



United States  
of America

# Congressional Record

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

Vol. 164

WASHINGTON, MONDAY, JULY 9, 2018

No. 114

## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, July 10, 2018, at 12 p.m.

## Senate

MONDAY, JULY 9, 2018

The Senate met at 3 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.

Sacred God, You fill our hearts with songs. We are grateful for the hope, joy, and justice You bring to our world. Thank You that You will judge the world with righteousness and Your people with truth.

Guide our lawmakers. Lead them even through life's dark places, as they place their total trust in You. Lord, remind them that darkness is as light to You. Protect them from life's storms, for You are their help in ages past and their hope for years to come. Inspire them with Your joy, as You place Your peace in their hearts.

We pray in Your strong 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 legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 9, 2018.

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.

### EXECUTIVE SESSION

### EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session and resume consideration of the Bennett nomination, which the clerk will report.

The legislative clerk read the nomination of Mark Jeremy Bennett, of Hawaii, to be United States Circuit Judge for the Ninth Circuit.

### RECOGNITION OF THE MINORITY LEADER

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

### FILLING THE UPCOMING SUPREME COURT VACANCY

Mr. SCHUMER. Mr. President, as everyone knows, later tonight President Trump will announce his nomination for the upcoming vacancy on the Supreme Court. Whoever fills Justice Kennedy's seat will join an otherwise evenly divided Court and immediately obtain the ability to affect the laws of the United States and the rights of its citizens for generations to come.

Enormously important issues hang in the balance: the right of workers to organize, the pernicious influence of dark money in our politics, the right of Americans to marry whom they love, and the right to vote.

Two issues of similar and profound consequence are the fate of affordable healthcare and a woman's freedom to make the most sensitive medical decisions about her body. These two rights—affordable healthcare and a woman's freedom to make sensitive healthcare decisions—hang in the balance with this nominee. The views of President Trump's next Court nominee could very well determine whether the Senate approves or rejects this nomination.

President Trump has already made up his mind. President Trump has repeatedly said that he believes Roe was wrongly decided. He has promised, in his own words, to nominate only "pro-life judges" whose selection will result in the "automatic" overturning of Roe

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



Printed on recycled paper.

S4829

v. Wade. Those are his words: “pro-life judges” and “automatic.”

He also said that Chief Justice Roberts has been “an absolute disaster”—his words—for voting to uphold the healthcare law and said his judicial appointments “will do the right thing, unlike Bush’s appointee John Roberts, on ObamaCare.”

It is near impossible to imagine that President Trump would select a nominee who isn’t hostile to our healthcare law and to healthcare for millions and millions of Americans and who isn’t hostile to a woman’s freedom to make her own healthcare decisions.

We can be sure of this because President Trump, during the campaign, asked Leonard Leo, the founder of the Federalist Society, to assemble a list of possible Supreme Court Justices for him to pick from. Mr. Leo was not only aware of Candidate Trump’s preference for a Supreme Court that would reverse *Roe v. Wade*; he himself spent his career in pursuit of it.

That is not just my view. According to Edward Whelan, one of the most prominent legal conservative activists and bloggers, “no one has been more dedicated to the enterprise of building a Supreme Court that will overturn *Roe v. Wade* than the Federalist Society’s Leonard Leo.” No one has been more dedicated to overturning *Roe v. Wade* than the very man who chose the list of 25.

That is what we are up against here. That is why America is on tenterhooks, so worried about any choice from this list.

Let me repeat again that Mr. Leonard Leo is the man who assembled Trump’s list of potential Supreme Court nominees, and no one—no one—has been more dedicated to overturning *Roe v. Wade* than Leonard Leo.

Normally, in the Senate we have a process of advise and consent on the Supreme Court. In the old days, the President would consult with Republicans and Democrats in the Senate on a qualified judge and, then, after careful deliberations, nominate a jurist who could get bipartisan support. What we have here is the exact opposite.

The President has gone to two “far out of the mainstream” hard-right groups—the Heritage Foundation and the Federalist Society—and asked them, not the Senate, to advise and consent on a Supreme Court nomination.

Whoever the President selects tonight, if that nominee is from the preapproved list selected by Leo and the Heritage Foundation, everyone ought to understand what it means for the freedom of women to make their own healthcare decisions and for the protections for Americans with pre-existing conditions: Those rights will be gravely threatened.

We are going to hear a lot this summer about precedents. The traditional question in these matters has been: Will the nominee defer to precedent? Nominees will be asked if they respect

settled law. This is known as the principle of *stare decisis*. The nominee always answers that, yes, he or she will respect and defer to precedent, and Senators nod their heads, having received this rickety, vague assurance that the nominee will not rock the judicial boat and turn the clock back decades. But for two reasons, this standard of settled law—*stare decisis*—is no longer an adequate standard by which to judge nominees. Why?

First, we have ample evidence from the past several years of judges who have sworn in their confirmation hearings to respect precedent and then have reversed their stand once on the Court. For example, in his confirmation hearings, then-Judge Gorsuch said:

Precedent is like our shared family history of judges. It deserves our respect.

Last week—just last week—now-Justice Gorsuch voted to overturn 41 years of precedent in the *Janus* decision, relying on flimsy and fabricated legal theory. It was so flimsy, in fact, that Justice Kagan wrote in dissent that the majority overruled precedent, “for not exceptional or special reason, but because it never liked the decision . . . subverting all known principles of *stare decisis*.”

