week I have produced our third annual ''Federal Fumbles'' book. We call it ''100 ways the Federal Government has dropped the ball.'' None of these should be all that controversial, though we will not agree with all of them. But there are simple ways to look at what the Federal Government is doing, what it is not doing, where we are spending, where we are overspending, and where additional oversight is needed. There is no problem in this country that can't be solved, and, certainly, our deficit is an issue that can be solved. We just have to commit to each of us making the decision that this is actually important and that we are going to try to resolve this to try to get us back toward balance.

I have lumped all of these issues from this book back into a whole series of different process things because each one of the 100 things that we identify is not just a stand-alone; it is part of a bigger problem. So I have put them together into budget process reforms and grant process reforms, which allow for more transparency in how decisions are made and as to what decisions have been made. I would say, as well, that there are Senate rule changes that are going to be needed to be able to resolve any of these issues. We put together these four big blocks to be able to ask: What are we actually dealing with? Let me just give you a couple of ideas.

If we are going to actually deal with some of the budget issues, we are going to have to actually deal with the budget process. We are not going to get a better product until we get a better process. Since 1974, the Budget Act has only worked four times, and every year the American people have asked over and over: What just happened? How

come we are back in this budget fight? How come it is at the end of the year? How come this is not resolved? Because we have a bad process—that is why. Our process is not constitutional. It is the product of a law that was put in the Budget Act. We need to be able to change that, and I think there are some basic ways to be able to resolve that.

I would like to do budgeting and appropriations every 2 years. That would give us more time to be able to do more oversight, and that would give us more time for floor debate on it to be able to walk through this. There are multiple other areas that need to be resolved, like aligning our committees and other things that need to be done if we are actually going to get budget work done. In the meantime, we need to be able to push through what we can with the greatest efficiency, but, long term, we are going to have to fix the broken process that we have.

We should fix the grant-making process. There has been a lot of pressure to be able to move dollars toward grants because now we have put more and more restrictions on contracting. Because there are very few restrictions on grants, a lot of agencies are now spending more on grants than they are on contracting, and they are pushing dollars out the door with there being very little supervision.

We have to work on transparency. I am ashamed to say that for 6 years I have pushed on a very simple bill called the Taxpayers Right-To-Know Act. It passed unanimously in the House in 2 different years. It came over to the Senate, and it got tied up. The Taxpayers Right-To-Know Act is very simple. It asks every agency to list everything that it does. What a shocking thing it would be to actually know everything that every agency does—to be able to see what it does, what it spends on it, how many employees it allocates to it, and how many people it serves.

Every business in America can give a list of everything that it does except for the Federal Government. We cannot. We should. It would give the opportunity for agency heads to find out, before they start a program, and to know if someone else already does it in the Federal Government. I have talked to multiple agency individuals now, under two different Presidents, who have said that they have started a program, gotten it developed, committed people to it, and then a couple of months or years later determined that somebody else was already doing it. Even our agency folks do not know what the other agencies are doing. This should be a simple, straightforward solution to be able to help our agencies and to be able to help all of us have greater supervision over the budget.

The fourth thing is dealing with Senate rule changes. If we do not solve the issue of our nominations, we will never be able to get actual legislation on the floor and get back to debate again. We have stopped debating on major bills. We have stopped debating on small bills. Because it takes so much time, it is easier to just not do it at all. That is not what the American people sent us here to do. When we say that the Senate cannot debate a topic, no one can believe it. That rule doesn't get better based on inactivity. It gets better when we actually fix the basic problem that we have, and that is getting us back to debate and solving the nomination process. Let's actually get this resolved.

In saying all of that, all of the things that are in this book this year are things that I and my staff and my team—and Derek Osborn, who has led in all of the compilation of this on my team—have put together. We have put together this basic package to say: Here are 100 items. Quite frankly, I would hope that all 100 Senators could go through budget areas and that everybody could find 100 items and could identify them and say: Let's compare our lists and then ask: What are we going to do to be able to deal with the debt and deficit? How are we going to deal with some of the spending and inefficiencies of the Federal Government? We would probably have 100 different lists, but I would bet that, of the 100 different lists, we would find a lot of common ground, and we would actually start to solve some things.

What type of things did we find on our list this year? Let me give you some examples.

The National Science Foundation did a grant this past year to study the effects and how things are going for refugees in Iceland. Now, I am sure that the country of Iceland would like to know how it is going for their refugees, and maybe even the U.N. would like to know, but I am a little stunned that the National Science Foundation used American tax dollars to study refugees in Iceland.

The National Endowment for the Arts did a grant this past year to help pay for a local community theater in New Hampshire in its performance of ''Doggie Hamlet.'' ''Doggie Hamlet'' is an outdoor presentation in which a group of people yells and sings around a group of sheep and sheep dogs. I have watched the performance, and I think it is fine if the folks of New Hampshire want to do that performance. I am just not sure why the people of Oklahoma are being forced through their Federal tax dollars to pay for the production of ''Doggie Hamlet.''

Last year, the Department of Defense moved some equipment into Kuwait to be able to give it to the Iraqi army. So $1 billion worth of equipment was moved into Kuwait to give it to the Iraqi army—Humvees, small arms, mortars. All of that is fine, as we were helping to equip the Iraqi army to allow them to be able to defend themselves. The problem is that we lost track of them somewhere between Kuwait and Iraq, and the DOD doesn't know what happened to $1 billion of equipment after it was delivered to Kuwait.

The IRS has had multiple issues that we have tried to identify in different segments of this. One is that several years ago we noticed that the IRS was rehiring employees whom it had fired—the employees who were not paying their income taxes but were working for the IRS or the employees who were using their positions to spy on other Americans and pull up their tax information just because of their own interests. It is a fireable offense at the IRS—and it should be—to violate an American's privacy. The problem is that the IRS has started rehiring those same people right back. I don't know many companies that fire somebody and then later decide they are going to change their minds and rehire him, but, apparently, the IRS has become proficient at that. We identified it several years ago. The IRS said it would stop it. We did a check on that last year, and guess what. The IRS is still doing it—rehiring the employees it has fired, some of them even with their files that are stamped ''do not hire.'' The IRS hired them anyway. We have to be able to stop that.

The IRS also did a study, through a program that it has, to be able to research tax compliance—not of changing tax rules, just of how people are complying with the tax rules and evaluating: Are they paying the correct amount of tax? Quite frankly, our tax system is so incredibly complicated that it is hard to be able to track what is the right amount, but the IRS should be able to look at it and determine whether someone is paying the right amount based on those figures. The IRS has developed some programs to be able to recommend, but the problem is that it has not implemented those programs. Over $400 billion of taxes has never been collected by the IRS because it has not implemented the recommendations that it has in front of it already.

The IRS has also had an issue that we are trying to deal with, along with several other entities by the way: Who is alive and who is not alive? You see, the Social Security Administration keeps track of something called the Death Master File. It sounds wonderful; doesn't it? The Death Master File basically says who has passed away in America and what Social Security number is not functional anymore. The IRS is not fully implementing that list and, at times, it is still sending checks to people who died years ago. Then, some fraudulent people take a Social Security number from someone who has passed away and file a return on that Social Security number in January or February, and the IRS sends them a check simply because it has not listed that this person has passed away and that the Social Security number is not active. Yet the IRS is not the only one.

We also identified in the SNAP program—what some people call the food stamp program—that there are thousands of retailers who are using these

false Social Security numbers from people who have passed away. Last year, $2.6 billion was sent out to SNAP retailers based on the Social Security numbers of the people who had passed away or on the numbers that are not operable. Those are things that are fixable. There is $2.6 billion of fraud that is in the system.

We have asked the question about immigration, and immigration has been an important topic here. We talk about immigration as well and not just of the financial portion of it but of the fumble portion of things that are actually going wrong in immigration currently. A lot of folks—and some folks even in this body—say: If we will just enforce the law as it exists and build a fence, we will be fine. The problem is that 66 percent of the people who are in the country illegally came into the country legally, with a legal visa, but they overstayed the visas. They never left.

After 9/11, the 9/11 Commission said that one of the major aspects in dealing with immigration was to do an entry-exit visa system so that we would know who they were when people came in, and we would also know when they left. That was a recommendation from the 9/11 Commission, but it has still not been done a decade and a half later.