Justice Roberts—another person who swore he would obey precedent—said he would call balls and strikes as he saw them, that he would interpret law rather than make it. Of course, it was Justice Roberts who was then responsible for overturning 40 years of precedent in the *Citizens United* decision, which so set back our politics and so deepened the swamp that so many Americans despise, by allowing huge amounts of dark money, unreported, to cascade into our political system.

On two of the most important rulings in the history of the Roberts’ Court, a cumulative 81 years of precedent were thrown out the window, despite the earnest promises of Justices Roberts and Gorsuch at their hearings.

When they say they will obey settled law, you can’t believe it. You can’t believe it because it just hasn’t happened in this new conservative Court that is so eager to make law, not interpret it.

There is a second reason, which is maybe even more important, why the principle of “I will follow settled law” no longer works, and that is President Trump. We already know that President Trump’s nominee will be prepared to overturn the precedents of *Roe v. Wade* and *NFIB v. Sebelius*. We know that because President Trump has said so. When the President has a litmus test for his nominees and only chooses from a preapproved list of nominees designed to satisfy that litmus test, it is certainly not enough for a judge to prove his or her moderation by invoking *stare decisis*. *Stare decisis* and respect for precedent have become an almost meaningless bar to set for a Supreme Court nominee. At this critical juncture, with so many rights and liberties at stake, U.S. Senators and the American people should expect an af-

firmative statement of support for the personal liberties of all Americans from the next Supreme Court nominee.

The American people deserve to know what kind of a Justice President Trump’s nominee would be. President Trump is the one who made a litmus test for his nominee, not us. The onus is on his nominee to show where he or she might stand.

Considering the ample evidence that President Trump will only select a nominee who will undermine protection for Americans with preexisting conditions, give greater weight to corporate interests than the interests of our citizens no matter what precedent says, and vote to overturn *Roe v. Wade*, the next nominee has an obligation—a serious and solemn obligation—to share their personal views on these legal issues no matter whom President Trump selects tonight.

#### NORTH KOREA

Mr. President, briefly, on another matter—the ongoing negotiations with North Korea over their nuclear program. Despite all the reality show pomp and circumstance, the negotiations have, thus far, been a flop. After the summit, President Trump declared, without any evidence—that is so typical—that “North Korea is no longer a nuclear threat” to the United States. The reality, of course, is far different.

Recent reports have shown that North Korea is making upgrades to a nuclear facility and expanding ballistic missile manufacturing. Just a few days ago, North Korean media called the negotiations with Secretary of State Pompeo “deeply regrettable,” accusing the Trump administration of pushing “a unilateral and gangster-like demand for denuclearization.” Talks are going great, and then our side is accused of being gangster-like?

For the President to say North Korea is no longer a nuclear threat and then have North Korea’s Foreign Ministry come back and say what they said, shows the disconnect between President Trump’s rhetoric, the reality, and the sheer incompetence of this administration. For those who say—and I hear it all the time from many of my Republican friends in my State and throughout the country—they say: Look, we don’t like the President’s style. We wish he didn’t tweet so much, but we support him because he is “getting stuff done.” Take a look at the yawning gap between what the President claims and what he has actually achieved. On North Korea and on so many other issues—taxes and healthcare are two other examples—the President makes grand promises but fails to deliver for the American people.

#### HEALTHCARE

Finally, Mr. President, one word on healthcare. Another issue the President has failed to deliver on is healthcare. After promising far better and cheaper healthcare for all Americans, President Trump has relentlessly

sabotaged our healthcare system, undermined key protections for Americans with preexisting conditions, done all he can to see the premiums rise. Probably the No. 1 issue bothering America today is rising healthcare costs.

Last week, the Trump administration found another way to sabotage our existing healthcare system, suspending a critical program that stabilizes the healthcare insurance markets. This comes at a time when 2019 premiums are being filed, and insurers from coast to coast are saying the Republican sabotage is causing premiums to increase, to be much higher than they need to be. Many of these insurers are also saying that if the Trump administration enacts further sabotage, such as actions like this one and the expansion of junk plans that hurt people with preexisting conditions, then insurers may need to amend their rates and raise premiums even more. This relentless healthcare sabotage is politically motivated, spiteful, and accomplishes nothing except to raise costs on middle-class families and taxpayers. The Trump administration needs to fix this newest sabotage as quickly as possible.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority whip.

FILLING THE UPCOMING SUPREME COURT VACANCY

Mr. CORNYN. Mr. President, this evening, the President of the United States will perform his duty and nominate a person to serve as the next Supreme Court Justice to fill the vacancy left by Associate Justice Anthony Kennedy, who announced his retirement at the end of July. I look forward to joining the President this evening, along with a number of my colleagues, for that historic announcement. It is an important day because the person selected will help decide many cases that will have a deep and lasting impact on American history. Certainly, Justice Kennedy played that role many times in many close cases.

There are a great many talented men and women who are qualified for Justice Kennedy's seat, I believe, and that is why the President's choice is so difficult. All of these candidates who have been identified as a potential pool of candidates have the intellectual capacity that has developed over many years, along with a rigorous understanding of the law. They have demonstrated their analytical skills in a variety of ways—by studying at top-tier law schools, clerking for well-respected judges on the courts of appeals and the Supreme Court, in their public speeches, in the courses they have taught, in the articles they have published, working at the highest levels inside government and prominent law firms, and, of course, in the case of the final four, serving on an appellate bench, which is the midlevel, intermediate Federal court which, for all practical purposes in most cases, is the court of last resort since the Supreme

Court only hears roughly 80 or so cases a year.