If we are going to deal with immigration, one of the key things that we have to have is not just a wall or a fence or some sort of barrier. We also have to deal with when people come in and when they leave under legal visa systems. I have heard comments about hiring more Border Patrol folks and more ICE folks. That is OK, fine. I am good with that, actually, but here is the problem. With the current system that is set up, it takes over 450 days to hire one person as a Border Patrol person because the process is so convoluted—450 days. What if you would like to apply for a job and you wouldn't hear back about it for a year and a half—450 days?

What about if we are going to add more immigration attorneys? We have a half-million-person backlog in our immigration courts right now. What if we were to hire more judges for that process? Great idea. Guess how long it takes to hire more judges in the immigration court? It takes 742 days right now to be able to hire a judge to add to the immigration courts. Our problems are not just in immigration. There are structural problems in the Federal Government right now in hiring, oversight, and in managing the reports.

I mentioned the IRS's not implementing one of the reports they have. There is also an issue with some other agencies that will put on the back of Federal vehicles their phone number with this question: How is my driving? What a great idea that is for a Federal vehicle. The problem is that when we looked at it, we found out that the agencies never actually read the reports that came in. If people called in and said that this particular car number is driving crazy, no one is actually looking at it. It is the fear that Americans have that no one is really listening to them in the Federal Government.

CLAIRE MCCASKILL and I just worked to be able to pass something in this body to try to deal with solving this basic question: Can agencies ask: How am I doing?

When most of us get a rental car or a hotel room online, we will get an email after we check out of the room or stop using the rental car asking: How is our service? How can we improve?

Do you know that Federal agencies can't do that or that it has become so complicated that they can't produce a three-question e-survey to send out to people saying: How are we doing in Social Security disability? How are we doing in the Veterans' Administration? How are we doing in our HUD assistance to you? The reason for that is the Paperwork Reduction Act, of all things. An old law that was supposed to help us is actually now in the way, now in the modern age, of our trying to do basic surveys. We need to be able to resolve that. That is something this body can lead on to be able to change.

There are a lot of things we want to be able to identify and to say that we can do better. This is our list. Quite frankly, this is our to-do list for the next year, just as the previous two volumes have been. We have seen some things that we have been able to accomplish over the last couple of years from previous ''Federal Fumbles'' books, but we can't get started on them until we actually identify them and say: That is a problem. How are we going to fix it? Our simple question for the rest of this body is this: Here is our list; what is yours? What are the things we are working on? What are the issues that we are actually going to get done and solve for the American people? What are the crazy stories and things we are wasting money on? If we only identified it and said: Let's stop that, we could and would. Let's do it together.

There is no reason that reducing the deficit should have to be an issue that has become a partisan issue. Deficits and the growing debt affect every single American. So let's work on it together, and let's stop finding ways to not work on it and find areas of common ground where we can work on it.

Let's fix inefficiencies in Federal Government hiring. Let's fix inefficiencies in our system. We have a tremendous number of great Federal employees who are all around the country and who work extremely hard for the American people every day and do great work, but they are trapped in a system that slows them down, that prevents them from being as efficient as they would like to be. Let's help them out by fixing the broken things that are in these agencies and systems. Let's set them free to be able to serve people the way they want to be able to serve people.

There are things we can do. Let's get busy doing it. If you are interested in knowing more about ''Federal Fumbles'' go to our website at lankford.senate.gov. We will send a copy over. We will send you a link to our website because it is cheaper and we will not have to print it off, and you can look at it online.

The issue of the day is this: Let's find out what your list is; we have started ours.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Mr. President, the judges Donald Trump appoints to lifetime positions on our Federal courts will be a lasting legacy, and he is determined to do whatever it takes to place as many nominees with an ideologically driven agenda on the bench as possible.

Today the Senate is debating whether to give Gregory Katsas a lifetime appointment to serve on the U.S. Court of Appeals for the DC Circuit. Throughout his career, including as Deputy White House Counsel under Donald Trump and as a senior official in the Justice Department under George W. Bush, Mr. Katsas has demonstrated a profound conservative bias that is inappropriate for service on the country's second most important court.

As Deputy White House Counsel, Mr. Katsas has been deeply involved in crafting the legal justification for many of the Trump administration's most controversial policies. He also played a key role in deciding which court cases the administration would support or oppose and recommending candidates for various executive and judicial appointments.

The legal issues he has managed, the advice he has given, and the appointments he has recommended raise serious concerns about whether he should receive a lifetime appointment to the Federal bench.

In the early days of the administration, Mr. Katsas participated in crafting the legal justification for the President's Muslim ban, a policy at odds with the Constitution and our values as a nation. Mr. Katsas has also been involved in orchestrating the administration's opposition to LGBTQ rights in the courts. In particular, he openly admits his role in the Justice Department's decision to argue in a case before the Second Circuit that title VII in the Civil Rights Act of 1964 does not prohibit discrimination on the basis of sexual orientation. This position is inconsistent with the Equal Employment Opportunity Commission's 2015 guidance and with a recent en banc decision from the Seventh Circuit Court of Appeals.

During his confirmation hearing, Mr. Katsas testified that he was involved in the administration's decision to file an amicus brief in the Supreme Court case of Masterpiece Cakeshop v. Civil Rights Commission. He thus supports the position that a private business

should be able to refuse to sell a wedding cake to a gay couple.

By elevating a corporation's religious views over the rights of their customers, Mr. Katsas and the Trump administration argued that businesses should be able to say that their work is an expression of their religious beliefs. This would allow them to discriminate against certain customers and turn our system of antidiscrimination protections in public accommodations on its head. These actions and positions should disqualify Mr. Katsas from serving on the DC Circuit.

But there is more.

We can also trace his record of pushing a partisan, ideological agenda during his time in the Bush Justice Department. In Hamdan v. Rumsfeld, Mr. Katsas argued that the military commissions the Bush administration established after 9/11 were legal and consistent with the Uniform Code of Military Justice and the Geneva Conventions. In Boumediene v. Bush, Mr. Katsas also argued that people deemed enemy combatants and detained at Guantanamo could not challenge their detention on habeas corpus grounds. The Supreme Court repudiated these arguments in their landmark decisions in both cases.

Mr. Katsas was also the public face of the Bush administration's opposition to the Native Hawaiian Government Reorganization Act, also known as the Akaka bill. As the Principal Deputy Associate Attorney General in the Bush administration, Mr. Katsas testified in Congress that the Akaka bill was unconstitutional. He went so far as to say that it would ''create a race-based government offensive to our Nation's commitment to equal justice and the elimination of racial distinctions in law.''

What was really offensive was that his testimony was legally wrong and insulting to a Native people, the Native Hawaiians. In rebuttal, a bipartisan trio of highly respected former DOJ officials said in written testimony that Mr. Katsas failed to provide a credible and coherent legal argument against the Akaka bill. They argued that his testimony presented ''a caricatured view of the text of [the bill] and the governing law, and should not be considered an authoritative guide for resolving legal disputes in this area.''

I agree. The Akaka bill did not confer status to a group of people based on race and ancestry. It did so by virtue of residency and sovereignty. With no grounding in fact or law, Mr. Katsas advocated treating Native Hawaiians differently from other indigenous people.

Mr. Katsas' position on Native Hawaiian rights is of particular concern at a time when the DC Circuit could hear legal challenges to the 2016 Interior Department rule through which the Native Hawaiian community could reestablish a government-to-government relationship with the Federal Government.

Mr. Katsas has a disturbing record of pushing a partisan conservative agenda not based on sound law that has no place in the DC Circuit. We cannot simply ignore his record and decouple his past actions from the person responsible for them. Mr. Katsas has clear policy preferences that are red flags as to how he will decide cases should he be confirmed to this lifetime position.

I urge my colleagues to oppose this nomination.

I yield the floor.

Mr. GRASSLEY. Mr. President, today the Senate is voting to confirm Gregory Katsas to serve as U.S. circuit judge for the District of Columbia Circuit. Mr. Katsas's 28-year legal career has prepared him well to serve as a Federal judge. His nomination has garnered widespread support in the legal community.

Mr. Katsas graduated with his A.B. from Princeton University in 1986 and from Harvard Law School in 1989. After graduating from Harvard Law School, Mr. Katsas clerked for Judge Edward Becker on the Third Circuit Court of Appeals and for Justice Clarence Thomas on the DC Circuit and on the U.S. Supreme Court. Following his clerkships, Mr. Katsas joined the DC office of Jones Day, where he worked in the issues and appeals section of their litigation group.

From to 2001 to 2006, Mr. Katsas served as a Deputy Assistant Attorney General for the Civil Division at the Department of Justice, where he argued, briefed, and supervised a number of significant appeals handled by the Federal Government. He then served as the Principal Deputy Associate Attorney General from 2006 to 2008 and the Acting Associate Attorney General from 2007 to 2008. In 2007, President Bush nominated Mr. Katsas to serve as the Assistant Attorney General for the Civil Division at the Department of Justice. The Senate confirmed him by voice vote in 2008, and he served in that role until the end of the Bush administration.

Mr. Katsas rejoined Jones Day as a partner in 2009, where he handled many important litigation matters. In January of this year, Mr. Katsas again left the private sector to serve the President as deputy counsel in the White House Counsel's office.

One only has to look at his professional record to understand how eminently qualified Mr. Katsas is to serve as a Federal appellate judge. Over the course of 28 years, Mr. Katsas has briefed hundreds of cases and argued more than 75 appeals, including three cases in the Supreme Court and 13 cases in the DC Circuit, the court to which he is nominated.

I am pleased to support Mr. Katsas's nomination, and I urge my colleagues to vote for his confirmation.

Mr. DURBIN. Mr. President, I rise in opposition to the nomination of Greg Katsas to the DC Circuit Court of Appeals, but I want to begin with some general observations.

This year, the Republican-controlled Senate has repeatedly fallen short when it comes to serving as a meaningful check and balance in our constitutional system. Senate Republicans have abandoned longstanding norms of due diligence and careful scrutiny, all in the name of advancing the agenda of President Trump.

We saw this when Senate Republicans voted in near lockstep to confirm President Trump's Cabinet nominees. Republicans simply looked the other way when nominees failed to pay all of their taxes, did not disclose millions in assets, had conflicts of interest, or could not even answer basic questions at their hearings. Senate Republicans have repeatedly tried to rush through partisan bills in the dark of night. Remember when they revealed the text of the TrumpCare bill just a few hours before the Senate voted on it? Now Senate Republicans are trying to pass massive tax cuts for the largest corporations and wealthiest Americans, by ramming through an enormous bill with little debate and public scrutiny of how the bill would explode the deficit and raise taxes on many in the working class.

This pattern, of the Senate abandoning its responsibility to do basic due diligence when it comes to the agenda of President Trump, has also infected our process of considering judicial nominees. When it comes to President Trump's judicial nominees, we are seeing the Senate's constitutional responsibility of ''advice and consent'' turn into ''rush through and rubberstamp.''

All year, Senate Republicans have been removing guardrails that help ensure that judicial nominees have the qualifications, temperament, and integrity that we need for lifetime appointments to the Federal bench. Don't just take it from me. Take it from the conservative Wall Street Journal. I ask unanimous consent to have printed in the RECORD a November 20 article from the Wall Street Journal entitled ''Checks on Trump's Court Picks Fall Away'' at the conclusion of my remarks.

This article talks about the series of procedural changes Senate Republicans have made this year to expedite Trump's judicial nominations—most recently, the November 16 announcement by Senator GRASSLEY, the chairman of the Judiciary Committee, that he would hold hearings on nominees who do not receive positive blue slips from both home-State Senators, something that never happened under the Obama administration. The article begins by saying:

> The Republican head of the Senate Judiciary Committee has curtailed one of the last legislative limits on a president's power to shape the federal courts, giving Donald Trump more freedom than any U.S. president in modern times to install his judges of choice, legal experts said.

Consider the other changes Republicans have already made in just the first year of the Trump administration.

First, President Trump subcontracted the selection of Supreme Court nominees out to rightwing special interest groups like the Federalist Society. President Trump publicly thanked the Federalist Society for assembling a list of candidates from which Justice Neil Gorsuch was selected. The White House even asked Leonard Leo of the Federalist Society to call Justice Gorsuch to let him know he was a candidate for the job. Never before had a President credited a special interest group with serving as a de facto selection committee for the Federal judiciary. For anyone who wonders what the Federalist Society is all about, I urge you to watch the video of this group laughing and applauding at their convention a few weeks ago when Attorney General Sessions joked about meeting with Russians. It was shameful.

Senate Republicans also changed the rules of the Senate in order to get Neil Gorsuch confirmed. He couldn't get 60 votes on the Senate floor, so the Republicans changed the rules to make 50 votes the threshold for appointments to the Supreme Court.

When it comes to lower-court nominees, the Trump administration and Senate Republicans are doing half-hearted vetting at best. We are constantly learning information that nominees initially failed to disclose. For example, Alabama District Court nominee Brett Talley failed to disclose that his wife was an attorney in the White House Counsel's Office and that Talley had apparently posted online comments defending the early KKK and calling for shooting death row inmates. Court of Federal Claims nominee Damien Schiff failed to disclose that he had called Supreme Court Justice Anthony Kennedy a ''judicial prostitute'' in a blog post. North Carolina District Court nominee Thomas Farr reportedly failed to fully disclose his role in an African-American voter suppression effort during the 1990 campaign for Senator Jesse Helms. Yet all of these nominees were reported out of the Judiciary Committee on party line votes.

There are other changes that Republicans have made to the nominations process this year. Republicans have decided not to wait for the American Bar Association to do their nonpartisan peer review of a nominee's qualifications before holding a hearing. When the ABA unanimously finds nominees not to be qualified, Republicans still support the nominees anyway. Republicans have also begun regularly holding hearings on two circuit court nominees at a time. Why? Apparently, they are afraid to let each of their nominees stand on their own two feet and face questioning from Senators individually. The circuit courts have the final word on tens of thousands of cases every year. Every single lifetime appointment to these courts deserves to be scrutinized on its own individual merits.

Furthermore, Judiciary Committee Republicans are looking to relax the standards for nominees with a history of past drug use. Republicans repeatedly blocked judicial candidates proposed by President Obama who had smoked marijuana in the past, but Republicans now want a more lenient standard for Trump nominees. I am open to a different standard, but it must not be a double standard for Democratic versus Republican nominees.

That takes us to the changes to the blue slip. Republicans now want to disregard this 100-year-old tradition—meaning they will ignore the vetting that home-State Senators do for nominees from their State. Remember, blue slips were respected throughout the Obama administration. Republicans sent a letter in 2009 asking President Obama to respect blue slips, and he did. Republicans then proceeded to block 18 Obama nominees by withholding blue slips. Now, Republicans have announced that they are doing a 180-degree turn for Trump nominees and that they will disregard blue slips whenever they feel like it.

Why are Republicans abandoning so many longstanding traditions and guardrails when it comes to judicial nominations? It is because many of President Trump's nominees simply wouldn't pass muster under the traditional ground rules. Many Trump nominees have minimal experience, a history of ideologically biased statements, serious questions about their temperament and judgment, or a lack of independence from President Trump. Senate Republicans want to rubberstamp these nominees anyway—and confirm them as quickly as possible in their effort to pack the courts.

Just look at some of the judicial nominees who have already been confirmed this year—like John Bush, confirmed to sit on the Sixth Circuit, who blogged about the false claim that President Obama wasn't born in the United States and said at his hearing that he thinks impartiality is an aspiration for a judge, not an expectation; or Stephanos Bibas, now a judge on the Third Circuit, who wrote a lengthy paper calling for corporal punishment, including putting offenders in the stocks or pillory and applying multiple calibrated electroshocks.

Now, consider DC Circuit nominee Greg Katsas, who is before us today. Mr. Katsas works in the White House for President Trump. He is a Deputy White House Counsel. He testified that he has been personally involved in many of the Trump administration's most controversial policies, ranging from the Muslim travel ban to the creation of the Pence-Kobach election commission, to ending the DACA program, to the Trump administration's rollback of protections for LGBTQ-Americans.