I know the President has considered a handful of these jurists. He revealed a list of potential appointees to the Court when he ran for President, and I think that probably was one reason why he was elected because when people saw the quality, the experience, and the qualifications of the individuals he said he would consider for the Supreme Court, I think it gave them greater confidence he would choose wisely, given the opportunity as President, to appoint somebody to the Court.

These individuals who are in the pool of prospective nominees have come from different academic and professional backgrounds, but I have no doubt the selection will be a good one primarily because of the one appointment the President has already made to the Supreme Court, which is Justice Neil Gorsuch.

Justice Gorsuch did not disappoint those of us who supported his nomination during his first year on the Court. He has demonstrated not only the power of his pen but the clarity of his thought and the force of his legal reasoning. I am sure his predecessor, Justice Scalia, would be proud of the fact Justice Gorsuch succeeded him on the Court and has left a record of accomplishments in such a short time.

President Trump and Justice Gorsuch taught us all a valuable lesson last year. At the end of the day, the decisions of the Supreme Court should not be much affected by the personalities or the life stories of the Justices themselves. That is because the interpretation of the law should always be separate and apart from the people who apply it, and the Justices and their work must be insulated from the day-to-day politics that happen inside this Capitol Building and the statehouses around the country.

The Court is not a partisan or political institution. After all, that is the way our Founders—the people who created this great country—and our Founding documents wanted it to be. Wisely, they figured there needed to be someone who would make a final decision in the event of a controversy or a lawsuit, but the Court itself should not put a finger on the scale or be a player in the partisan battles that occur here in Washington, DC. Indeed, the Court should be and is a separate and equal branch of government and must stand on its own, apart from the political biases and persuasions that pervade the District of Columbia. So I, along with many other people, am excited to hear the President's choice.

TRIBUTE TO JUSTICE ANTHONY KENNEDY

Before we begin this confirmation process, let me acknowledge the work and the legacy of departing Justice Kennedy. I thank Justice Kennedy for his 40-plus years serving this country on the Federal bench. He has presided over and authored the majority opinion in many high-stakes cases of national importance. He may be somewhat hard

to pigeonhole at times, but I think it is safe to say he has remained committed to upholding the integrity of the judiciary throughout the course of his career. As a former State supreme court justice myself, I can attest that the work of a judge is painstaking, time-consuming, but obviously extraordinarily important. So we are grateful to Justice Kennedy for his willingness, his ability, and his determination to carry out his important work as a Federal judge.

After being appointed by President Reagan and having served on the Supreme Court for the last three decades, he has furthered the pursuit of American justice one case at a time through calm times and turbulent times. He was an important member of the Court who recognized one's individual right to keep and bear arms under the Second Amendment, and he recently upheld the President's ability to protect national security and limit immigration from countries that have no ability to vet and to identify potential sources of terrorism in their own countries.

As Justice Kennedy concludes his tenure on the Court at the end of the month, we wish him and his wife, Mary, and his children many more happy years together.

FILLING THE UPCOMING COURT VACANCY

Mr. President, meanwhile, after the President's announcement this evening, the Senate will fulfill its constitutional role by providing advice and consent on whomever President Trump nominates. We plan to consider the nominee and his or her record thoroughly. That is our responsibility.

As the senior Democratic Senator from Connecticut said recently, "the Senate should do nothing to artificially delay" the consideration of the next Justice. I agree. It is also consistent with the standards set by former President Obama and Vice President Biden. In 2010, which was a midterm election, just like this year, Senate Democrats confirmed President Obama's nominee, Elena Kagan, to the Supreme Court.

After President Trump makes his selection, Senators will have the opportunity to meet with the nominee, examine his or her qualifications, debate them, and then vote. We will vote this fall to confirm Justice Kennedy's successor. I know Chairman GRASSLEY will manage a fair confirmation process in the Judiciary Committee. He always has.

It is crucial that as this process begins to unfold, the President's nominee not be subjected to personal attacks from an increasingly agitated and vitriolic Democratic Party. My frustration is that we used to debate an individual nominee's qualifications, but, as with the Gorsuch nomination, we have seen that anybody whom President Trump would nominate would be uniformly opposed by our friends across the aisle.

Based on what we have seen so far, we know that the confirmation process

will certainly be contentious. We hope that people will remind themselves of the benefits of civility and decorum. We have seen some of our friends across the aisle talk about the battle lines that are being drawn, and we have heard other hyperbolic language. They have indicated their unwavering opposition to President Trump's nominee no matter who he or she is and before they even know who he or she is. That is extremely disappointing.

Our colleagues' pledge to stop the nominee at all costs is not encouraging, to say the least. Yet I assure you we will not back down from the fight, and we will see President Trump's nominee confirmed on a timely basis, consistent with the confirmations of previous nominees. The stakes are too important, and the character of the eventual nominee, we expect, will be too high to allow these sorts of things to happen without our pushing back. The American people deserve better.

During the first 18 months of this administration, President Trump has nominated and we have confirmed 42 members of the Federal judiciary, including Justice Gorsuch. We look forward to another outstanding selection, and we will move efficiently and thoroughly throughout the confirmation process. Like I said, we will vote to confirm the President's nominee this fall.

I yield the floor.

I suggest the absence of a quorum.

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

The legislative 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.

#### FILLING THE UPCOMING SUPREME COURT VACANCY

Mr. MCCONNELL. Mr. President, "sexist," "a disaster for women," "totally unacceptable"—these are just a few of the ad hominem attacks the far-left special interest groups hurled at a Federal circuit court judge whom a Republican President nominated to the Supreme Court. The name of the Federal judge—Anthony Kennedy.

After President Reagan nominated then-Judge Kennedy to the Court in 1987, these far-left special interest groups impinged his character. They cooked up apocalyptic warnings about all of the terrible things that would happen to Americans if he were to be confirmed to the Court. Of course, the American people didn't buy it, and a majority of Senators saw through the hyperbole and hysteria and confirmed that qualified nominee. Believe it or not, the sky didn't fall, but decades later, our Democratic colleagues still haven't tired of crying wolf whenever a Republican President nominates any-

one to the Supreme Court. We have seen this same movie time after time.

Less than 3 years after Justice Kennedy's confirmation, President Bush nominated David Souter to the Supreme Court. Guess what leftwing pressure groups said about David Souter right after President Bush selected him. That is right, the very same things we are hearing today. The same things you have heard from these same corners about every Supreme Court nominee named by a Republican President.

One organization proclaimed that Justice Souter might "undo the advances made by women, minorities, dissenters and other disadvantaged groups."

That was about Justice Souter.

Back in 1975, they assailed the nomination of John Paul Stevens. They said he lacked impartiality and opposed women's rights. That is what was said about John Paul Stevens. So these far-left groups have been at these same scare tactics for over 40 years. The consistency is really quite amazing. Decade after decade, nominee after nominee, the far-left script hardly changes at all.

Anyone and everyone the Republican President nominates to the Supreme Court is some kind of threat to the public, according to the hysterical press releases that inevitably follow. No matter their qualifications, no matter their record, no matter their reputation, it is the same hyperbole, the same accusations, the same old story.

Tonight, President Trump will announce his nominee to fill the current Supreme Court vacancy. We don't know whom he will name, but we already know exactly what unfair tactics the nominee will face. They will not be new, and they will not be warranted. We can expect to hear how they will destroy equal rights or demolish American healthcare or ruin our country in some other fictional way.

Justice Kennedy's resignation letter had barely arrived in the President's hands before several of our Democratic colleagues began declaring their blanket opposition to anyone and all—anyone the President might name. One Democratic Senator stated she would resist any attempt to confirm any nominee this year: "It doesn't matter who he is putting forward." It doesn't matter who.

Earlier today, just today, another Democratic Senator issued a press release declaring preemptively that he plans to oppose whomever the President nominates tonight, no matter who they are.

Another of our Democratic colleagues offered this assessment: "We are looking at the destruction of the Constitution of the United States as far as I can tell."

It is hard to keep a straight face when you hear stuff like that. There is not even a nominee yet. Justice Kennedy just announced his retirement, and they are talking about the destruc-

tion of the Constitution? Please, give the American people some credit. This far-left rhetoric comes out every single time, but the apocalypse never comes.

Americans see beyond this far-left fearmongering they have tried over and over again for 40 years, and Senators should do the same. We should evaluate this President's nominee fairly based on his or her qualifications, and we should treat the process with the respect and dignity it deserves.

The Judiciary Committee under the able leadership of Senator GRASSLEY will hold hearings, and the nomination will come to the full Senate for our consideration. One more round of 40-year-old scare tactics will not stop us from doing the right thing.

The PRESIDING OFFICER (Mrs. ERNST). The Senator from Florida.

Mr. NELSON. Madam President, I would just say to my friend the majority leader, that is exactly what I intend to do—to be fair, respectful, and talk with and have a conversation with the nominee and then exercise my judgment of what is in the best interest of the country as well as my State of Florida.

#### ALGAE BLOOMS IN FLORIDA

Madam President, I am here to talk about a condition that is in the State of Florida which is not a very good one.

What has happened is the accumulation of hot weather and extra nutrients in the water, aided and abetted by the release of fresh water as Lake Okeechobee rises. That water is having to be released because of the pressure on the dike. Excess water is released to the west in the Caloosahatchee River and to the east in the St. Lucie River, and all of that has created a condition—with the humidity and the heat of the summer—in which the water is so fully laden with nutrients that algae starts to grow, then it starts to bloom, and then it starts to get excessive. It is toxic. It is slimy. It is called blue-green algae, and the bloom is spreading over those waterways.

As a matter of fact, there are a lot of waterways in Florida that have an overgrowth of algae because of the excess nutrients in this water. This is particularly acute to the east of Lake Okeechobee and to the west of Lake Okeechobee.

This past week, this Senator went from one coast to the other. I started in Fort Myers examining the Caloosahatchee River and talking with the elected leadership and environmental leadership. I then flew on to the lake, landing at the Pahokee Airport. I went to the Belle Glade Marina along with my colleague from Florida, Congressman ALCEE HASTINGS. That is his district.

We had a townhall meeting there and were able to announce some good news. Congressman HASTINGS, Senator RUBIO, and I have requested the use of disaster relief money for the hurricanes—the last tranche was upward of \$80 billion. We asked to use a portion of that to help us speed up the construction of

the dike so it can be reinforced to hold more lake water without the communities around the lake being threatened that the dike might give way due to the pressure of the higher water levels of the lake.

At that meeting, we passed on the announcement from the U.S. Army Corps of Engineers and the White House, having utilized part of that money, their recommendation to utilize that \$80 billion as a source of money to speed up the dike construction.

That was a very welcome announcement, but it is only part of what has to be done. The algae is still there. The one thing I heard over and over from the people is, they are worried about the potential health risks associated with the algae bloom. They feel they are not getting timely, accurate information on what to look for and what they should do if a bloom takes place in the waterways in their particular area.