Mr. Katsas also said that, while working for President Trump, he has given legal advice regarding the Emoluments Clause, advised on the administration's efforts to cut off Federal public safety funds to cities because of disagreements over immigration enforcement, and even provided legal advice on the Special Counsel's Russia investigation.

This is a laundry list of Trump administration controversies that Mr. Katsas has been personally involved with. It is likely that many of these issues will end up in litigation before the DC Circuit. I don't think appointing President Trump's staff lawyer to the DC Circuit will strengthen the American people's confidence in the fairness of our justice system. Instead, we need nominees with a strong track record of independence and good judgment.

Let me talk for a minute about Mr. Katsas's judgment.

At his hearing, I asked Mr. Katsas some simple questions about the torture technique known as waterboarding. I was deeply troubled by his answers. I asked him if waterboarding is torture. He said, ''I hesitate to answer the question in the abstract, not knowing the circumstances, the nature of the program.'' I asked him if waterboarding is cruel, inhuman, and degrading treatment. I noted that Senator JOHN MCCAIN, the author of the 2006 law that made it clear that cruel, inhuman, and degrading treatment is illegal, has said ''waterboarding, under any circumstances, represents a clear violation of U.S. law''—so did all four Judge Advocates General—the top lawyers in the military—during the Bush administration. But Mr. Katsas responded evasively, saying ''anything that is cruel, inhuman, and degrading treatment would be clearly unlawful.'' I then asked Mr. Katsas is waterboarding illegal under U.S. law. He said ''to the extent it constitutes either torture or cruel, inhuman, or degrading treatment, yes it is.''

What a pack of weasel words. Mr. Katsas's tortured logic about waterboarding is unacceptable. Mr. Katsas should have said, with no equivocation and no uncertainty, that waterboarding is illegal, that it is cruel, inhuman, and degrading and that it is torture. That is the law, and a Federal judge should know it.

I am concerned that Mr. Katsas's refusal to give those answers reflects a troubling ideological viewpoint when it comes to questions of torture and interrogation techniques. My concerns were amplified by a speech Mr. Katsas gave in April 2009 when his speech notes said ''high bar—a lot of coercive interrogation does not equal torture.''

This is a clear-cut issue for me. I have voted against nominees in the past who gave the wrong answers to questions about waterboarding, and I will do it again. In my view, Mr. Katsas has not demonstrated the independence and judgment that we need for the critical position of DC Circuit judge. I cannot support his nomination.

Here is the bottom line. Before I was a Senator, I was a lawyer in downstate Illinois, and I looked up to Federal judges. I thought that, to get that job, you had to be a cut above. Otherwise, you wouldn't make it through the Senate's rigorous advice and consent process. Sadly, this Republican Senate is turning advice and consent into ''rush through and rubberstamp.'' Republicans want to pack the courts with judges who will support President Trump's agenda, and so they are hurrying to confirm as many of his picks as possible—even if they are unqualified, ideological, hiding things from the Senate, or too close to President Trump. Our Federal judiciary is being diminished as a result.

I wish my Republican colleagues would stand up for an independent judiciary and a meaningful advice and consent process. We should fill this vacancy on the DC Circuit with someone who is independent of President Trump, not one of his staff attorneys. We should choose nominees who are unafraid to say what the law is on torture, instead of what they might wish the law to be.

I urge my colleagues to vote no on the Katsas nomination.

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

[From the Wall Street Journal, Nov. 20, 2017]

CHECKS ON TRUMP'S COURT PICKS FALL AWAY

(Joe Palazzolo and Ashby Jones)

MOVE TO CURTAIL 'BLUE SLIPS' GIVES THE PRESIDENT, AND SUCCESSORS, WIDE LEEWAY IN PICKS FOR FEDERAL BENCH

The Republican head of the Senate Judiciary Committee has curtailed one of the last legislative limits on a president's power to shape the federal courts, giving Donald Trump more freedom than any U.S. president in modern times to install his judges of choice, legal experts said.

Last week, Sen. Chuck Grassley (R., Iowa) reined in a tradition that empowered senators to block federal appeals-court nominees from their home state. His decision came about four years after Democrats, citing Republican filibusters of President Barack Obama's circuit-court nominees, eliminated a Senate rule that required the majority party to mount 60 votes to advance a nominee to a confirmation vote.

Together, the threat of a filibuster—or delaying tactic—and use of ''blue slips''—so named because senators indicate support or opposition to nominees on blue slips of paper—guarded against lifetime appointments for nominees deemed far outside the mainstream, court experts said. Getting rid of these checks could foment distrust in judges' work if Mr. Trump and later presidents prioritize ideology over experience or legal talent, some of the experts said.

''When judges lose legitimacy in the public eye, they lose the ability to enforce unpopular decisions,'' said Arthur Hellman, an expert on the federal judiciary and law professor at the University of Pittsburgh. ''And that's when you see an unraveling in the rule of law.''

Others said the changes were part of a natural progression away from Senate traditions that allowed the minority party to stall nominations for partisan reasons.

''If you're not a fan of the Senate-wide filibuster, you're probably not a fan of a filibuster by one senator,'' said Ilya Shapiro, a senior fellow in constitutional studies at the Cato Institute, referring to the practice of senators blocking nominees from their states.

So far, the Republican-controlled Senate Judiciary Committee has approved two nominees pronounced unfit to serve by the American Bar Association, including Brett Talley, a Justice Department lawyer who has never argued a motion in federal court and whose wife is the chief of staff for the top White House lawyer.

''If Senate Republicans will confirm him, then there is no realistic sense of checks and balances,'' said Christopher Kang, who worked on judicial nominations in the Obama White House.

The White House declined to address criticisms of Mr. Talley.

The ABA's Standing Committee on the Federal Judiciary has deemed two other Trump nominees ''not qualified''—ratings Republicans on the Senate Judiciary Committee dismissed as the product of what they called a liberal advocacy group.

The ABA has rejected that criticism, saying it has rated potential judges for more than 60 years, drawing on dozens and sometimes hundreds of interviews with a nominee's colleagues and other peers.

Hogan Gidley, a White House spokesman, said Mr. Trump has delivered on his promise to nominate ''highly qualified judges.''

''We appreciate the hard work of Chairman Grassley and [Senate Majority Leader Mitch] McConnell, and we urge the Senate to confirm all of the remaining nominees because it's what the American people deserve,'' he said in an emailed statement.

Mr. Grassley said on Thursday that he would hold a hearing on two nominees—David Stras, a nominee to the midwestern Eighth U.S. Circuit Court of Appeals, and Kyle Duncan, a nominee to the Fifth Circuit in New Orleans—over the objections of home-state senators Al Franken of Minnesota, a Democrat, and John Kennedy of Louisiana, a Republican.

The blue-slip practice began in the 1910s and, for a large portion of its history, ''gave Senators the ability to determine the fate of their home-state judicial nominations,'' the Congressional Research Service, a research arm Congress, said in a 2003 report.

Mr. Grassley said that after his recent move, a negative blue slip would be a ''significant factor'' for the committee to consider but wouldn't prevent a hearing, a break with the practice of Senate Judiciary Committee chairmen since at least 2005.

He blamed the Democrats for abusing the blue slip after eschewing the filibuster.

''The Democrats seriously regret that they abolished the filibuster, as I warned them they would. But they can't expect to use the blue-slip courtesy in its place. That's not what the blue slip is meant for,'' he said on the Senate floor last week.

Mr. Grassley also has parted with common practice by stacking two circuit court nominees in a single confirmation hearing, reducing time for preparation and questions, and holding hearings before the ABA finished its judicial evaluations.

''Taken together, it's clear that Republicans want to remake our courts by jamming through President Trump's nominees as quickly as possible,'' said Sen. Dianne Feinstein (D., Calif.), the ranking member of the Senate Judiciary Committee, in an emailed statement.

The median time from nomination to Senate confirmation for circuit-court nominees was less than a month in the administrations of presidents Lyndon Johnson and Richard Nixon, said Russell Wheeler, a visiting fellow at the Brookings Institution who studies federal courts. That number rose through the 1980s and 1990s and ballooned to 229 days during President Barack Obama's two terms, he said.