I want to give some idea of the situation by showing these pictures, which are from 2 years ago, but they are fairly accurate as to what we are seeing today. You can see the blue-green algae located where some boats are tied up. You can see the effects of this same kind of algae out in more of a brackish water estuary. We are talking about some serious growth of algae. That is not pretty.

Let me state that when this stuff starts rotting, the smell is awful. The question is, What are the health effects of this? The people are demanding answers. They want to know, and they should know.

One young woman in Fort Myers told me something that was really rather surprising. She is a diver, and she had been 20 miles out in the Gulf of Mexico. There she encountered the slimy green algae that is usually in more of the freshwater and perhaps brackish waterways. She said she couldn't believe it.

She told me she was worried that she may have been exposed to not just the toxic algae but also the red tide as well. That is another phenomenon that occurs in waters in the Gulf of Mexico. The red tide periodically appears. It is a toxin, and it is very noxious to human beings when it is breathed in. Of course, what the young woman who is a diver way out 20 miles in the Gulf of Mexico is saying is, when that blue-green algae meets the red tide, is that going to stimulate the red tide to release more toxins? We don't know.

We have the same questions from residents in Stuart, FL. After I left Lake Okeechobee, I flew to Stuart, which is on the Atlantic coast. I started on the gulf coast and went to the Atlantic coast by late afternoon, where they were worried as well about the potential consequences to their health from the algae.

Officials in Stuart were putting up signs in the emergency rooms warning people about the possible health risks. They were urging them to report any

algae sightings or exposure as soon as possible. Even with those precautions, we still don't know the full picture of what the algae could mean for people's long-term health.

That is why I have written to the Centers for Disease Control and Prevention, the CDC, to ask that they provide the people of Florida with the information they need, including the warning signs they need to look out for, the immediate health risk associated with swimming in or near the algae, or even breathing it in. That is just the short-term effect.

I have also asked the CDC to look into the possible long-term effects of the algae exposure so we can begin to take whatever protective steps now in order to protect the people living in and around these blooms.

Madam President, I ask unanimous consent that my letter to the Centers for Disease Control be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, July 9, 2018.

HON. ROBERT REDFIELD,  
Director, Centers for Disease Control and Prevention, Atlanta, GA.

DEAR DIRECTOR REDFIELD: As toxic, neon-green algae blooms once again coat Lake Okeechobee and spread to Florida's coasts, I'm writing to ask for emergency federal assistance to properly communicate the potential health risks associated with algae exposure, and a study of the long-term health effects, especially for vulnerable populations like children, the elderly, and fishermen who spend their days on the water. As I travel across Florida, I continue to hear from residents and officials that there is confusion about the potential health impacts of living near or coming into contact with algae, including cyanobacteria and *Karenia brevis*.

Last week, I visited with residents and community leaders in Fort Myers and Stuart, Florida, to discuss the algae plaguing the local waterways there and I repeatedly heard the same message: we need trustworthy, timely information about the potential health consequences of exposure to toxic algae for prolonged periods.

During the "lost summer" of 2016, the blue-green algae that overtook much of Florida's east coast was severe enough to garner national attention. Yet even then, local officials and residents say they did not receive enough information from state agencies about the quality of the water or the risks of exposure to toxic algae.

Floridians and tourists need to know with certainty whether or not the water is safe. If the Centers for Disease Control and Prevention needs a specific request from the state of Florida to provide assistance, and has not yet received one, please let me know. I appreciate your attention to this time-sensitive issue.

Sincerely,

BILL NELSON.

Mr. NELSON. Just last week, the Army Corps of Engineers announced that additional money, the \$514 million in disaster supplemental funding for the Herbert Hoover Dike, and that will complete that project earlier than 2025, accelerating completion to 2022, as Senator RUBIO and I had requested. This funding is on top of what we have

already spent over a decade and a half—\$1 billion shoring up the dike. This didn't happen just yesterday. This happened 15, 20 years ago, and we have already spent \$1 billion.

We are going to get it accelerated all the way to 2022. That is coming in time. While getting that additional funding to speed up work on the dike is certainly good news, it is important to remember that fixing the dike is important for public safety, to protect the communities that are living around Lake Okeechobee. It is not the solution to ending the discharges, and it is not solving the algae crisis. It is one step on the road to try to stop all of this algae bloom that occurs every year.

Once that dike is fully repaired, the Army Corps then expects to be able to store about 6 more inches of water. In a big lake like that, that is a lot of water. That is good news because that flexibility helps, especially during the algae bloom breakouts, because you can hold more water back in the lake and you don't have to dump it into the St. Lucie or the Caloosahatchee. The only way to end those damaging discharges is to move ahead with Everglades restoration projects north of the lake, as well as the projects designed to take water from the lake, clean it, and send it south, as Mother Nature initially intended it to go.

That is why we need to get critical projects like the Central Everglades Planning Project and the new reservoir in the Everglades Agricultural Area south of the lake moving as fast as we can. To do that, we need more than the small amount the President has requested for next year. In fact, we need upward of \$200 million a year to really start making progress in restoring the Everglades.

Voters in Florida overwhelmingly passed a constitutional amendment to dedicate a portion of the documentary stamp tax to land acquisition for environmental projects. Florida is sensitive to the environment, and that is why the voters voted an increase in the documentary stamp tax for themselves. What happened is that the government of the State of Florida hasn't been using that money for what the people intended when they voted in a referendum. Instead of using that money as it was intended, the State of Florida is trying to divert it to other purposes, such as filling in budget shortages or employees' salaries or other items unrelated to environmental expenses, and now we have suits that have tied all that up in litigation. It is further distracting from the overall goal of restoring the Everglades.

The Federal Government should take the lead and do what is right. We should move forward and fully fund the ongoing Everglades restoration projects. We also need to get the House of Representatives to pass the harmful algal bloom reauthorization bill, which was introduced by this Senator, and the Senate passed it unanimously a year ago. This bill would reauthorize

funding for the Federal task force that is studying the harmful algae blooms like the one I have been describing here.

I hope every Member of the Florida delegation—especially those who are in areas where water is allowing algae to bloom—will join this Senator in calling on the Speaker of the House to take up and pass this important bill in the House. We need to do it fast while all of this algae is blooming, and that would be before the House goes out in recess for their August break. Time is critical.

Again, I want to show you what this algae looks like. You can see these thick chunks on the surface of the water where it almost looks like a blue-green carpet. When that algae dies, you can't believe the smell that comes from it. We must act, and the time to act is now.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

FILLING THE UPCOMING SUPREME COURT  
VACANCY

Mr. GRASSLEY. Madam President, tonight the President will announce his nominee for Associate Justice of the Supreme Court of the United States. That announcement is because of a vacancy created by Justice Kennedy's recent retirement.

Justice Kennedy left an important legacy of more than three decades on the Supreme Court. I voted for his confirmation 30 years ago. Justice Kennedy demonstrated his deep commitment to our constitutional liberties. It is no surprise that some of his greatest opinions defended free speech and religious liberty. I hope Justice Kennedy's successor carries forward this legacy.

I am optimistic that the person the President nominates tonight will be highly qualified and committed to the rule of law. I am optimistic because President Trump already appointed one such Supreme Court Justice: Neil Gorsuch.

The President's selection process is the most transparent in history. He issued a list of potential Supreme Court nominees directly to the American people during his 2016 campaign. To my knowledge, no other Presidential candidate has ever done that. The list demonstrated the types of Justices he would appoint to the Bench. The American people voted for President Trump in part because of that list of names and what it reflected and his promise to nominate these types of jurists.

Any of the 25 people on the President's list would be an excellent choice and worthy of the Senate's serious consideration, but already we are seeing

from liberal outside groups and some of the Democratic leadership a desperate attempt to block the nominee—any nominee—by whatever means necessary. Democratic leaders have pledged to block anyone from the President's list without even knowing who that nominee is and regardless of his or her qualifications. Think about that a while. The President has a list of 25 names, but some Democratic leaders have already said that not one of them is acceptable, zero out of 25 highly respected, highly qualified individuals—not even worthy of this body's consideration. That is an incredible statement by some of the leaders on the other side of the aisle.

This preemptive attack on a yet-to-be-named nominee is a preview of the obstacles and calls for needless delays we are sure to see from some of my colleagues. I have already heard several weak arguments made in an attempt to delay the confirmation hearing, but the Democratic leaders have shown their hand. The motive is to block any nominee from the President's list. Whatever reasons for delay, it is clear that their single motivating factor is blocking the nominee selected tonight, whoever he or she is.

The first delay tactic I heard was that the Senate shouldn't confirm a nominee during a midterm election, but the Senate has never operated like that. Justice Kagan and Justice Breyer were confirmed in midterm election years, in addition to many Justices who served before them. Democratic leadership and outside groups are so desperate to block this nominee that they are willing to rewrite history to do it.

We have a long history of confirming Justices nominated during a midterm election year. We don't have a long history of confirming Justices nominated during a Presidential election year. It has been nearly 80 years since we have done that. Former chairman Joe Biden announced in 1992 that the Senate shouldn't confirm any Justices during a Presidential election year. Senator SCHUMER said something similar in 2007—the year before a Presidential election. The Biden-Schumer rule pertains only to Presidential elections, not midterm election years.

It is important to let the American people decide who should choose a nominee for a Supreme Court vacancy. That is why I waited until after the 2016 Presidential election to hold hearings for a Supreme Court nominee. But the individual who selects nominees—the President of the United States—is not on the ballot in midterm elections. The rule simply doesn't apply during a midterm election, and that is this year.

Another losing talking point is that we shouldn't confirm any nominee while Robert Mueller's investigation is ongoing. And who knows when that is going to end. This argument is again inconsistent with the historical precedent. Look at what President Clinton was involved in—an investigation of

that President over Whitewater. At the same time, Justice Breyer was appointed to the Supreme Court—at a time when the independent counsel was doing that investigation. At the time, his documents were under a grand jury subpoena. What other constitutional powers do the proponents of this argument believe that the President should surrender simply because of an investigation?

This is obstruction masquerading as silliness. What drives this preemptive obstruction, you might ask. It is liberal outside groups' stated fear that the President's nominee will vote to invalidate the Affordable Care Act or overturn *Roe v. Wade*. Well, the same five-Justice majority who preserved the Affordable Care Act is still on the Court. Justice Kennedy voted to strike it down. Replacing him with a like-minded Justice would not change the outcome. We hear the same thing about *Roe v. Wade* every time there is a Supreme Court vacancy. It was a big deal when Sandra Day O'Connor was appointed to the Court 37 years ago. Yet *Roe v. Wade* is still the law of the land.

It is pretty clear that Justices have a way of surprising us. Who could have predicted that Justice Scalia would strike down a ban on flag-burning? It is a fool's errand to try to predict how a Justice will rule on some hypothetical future case.

This regular uproar about *Roe v. Wade* shows the difference between how many Democrats and Republicans view the courts.