Ms. HIRONO. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant 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. Without objection, it is so ordered.

TAX REFORM

Mr. CORNYN. Mr. President, this week we are engaged in what is perhaps the most momentous subject that we haven't dealt with in recent times, and that is, after 30 years, updating and reforming our Nation's convoluted, complex, and self-destructive Tax Code.

Those who are interested in getting to yes and who will cast a ''yes'' vote, I believe, will be casting a vote for growing the economy, voting for more jobs, voting for higher wages, and voting for more take-home pay. Those who vote against this endeavor are really saying yes to stagnant wages, less jobs, and a lower standard of living. They are willing to accept the reality that American jobs are going overseas because our country has the highest Tax Code in the civilized world, and bringing the money earned overseas back home basically means having to pay double taxes. So what people do is they do what you would logically do, and they spend the money overseas and hire foreign workers in foreign countries rather than Americans and make things stamped ''Made in America.''

Simply stated, this bill is about the dreamers and the doers, the small businesses and the hard-working American families who need tax cuts and tax reform. This is about helping the middle class.

Actually, what this bill does—the Senate version of the bill—is it reduces the tax burden on every tax-paying cohort. In other words, all of the tax rates come down. In order to do that, both on the personal side and the business side, we had to eliminate a lot of what I call the underbrush, which are the tax deductions, the tax credits, and the other subsidies that have made our Tax Code so incomprehensible to everybody other than accountants and lawyers. That is one reason people are so frustrated with our Tax Code—it costs them so much money just to comply with their legal obligations.

It has been a long time since we took up this important topic, and I know the reaction is, well, this is just another going-through-the-motions effort, but I assure you that is not the case. These reforms are not only possible, they are very important because they will positively impact real people's lives.

Arthur Brooks of the American Enterprise Institute has said that ''some believe that taxation is a dry topic

with no moral significance, but nothing could be further from the truth.'' For example, by doubling the standard deduction, we will limit the number of people who have to itemize their tax deductions in order to claim the full legal deduction. That means that now only 1 out of every 10 taxpayers will have to itemize and 9 out of 10 will just claim the standard deduction, which will now be doubled.

We are also going to double the child tax credit, which will help working families provide the things they need in order to take care of their growing families. It will mean that more people will have more money left over after paying Uncle Sam to spend on their own families, to invest in their children's education, maybe to even take the first vacation they have taken in 10 years or more.

Mr. President, $2,200 is what a median family of four will save in taxes under our proposal. Maybe they want to get their pickup truck fixed. Maybe they want to build a little financial cushion because they have been living paycheck to paycheck. I can't remember the precise statistic, but the number of people in America who could not meet their financial needs if they experienced an unexpected $400 cost—maybe your car broke down, or maybe your house flooded, whatever the case may be. We need people to be able to keep more of what they earn and build a cushion so they don't have to live with the anxiety of living paycheck to paycheck, knowing that if the unexpected happens, it could put them in deep trouble. That $2,200 a year could mean a couple hundred dollars each month to put toward your mortgage, to pay down your mortgage, or to provide a little breathing room.

This plan is also designed to increase wages, and it is estimated that the combined benefit of this bill, together with the economic growth we are anticipating, could mean as much as $4,000 in additional income. So it not only lowers the tax burden, but it raises the income levels. Frankly, as I mentioned a moment ago, our Tax Code incentivizes American businesses to send jobs overseas. Why in the world wouldn't we want to incentivize them to bring those jobs back home and invest here?

Not only can we make this Tax Code better, but I want to emphasize why we should. We have a historic opportunity, and we shouldn't squander our chances to take a bit of the pressure off of frustrated workers and struggling families who are trying to make ends meet.

This country has long been a leader in the world, with the strongest economy and the strongest people, but the reality is, our Tax Code is no longer a world leader. As I indicated earlier, we have one of the highest tax rates in the world, particularly for businesses. So what happens when countries like Ireland or the United Kingdom lower their tax rates for businesses? Well, those businesses move to those countries. People who want to start a new business say: Well, if I have a choice where to start that business, why should I start that business in a country that punishes us with the highest tax rate in the world?

The current tax system penalizes success by taxing American ingenuity and hard work at rates that are uncompetitive, and it discourages our free enterprise system. What I mean is that it sends messages to Americans like, don't work so hard because, you know what, you are not working for yourself, you are working for the government. We ought to be sending the message that by working harder, you can keep more of what you earn and spend it the way you see fit.

Companies, of course, have no particular loyalty to our country, so they don't really have a need to stick around because they are going to go to countries where they can make the most profit, where they can keep more of what they earn.

My basic point is that the messages our convoluted and archaic Tax Code is sending are counterproductive. They are counterproductive to workers who are looking for jobs, they are counterproductive to workers who are looking for a little more in their paychecks, and they are counterproductive to families who want to save and provide for their own future.

In 2016, the Tax Policy Center projected that almost 44 percent of Americans will pay no or negative individual income tax for 2017 under current law, and some smaller number even get more money back from the government in the form of refundable tax credits than they pay in taxes. We need to make sure that everybody participates in our government.

One thing I have heard a lot during this tax debate is that America is horribly in debt. Sadly, that is true. But it is not because of our Tax Code. It is not because Americans aren't taxed enough. It is not because we spend too much money defending our country against threats here at home and abroad. It is because we have a spending problem.

Unfortunately, our Democratic colleagues, who suddenly got religion when it comes to deficits and debt after doubling the national debt during the Obama administration, want to use this as a reason not to cut the taxes for hard-working American families, and I think it is terribly misplaced.

Is the deficit important? Is debt important? Yes, it is, and we know what we need to do to fix that. But denying the American people and hard-working American families the tax relief they need and deserve and failing to get the economy growing again is the wrong way to do it.

Let me quote from Arthur Brooks again. He said: ''If income tax rates are 100 percent, income tax revenue will be zero. Why? Because with a 100-percent tax rate, nobody will bother to work. And companies won't produce'' either.

On corporate taxes, we are seeing a lot of hypocrisy from our friends across the aisle who had previously championed some of the very provisions we have included in this legislation. For example, the ranking member of the Senate Finance Committee, our Democratic friend from Oregon, had previously championed a 24-percent corporate rate because he recognized that a 35-percent corporate rate chased companies, businesses, and jobs overseas. Now he calls our reduction in corporate taxes a giveaway to corporations. You could consider the statements made by President Barack Obama in 2011 when he said to a joint session of Congress—he said that one of the things Republicans and Democrats need to do together is to work on lowering the corporate tax rate because he, too, recognized that this was self-destructive, that it was chasing jobs overseas, that it was preventing the U.S. Treasury from collecting its taxes, and frankly that it was hurting the bottom line for American families who maybe couldn't find work or whose work was not rewarded with fatter paychecks and more take-home pay.

For corporate taxes, economists have said that actually lowering the corporate tax rate will bring more investment and more jobs back home. If it were lowered, expanded production and investment would increase domestically.

Even though it might seem a little counterintuitive, Barack Obama; the Senator from Oregon, Mr. WYDEN; and the minority leader, Senator SCHUMER from New York, were correct when they called for lowering the corporate rate, and it is unseemly to now try to demagogue this issue by calling it a giveaway when it is not. We are doing what they said we should do years ago.

When it comes to these corporate rates, some of my colleagues have raised concerns about passthrough businesses. It is true that a number of businesses operate here in America not as corporations but as passthrough entities, meaning that they pay their business income on an individual tax return. These concerns are legitimate, and we have worked hard to try to address them.

Earlier, we were working with the National Federation of Independent Business, which is one of the largest trade associations in the country representing small- and medium-sized passthrough businesses. We were able to come up with a solution which addressed their concerns and which benefits those passthrough businesses. We still have some more work to do, but that demonstrates what we can do when working together to try to answer the concerns people have raised along the way during this legislative process.

The U.S. Chamber of Commerce, the National Federation of Independent Business, which I mentioned a moment ago, and nearly all major small business advocacy groups support this legislation. We had a press conference

here in the Senate, just off the floor, earlier this morning, and it was uniform—everybody said this is good for small businesses. And small businesses are what create the vast majority of jobs in America.

I know that those who have continued questions or issues about the legislation have had productive discussions with all of us and today with the President, who came to visit us. I am confident that if we keep working at it in good faith, we can come up with a way to address the remaining issues so that we are all satisfied as much as possible.

There is an expression: Don't let the perfect be the enemy of the good. If you are waiting around for perfection, particularly here in the legislative process, you are never going to get anything done. That is not an excuse for not making it as good as it can possibly be, I believe, working together, preferably on a bipartisan basis. But if our Democratic colleagues refuse to participate, as they have done so far, then we have no choice but to do it ourselves.

So in the end, a vote against tax reform is a vote for economic stagnation. It is allowing the perfect to be the enemy of the good. The Wall Street Journal, as they said yesterday—the question we need to ask ourselves is not whether the tax bill is perfect but whether it is a net benefit to the United States. I think it clearly is, and I think that, with the policies embodied in this bill, we can restore America's economic vigor.

America must continue to prosper if it is to remain the economic beacon of the world, and we need to remain a strong country economically so we can defend ourselves and our friends and allies abroad. The rest of the world—it is true—is just waiting for a sign that America's best days are ahead, and passing this important tax legislation is an indication that it is the case that America's best days still lie ahead.

It is time to awaken the slumbering giant of the American economy. By lightening the load on workers and companies alike, we can make sure new opportunities abound for those just coming into the workforce. We will make everyday drivers of the economy excited once again about our country's future. The President noted today, when he was with us at lunch, that consumer confidence is literally at an alltime high. People have seen the stock market go up and their retirement funds that are invested in pension funds or in their IRA or elsewhere skyrocket since the Trump administration came into office. I think that is because people are sensing we are on the verge of a great economic recovery.

Accepting a stagnant, anemic recovery is not something we have to do. We know what we need to do to rev up the engine of the American economy and get it moving again to benefit all of us. Through tax reform, let's show that the American dream of allowing men and women to work hard and earn success isn't just a bygone notion, and it is not just a figment of our imagination. We can do it if we pass this tax reform bill this week, which we intend to do.

I yield the floor.

I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

Mr. HATCH. 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 Senator from Utah.

AMERICAN BAR ASSOCIATION AND THE BLUE-SLIP COURTESY

Mr. HATCH. Mr. President, I rise today to address two elements of the Senate's process for evaluating judicial nominations: the role of the American Bar Association and the so-called blue-slip courtesy. Each can influence the appointment process, and we must be diligent to ensure that neither is abused.

The Eisenhower administration was the first to request the input of the ABA—American Bar Association—on prospective judicial nominations. Speaking to the 1955 ABA convention, President Eisenhower thanked the ABA for helping him and his advisers to ''secure judges'' of the kind he wanted to appoint. If that sounds as though the ABA was a part of the administration, it was.

The ABA evaluated individuals before they were even nominated. Individuals deemed not qualified by the ABA were almost never nominated. No other interest group was given such a quasi-official veto over nominations to any other office.

What could justify such a special role for an interest group? What could do that? The theory is that the ABA was a nonpolitical professional association concerned only with the legal profession and the practice of law.

At its 1933 annual meeting in Grand Rapids, MI, for example, the ABA's executive committee considered changing the ABA constitution to allow ''discussion and expressions of opinion on questions of public interest.'' After arguments that this would revolutionize the scope and purpose of the ABA, no one—not one person—supported the amendment, to the best of my knowledge.

In February 1965, ABA President Lewis Powell, who later served on the Supreme Court, wrote that ''the prevailing view is that the Association must follow a policy of noninvolvement in political and emotionally controversial issues.'' If that view actually prevailed in 1965, it did not last.

The ABA House of Delegates soon crossed the political Rubicon and began taking positions on a host of issues through Federal arts funding, affirmative action, the death penalty, welfare policy, immigration; you name it, and the ABA has endorsed the liberal position, oftentimes the most liberal position. The ABA not only opines on such issues through resolutions but also lobbies legislatures and files briefs in court cases.

The ABA has done exactly what it chose not to do back in 1933 and revolutionized the scope and purpose of the organization. It abandoned nearly a century of noninvolvement in political issues, the condition that was said to justify a special role in the judicial appointment process. It hardly seemed reasonable that the ABA could somehow seal off its evaluation of judicial nominees from all of this political activism so that its conclusions could still be trusted.

In 1987, several members of the ABA evaluation committee said that Judge Robert Bork was not qualified to serve on the Supreme Court. I said at the time that the ABA was ''playing politics with the ratings.''

Three years later, several of us on the Judiciary Committee, including now-Chairman GRASSLEY, expressed the same view in a letter to Attorney General Richard Thornburgh. We wrote that the ABA ''can no longer claim the impartial, neutral role it has been given in the judicial selection process.''

This conclusion has been bolstered by academic research. In 2001, Professor James Lindgren of Northwestern University law school published a study in the Journal of Law & Politics that examined ABA ratings for nominees of Presidents George H.W. Bush and Bill Clinton. Controlling for race, gender, and a range of objective measurable credentials, Professor Lindgren found that Clinton nominees were 10 times—10 times—more likely than Bush nominees to be rated well qualified by the ABA. In fact, he found that ''just being nominated by Clinton instead of Bush is better than any other credential or than all other credentials put together.'' Professor Lindgren concluded that ''the patterns revealed in the data are consistent with a conclusion of strong political bias favoring Clinton nominees.''

A decade later, three political scientists published a study in the Political Research Quarterly, looking at ABA ratings for U.S. Court of Appeals nominees over a 30-year period. Applying recognized social science methods, they concluded that ''individuals nominated by a Democratic president are significantly more likely to receive higher ABA ratings than individuals nominated by a Republican president. . . . [W]e find . . . strong evidence of systematic bias in favor of Democratic nominees.'' You don't say.

President Trump recently nominated Steven Grasz to the U.S. Court of Appeals for the Eighth Circuit. The distinguished Senators from Nebraska have, in the Judiciary Committee and here on the Senate floor, detailed Mr. Grasz's extensive experience and wide support throughout the legal community. He served as chief deputy attorney general of Nebraska for nearly a

dozen years, during which time he defended the constitutionality of the State's law banning partial-birth abortion. That might have been his most serious sin in the eyes of the ABA, which has aggressively embraced the abortion agenda for more than four decades.

In 1969, the ABA formed a committee on overpopulation, which immediately launched a project on the law of abortion and endorsed the Uniform Abortion Act in 1972, even before the Supreme Court's now-infamous Roe v. Wade decision legalizing abortion on demand. The committee endorsed Federal funding of abortion in 1978, and in 1990, by more than two to one, they opposed any requirement of parental notification before abortions are performed on minors. The ABA, again, fully embraced the abortion agenda in 1992 and never looked back. It is no wonder that they would deem someone like Mr. Grasz not qualified for the bench.

President Trump has also nominated Brett Talley to the Federal district court in Alabama. Tally attended Harvard Law School. He spent years in a prestigious clerkship at the Federal appellate and trial court levels. He has worked here in the Senate. He has served as a deputy solicitor general of the State of Alabama. He has served in the Justice Department most recently as Deputy Assistant Attorney General in the Office of Legal Policy. He enjoys the support of both of Alabama's home State Senators and has a sterling reputation in the legal community. Yet he, too, has been deemed not qualified by the ABA. How is that possible? That determination is nakedly political and should not be taken seriously.

The ABA once defined its purpose in terms of the legal profession and the practice of law. It has, however, chosen a different path. By doing so, the ABA has not only abandoned what once might have justified its role in judicial selection but has also cast serious doubt on the credibility and integrity of its judicial nominee ratings. The ABA was, of course, free to do so, but it should not expect that its actions have no consequences.

The other element of the judicial confirmation process that I want to address is the so-called blue-slip courtesy. This is an informal practice, begun in 1917, by which the Judiciary Committee chairman seeks the views of Senators regarding nominees who would serve in their States. This practice really gets noticed only when the President and Senate majority are of the same party. In that situation, as we face today, the question is whether a home State Senator can use the blue-slip courtesy to block any Senate consideration and, therefore, effectively veto a President's nominees.