Liberal outside groups and many Democrats have a litmus test. They seem to be very results-oriented and focus on policy outcomes of judicial decisions. They expect—they even demand—their judges to rule in favor of their preferred policies. Liberal outside groups and their allies simply want judges to be politicians hiding under robes. That is why Senate Democrats were so blatant in changing Senate rules so that they could stack the DC Circuit Court of Appeals. Former Democratic leader Harry Reid made no bones about making sure there were enough DC Circuit judges to protect the Obama administration's policies on regulations.

Republicans, on the other hand, want judges who will rule according to the law and leave policymaking to elected representatives, where the Constitution prefers and demands that it be.

I don't want judges who decide cases based upon whether the results are liberal or conservative. Judges should rule according to the law, no matter what their views are on policy outcomes. Judge Gorsuch recently said that judges wear "robes, not capes." I agree with that assessment.

Liberal outside groups and their allies want judges who will decide cases with liberal policy results. Republicans expect judges to leave their policy aside when deciding a case. That is the

fundamental difference that will become crystal clear to the American people during this confirmation debate.

The Senate Judiciary Committee will hold a hearing for the nominee in the coming weeks. Exactly when, I don't know, and I shouldn't know at this point. I want to emphasize a few things, though. One, it is inappropriate for Senators to ask the nominee how he or she would rule on certain cases sometime in the near future or 10 years from now. Two, it is inappropriate to ask the nominee about his or her personal views on the merits of Supreme Court precedent.

The bottom line is that Senators should not try to extract assurances from nominees on how they will decide particular cases in exchange for a confirmation vote because how do you know down the road—1 year or 2 years or 15 years—what the case might be at that particular time?

Justice Ginsburg made it pretty simple for everybody. During her confirmation hearing in the early 1990s, she set the standard, promising, in her words, "no hints, no forecasts, no previews." She said this in a further long quote:

It would be wrong for me to say or to preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously.

This standard was reaffirmed by every Supreme Court nominee since then. For the last 25 or 26 years, the Ginsburg rule has been what is followed by other nominees for the Supreme Court. Justice Kagan said this about *Roe v. Wade*, following the Ginsburg rule:

I do not believe it would be appropriate for me to comment on the merits of *Roe v. Wade* other than to say that it is settled law entitled to precedential weight. The application of *Roe* to future cases, and even its continued validity, are issues likely to come before the Court in the future.

I expect this nominee announced tonight to likewise follow the Ginsburg standard. I will ask the nominee how he or she views the law and a Justice's role on the Bench. I will not presume to know how a nominee will rule on any case that might come before the Court today, tomorrow, or 10 years from now. I certainly will not be basing my vote on whether I think I will agree with the majority of his or her decisions.

The press has reported that the President has focused on six or seven potential nominees for this vacancy. Each one is well qualified and would make an outstanding Supreme Court Justice.

The nominee will get a full and fair hearing. Under my watch, the Senate Judiciary Committee will never be a rubberstamp. Several recent nominees to lower courts learned that the hard way.

The process will be fair and will be transparent, as much as I can make it.

That has been my approach during my nearly 38 years in the Senate—and all of those 38 years on the Senate Judiciary Committee—and I will not change that. The American people must be confident that this Senate has fulfilled its constitutional duty of very independently vetting this nominee before we confirm a Justice to a lifetime appointment on the highest Court in the land.

I eagerly await the President's announcement this evening. I look forward to hearing from the nominee when he or she appears before the Senate Judiciary Committee.

I yield the floor.

I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

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

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

Ms. HIRONO. Mr. President, I have been consistently voting against cloture motions to proceed to debate on judicial nominations because the process by which we are considering these nominations has been deeply broken.

I will again, today, be voting no on cloture even though the nominee we are voting on to fill a vacancy on the U.S. Court of Appeals for the Ninth Circuit is Mark Bennett from Hawaii. I support Mark Bennett's nomination, and I spoke on his behalf during the Senate Judiciary Committee hearing. When debate time ends, I will vote for his confirmation.

Mark is recognized as being one of the best qualified lawyers in the State of Hawaii. He has served as a Federal prosecutor, our State's attorney general, and in private practice. He has experience in trial and appellate work, on civil and criminal matters, at the State and Federal levels. He understands legislating and has served in the executive branch. He has received high ratings from the American Bar Association and from the Hawaii State Bar Association. He is well respected and has been honored multiple times by his colleagues.

I have every confidence that Mark will put his skills and experience to good use on the bench as a fair and impartial judge who is beholden to nothing but the law and the Constitution. However, as has been my practice since the beginning of this Congress and session, I will vote no on cloture on Mark's nomination. I will vote this way to call attention to my disagreement and deep concern over how the Senate Judiciary Committee is conducting its judicial nomination hearings.

The Senate has a constitutional obligation to provide advice and consent on judicial nominees, and I take this obligation very seriously. The American people depend on the Senate to fully consider and vet each judicial

nominee. Throughout the course of their lifetime appointments, these judges will issue rulings and opinions that will touch each of our lives. The process of nominating, considering, and confirming judges should be a deliberate one. Its purpose should not be to confirm as many judges as quickly as possible. Senators should be able to provide input on who should sit on the Federal bench. Senators should have adequate opportunity to hear from third-party experts about the records and qualifications of each nominee, and Senators should have enough time to question and examine a nominee during the confirmation hearing. Yet, over the past year and a half, we have seen a breakdown in the way this process should work.