Since the blue-slip courtesy was established, 19 Senators, including myself, have chaired the Judiciary Committee—10 Democrats and 9 Republicans. Only 2 of those 19 chairmen treated the blue-slip courtesy as a single-Senator veto. One of them, apparently, was to empower southern segregationist Senators to block judges who might support integration.

The other 17 chairmen fall into two categories. The early chairmen allowed objecting home State Senators to present their views in the nominee's confirmation hearing. In the last few decades, chairmen of both parties have said that a negative blue slip would not veto a nominee if the White House consulted in good faith with the home State Senators. That is the approach that Chairman Joe Biden took and that I continued when I was chairman, each of us under Presidents of both parties.

The blue-slip courtesy, then, has been a way to highlight the views of home State Senators and to encourage the White House to consult with them when choosing judicial nominees. And it works. When chairmen of both parties have chosen, only a handful of times, to proceed with a hearing for a nominee who lacked two positive blue slips, their decision was consistent with this approach.

Today, Democrats want to rewrite the history of blue slips and redefine the very purpose of the courtesy behind the process. They want to weaponize the blue slip so that a single Senator can, at any time and for any reason, prevent Senate consideration of judicial nominees. They want to change the traditional use of the blue slip because they can no longer use the filibuster to defeat judicial nominees who have majority support.

Democrats opposed filibustering judicial nominees during the Clinton administration. Then, in just 16 months during the 108th Congress, Democrats conducted 20 filibusters on judicial nominees by President George W. Bush. These were the first judicial filibusters in history to defeat majority-supported judicial nominees.

The filibuster pace dropped by two-thirds under President Obama when Republicans conducted just 7 filibusters in 30 months. Claiming that declining filibusters were nonetheless a crisis, Democrats in 2013 abolished nomination filibusters for all executive and judicial nominations except for the Supreme Court.

Democrats took away the ability of 41 Senators to block consideration of judicial nominations on the Senate floor, but now they demand that a single Senator have that much power in the Judiciary Committee by turning the blue-slip courtesy into a de facto filibuster. Like the ABA's rating of nominees, nothing but politics explains this flip-flopping and manipulation of the confirmation process.

On October 31, I addressed this issue here on the Senate floor and suggested that the history and purpose of the blue-slip courtesy could help guide its application today. I still believe that. The views of home State Senators matter, and the White House should sincerely consult with them before making nominations to positions in their States. Home State Senators enjoy countless ways to convey their views to colleagues here in the Senate, and every Senator may decide whether and how to consider those views. But in the end, the blue slip is a courtesy, not an absolute veto. This distinction matters because tomorrow the Judiciary Committee will hold a hearing on a nominee to the U.S. court of appeals from a State with two Democratic Senators. One has returned the blue slip; the other has not.

Chairman GRASSLEY's decision to hold a hearing is completely consistent with the history and purpose of the blue-slip courtesy. Democrats falsely claim that Chairman GRASSLEY is eliminating what they say is a longstanding precedent that home State Senators may automatically veto appeals court nominations. No such precedent exists, or ever has, unless the practice of only two chairmen for only a fraction of the last century constitutes controlling precedent—and we all know it shouldn't.

It is beyond hypocritical for Democrats to pretend they actually care about the confirmation process precedent. They began the practice of forcing time-consuming rollcall votes for nominees with no opposition at all. They began the practice of using the filibuster to defeat majority-supported nominees. They began the practice of forcing the President to renominate individuals multiple times. They began the practice of forcing cloture votes on unanimously supported judicial nominees and then delaying a confirmation vote for days. These weren't actions undertaken by Republicans. There is one side, and one side only, that has continuously pushed this envelope.

Democrats cite a 2009 letter to President Obama from the Republican conference and an op-ed I publishing in 2014 defending the blue-slip courtesy. In each situation, the Democratic majority was actually threatening to abolish the blue-slip policy altogether. In my op-ed, I emphasized that the blue-slip courtesy is intended to encourage consultation by the White House with home State Senators.

When he became chairman in 2015, Senator GRASSLEY explained the blue-slip process to his constituents in a Des Moines Register op-ed. He wrote that the process has value and that he intended to honor it. He is doing just that by returning to the real history and purpose of the blue-slip courtesy.

My Democratic colleagues seem to think that the confirmation process should be whatever they want it to be at whatever moment they so choose. Now they demand that, contrary to most of the last century, a single Senator should be able to do informally what 41 Senators can no longer do formally. They demand following precedent that does not exist while creating new obstruction precedents of their own. Democrats have forced the Senate

to take 60 cloture votes on nominations so far this year, 13 of them on judicial nominations. That is nearly nine times as many as during the first year of all new Presidents—all new Presidents—since the cloture rule was applied to nominations in 1949.

I have been in the minority a number of times, multiple times. I get it. Democrats want their way, and they don't always get it. That hardly means that the majority in general and Chairman GRASSLEY in particular are not being fair, consistent, or evenhanded. The blue-slip courtesy has a history, and it has a purpose. It exists to allow home State Senators to share their views with the Judiciary Committee and to encourage White House consultation with them before making nominations.

Neither a liberal interest group like the American Bar Association nor abuse of the blue-slip courtesy should be allowed to further distort and politicize the judicial confirmation process.

It is a disgrace. It really is a disgrace, the way the Democrats changed the rules automatically, overnight, without even consulting with Republicans, and doing it solely to give advantage to their side, even though this is a process that really ought to have fair treatment on both sides at all times.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Mr. President, I ask unanimous consent that I be allowed to complete my remarks.

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

TAX REFORM

Mr. RUBIO. Mr. President, I know we are scheduled for a vote in a few minutes. We will have plenty of time to talk about this in the days to come.

I think one of the core things that I hope tax reform will be about is empowering the American worker. By ''the American worker,'' I mean the people whom they don't make Netflix series about and we don't see movies about too often anymore. There was a time when the American worker was a hero in our country. People looked up to the American worker and idealized them. Today, obviously, entertainment focuses on other professions. There is nothing wrong with that, but we have forgotten about their hard work and the millions and millions of Americans across this country who truly remain the backbone of our economy and our Nation.

There are hard-working men and women who are struggling to get by, not because they are not working hard but because everything costs more—something you quickly find out as your family begins to grow. That is why I have spent so much time talking about the child tax credit. A lot of people confuse that with the childcare credit, which is important as well.

The child tax credit takes into account the reality that raising children is an expense. It is a blessing, but it costs money. At the end of the day, it doesn't always matter only how much you make; it also matters how much you spend. And when you are raising children and raising a family, the costs are often out of your control, and they increase substantially every single year. So perhaps the best way to illustrate to my colleagues the impact that tax reform has on working families is to talk about real people and their real lives—how much money they make and what tax reform would mean for them.

I want to start with a real family, a particular family my staff has been communicating with; that is, the Starling family, Richard and Emily, a very young family from Jacksonville, FL. They have a 2-year-old daughter, and they are expecting their second child in March. Richard is a pastor, and he works part time at Starbucks. He makes about $25,000 a year. His wife Emily stays home and cares for their daughter while he is at work.

Because of their income, the Senate tax bill's nonrefundable child tax credit increase would actually be worth very little to them. A lot of people have said to me: Well, we have increased it to $2,000. Isn't that great? It is. But what it means that people don't understand is, if the majority—if all the taxes you pay are payroll taxes, it doesn't help a lot.

I, frankly, get offended when I hear people say: These are Americans who don't pay taxes. They do pay taxes—not income tax, but they pay payroll taxes. They take it out of your check every month. Trust me, it is a tax. It is less money than what was supposed to be there after the tax.

So the tax credit, while we increased it to $2,000—and that is great for a lot of people—it does nothing for them. The total effect is only about $115 for the family. That is how much they will be saving in their taxes from the current year—$115.

But here is where it gets worse. The Senate bill—which I am largely supportive of, but I just want to tell my colleagues what the numbers are so we can see where the changes need to be—the Senate bill would actually increase taxes in March when they have a child. You say: How can that be? Well, for some families in their income range, the nonrefundable increase for the child tax credit is less valuable than the current lost personal exemption. So we take away the personal exemption and we put in this additional child tax credit, but it is nonrefundable. They can't get to that tax credit because they are not paying income taxes, and the result is that if they make $26,000 instead of $25,000, the Senate bill would actually take away $15 from their per-child tax cut.

So these families work hard and pay their taxes, they raise children, they are contributing an extraordinary amount to our country, and they need our help more than ever before.

There are a couple other examples, and I will go to the first chart. Let's take for example a tire changer and a preschool teacher with two children in Gainesville, FL—the home of the university in Florida, the finest learning institution in the Southeast—an editorial thing, but it is a matter of fact. But I digress. Let me get back to chart No. 1 and talk about this family.

The husband, as I said, works at a local auto shop as a tire changer. His wife is a preschool teacher. According to the Bureau of Labor Statistics, with these two jobs, their combined income would be $28,300. Because the increase to the child tax credit is nonrefundable—the extra money we put in—this family wouldn't nearly have enough income tax liability to take advantage of the full credit. So the bill as it is currently written gives them a tax cut of $200—about $50 per person.

But what if we did what Senator LEE and I are proposing, which is to make the child tax credit fully refundable, even against payroll tax. Well, then their tax cut would not be $200, it would be $1,570. Trust me when I tell you that for a family making $28,000 a year, a $1,500 pay increase in real cash matters. It matters. It doesn't solve all of their problems, but it helps.

Here is another one. Take this example. The husband is a private in the Army National Guard, and his wife is a waitress at a local restaurant. They have three children. He is on Active Duty at Camp Blanding in Starke, FL. She works full time. They have a combined income of $33,832, according to the National Guard base pay.

Because the increase, again, is nonrefundable in the child tax credit, they don't have enough income to take full advantage of the tax credit. The bill as currently written cuts their taxes by $388. The proposal that Senator LEE and I have outlined would cut their taxes by $2,100. So a $2,100 pay increase for this working family in cash will matter. It will matter. It doesn't solve all of their problems but, trust me, $2,100 for this family, more than what they have today, will help them a lot, and it rewards the work they are doing.

What about a single mother. Let's say she is a childcare worker. She has one child and is living in Miami, FL, where I live. She works full time. According to the Bureau of Labor Statistics, the median wage for that job is $14,800 a year. She gets a tax cut under the current bill of about $100. If we do what Senator LEE and I are talking about doing, she will get a $1,000 tax cut. I am not telling you that $1,000 solves all of her problems, but a $1,000 pay increase for a single mother making $14,800 a year will matter.

How about a loading dock worker and a cashier in Northwest Florida after having two kids. Here is what we point to: a glaring blind spot in the way this is structured. Again, for many working families, because the child tax credit is nonrefundable, it will actually be less valuable to parents than the dependent exemption and the existing child credits are under current law today. I think

this is the opposite of pro-family policy.

Let's look at this example. He works as a freight mover at a lumber warehouse, and she works as a cashier. They both work and live full time in Live Oak, FL. Their average combined income is about $28,650. Under the current Tax Code, the way the law is today, if they have two kids, their tax cut would be $2,776. That is what they would save. Under the current bill, their tax cut would be $2,656. So, in essence, under the way the bill is structured now, they would be getting $120 less—or keeping $120 less—than what they would under the law today, for a family making $28,000 a year.

We can fix it, because under the proposal Senator LEE and I will have, they are going to see a tax cut of $4,000 for having that additional child. That is $1,200 greater than the current law. That is a raise of $1,300 more than would happen under the bill as it is currently structured.

I don't think this is an intended consequence. But this is a working family. They work. They pay payroll tax. They make $28,000, $29,000 a year. Trust me when I tell you this money will matter. It won't solve all of their problems, but it will help. It is a pay raise.

Last but not least, I live in West Miami, FL. I have lived there since 1985. It is a working-class neighborhood. According to the census, the average family income in West Miami, where I live, is $38,000—let's say $39,000. That doesn't mean that West Miami is poor. I know the people there. They work hard. They pay their taxes. They raise their children well. They go to work 5 days a week for 8 or 9 hours a day, sometimes on the weekends. But because it is a working-class town, the nonrefundable increase we put in for the child tax credit doesn't do much.

As an example, based on the census data for West Miami, for that ZIP Code that I live in, more than 2,500 children in this ZIP Code—meaning more than half of the total number of children living in that area—would be receiving less than the full credit than they would otherwise be eligible for. Why? Because for their parents, their primary tax liability is the payroll tax. And you cannot help working families with a tax cut if you do not allow the cut to apply to the payroll tax. It is as simple as that.

We have to do that. If we want to help people in this country, if we really want to help them have a little bit more in their pocket, then let's implement the proposal that Senator LEE and I have put forward.

By the way, I hear these economists and other people say: Well, it won't do anything for growth.

You really don't understand how working Americans live. Someone who makes $38,000 a year or $35,000 a year basically spends every penny they make. They have to. If you make $38,000 a year, with two kids, you are spending every penny you make and then probably having to put the extra on your credit card, unfortunately. This proposal will drive consumer spending. It will allow them to pay for some things they can't buy now. These kids outgrow their shoes so fast. The bookbags don't make it through a year. There are so many things we could be helping families with, and our tax reforms should do that.

Everybody in this town has a trade association, has a lobbyist, has newspapers that write about them. Who writes about them? Who writes about these working Americans—working Americans, not people asking for anything from the government. They go to work. They work hard. They work every day. Who fights for them? Who talks about them? Who represents them? That is supposed to be us.

If we are serious about representing them, then let's prove it. Let's amend this bill and change it so we can give working Americans the raise they deserve, and that they need, to strengthen our country and strengthen our families.

I yield the floor.

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

Mr. RUBIO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Tennessee (Mr. CORKER) and the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 283 Ex.]

YEAS—50

Alexander	Flake	Perdue
Barrasso	Gardner	Portman
Blunt	Graham	Risch
Boozman	Grassley	Roberts
Burr	Hatch	Rounds
Capito	Heller	Rubio
Cassidy	Hoeven	Sasse
Cochran	Inhofe	Scott
Collins	Isakson	Shelby
Cornyn	Johnson	Strange
Cotton	Lankford	Sullivan
Crapo	Lee	Thune
Cruz	Manchin	Tillis
Daines	McConnell	Toomey
Enzi	Moran	Wicker
Ernst	Murkowski	Young
Fischer	Paul	

NAYS—48

Baldwin	Gillibrand	Murray
Bennet	Harris	Nelson
Blumenthal	Hassan	Peters
Booker	Heinrich	Reed
Brown	Heitkamp	Sanders
Cantwell	Hirono	Schatz
Cardin	Kaine	Schumer
Carper	Kennedy	Shaheen
Casey	King	Stabenow
Coons	Klobuchar	Tester
Cortez Masto	Leahy	Udall
Donnelly	Markey	Van Hollen
Duckworth	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Murphy	Wyden

NOT VOTING—2

Corker	McCain

The nomination was confirmed.

The PRESIDING OFFICER (Mr. RUBIO). The majority leader.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that with respect to the Katsas nomination, the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

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

Mr. MCCONNELL. Mr. President, I move to proceed to S. 1519.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

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

The PRESIDING OFFICER. The Senator from North Dakota.

TAX REFORM

Mr. HOEVEN. Mr. President, I rise to discuss the tax relief bill, which the Senate is working very hard to try to pass. I brought some charts with me to show the impact this bill will have in terms of reducing the tax burden for hard-working American taxpayers and also helping to grow our economy.

It is important to understand this is not just about making sure American taxpayers can keep more of their hard-earned wages and income but also this is about making sure we have a growing economy, that we have more jobs, and that we have rising wages and rising income for American workers. Here are just some of the statistics that show that. These statistics are according to the nonpartisan Tax Foundation and also the Council of Economic Advisers. What you see from this first chart is, this tax relief package is about real economic growth, not just making sure our taxpayers get a tax cut but about growing our economy. This top number, which comes from the Council of Economic Advisers, is $4,000 that workers, on average, would receive from the economic growth created by the combination of reducing the regulatory burden, which is something we have been working on all year with the administration—reducing that regulatory burden—and combining that then with tax relief to generate more