The President has, essentially, outsourced the judicial selection process to two organizations that have strong, ideologically driven agendas—the Federalist Society and the Heritage Foundation. These nominees have been chosen without the consent of their home State Senators, as has been the practice through what is known as the blue-slip process. By ignoring the traditional blue-slip process, the President and his allies in Congress have been rendering the Senate's constitutional obligation to provide advice and consent increasingly meaningless.

The White House and the chairman of the Judiciary Committee have also undermined the independent processes through which the American Bar Association's Standing Committee on the Federal Judiciary evaluates whether a nominee is qualified for the job. Ignoring this traditional process has resulted in the nominations and confirmations of a number of deeply unqualified judges. Some of these nominees have been unable to answer basic questions about judicial procedure or the law during their confirmation hearings. Others lack the kind of experiences one would want in those who will have lifetime appointments to the Federal courts.

Under this administration, we have also seen the rushed considerations of many nominees for the Federal circuit courts. Judges who serve on our circuit courts are only one step away from the Supreme Court and deserve to be scrutinized closely in the Judiciary Committee. Over the last year and a half, however, the Judiciary Committee has overridden the objections of the minority to hold an unprecedented six nomination hearings with more than one circuit judge nominee being considered simultaneously on one panel. This means that members of the Judiciary Committee have only 5 minutes in total to ask questions of not just one but two circuit court nominees, including the time it takes for them to answer our questions. This is scarcely enough time to vet these nominees, many of whom are highly controversial and deserve maximum scrutiny. The American people deserve much more as we consider lifetime appointments to the Federal bench.



Until we return to a normal process through which we consider lifetime appointments to the Federal bench, I will continue to oppose cloture on each judicial nomination by this President and encourage my colleagues to join me in this effort.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Mark Jeremy Bennett, of Hawaii, to be United States Circuit Judge for the Ninth Circuit.

Mitch McConnell, John Cornyn, Deb Fischer, Mike Rounds, John Barrasso, John Hoeven, Roger F. Wicker, Shelley Moore Capito, Steve Daines, John Boozman, Orrin G. Hatch, Thom Tillis, David Perdue, Mike Crapo, Richard Burr, Pat Roberts, Johnny Isakson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Mark Jeremy Bennett, of Hawaii, to be United States Circuit Judge for the Ninth Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Nebraska (Mrs. FISCHER), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Mr. SULLIVAN).

The PRESIDING OFFICER (Mr. LANKFORD). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 72, nays 25, as follows:

[Rollcall Vote No. 144 Ex.]

YEAS—72

Alexander	Hassan	Perdue
Baldwin	Hatch	Peters
Bennet	Heinrich	Portman
Blumenthal	Heitkamp	Reed
Brown	Hyde-Smith	Roberts
Cantwell	Isakson	Rubio
Capito	Johnson	Sanders
Cardin	Jones	Schatz
Carper	Kaine	Schumer
Casey	Kennedy	Shaheen
Cassidy	King	Shelby
Collins	Klobuchar	Smith
Coons	Leahy	Stabenow
Corker	Lee	Tester
Cornyn	Manchin	Tillis
Cortez Masto	Markey	Toomey
Donnelly	McCaskill	Udall
Duckworth	McConnell	Van Hollen
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Gillibrand	Murkowski	Whitehouse
Graham	Murphy	Wicker
Grassley	Murray	Wyden
Harris	Nelson	Young

NAYS—25

Barrasso	Boozman	Crapo
Blunt	Burr	Cruz
Booker	Cotton	Daines

Enzi	Hoeven	Rounds
Ernst	Inhofe	Sasse
Flake	Lankford	Scott
Gardner	Moran	Thune
Heller	Paul	
Hirono	Risch	

NOT VOTING—3

Fischer	McCain	Sullivan
---------	--------	----------

The PRESIDING OFFICER. On this vote, the yeas are 72, the nays are 25.

The motion is agreed to.

The Senator from Ohio.

STRESS TESTS FOR BANKS

Mr. BROWN. Mr. President, earlier this month, the Fed released the results of its annual stress test—exercises designed to ensure that the largest banks can withstand economic shocks and will not need another taxpayer bailout in the event of a crisis. These stress tests were not in effect a decade ago before the last crisis and likely would have prevented—or made much softer—the economic landing that we had.

What happened with these annual stress tests that just came out illustrates exactly what is wrong with Washington, what is wrong with this Congress, and what is wrong with Wall Street.

The Fed allowed the seven largest banks to redirect \$96 billion—that is 96 thousand million—that should be used to pay workers, reduce fees for consumers, or protect taxpayers from bailouts. Instead, it allowed the seven largest banks to plow that money into share buybacks and dividends to reward wealthy executives and generally wealthy investors. Two banks, Goldman Sachs and Morgan Stanley, had capital below the required amounts. That is right. Those banks failed the test, but they got passing grades anyway. The Fed called them up, let them haggle over the test results, and allowed them to proceed with buybacks and dividends that drained their required capital.

In what classroom in America would a teacher grade a paper and preliminarily give it an F and then negotiate with the student over test results and then say, OK, you passed? But the stakes in this case are a lot higher than one midterm exam. We are talking about the biggest banks in the country. We are talking about whether they send money to the wealthiest investors or, instead, have enough skin in the game to protect taxpayers.

So why are these buybacks such a problem? Share buybacks and dividends juice stock prices but do little to increase long-term growth in companies and do very little to reward the workers who make a company's success possible.

During the last crisis, we saw big banks send money out the door with buybacks and dividends just months before they imploded and cost taxpayers billions. Watchdogs in the Bush administration had the tools to intervene sooner but, instead, courted Wall Street at the expense of the rest of the country. Some of those regulators

today were in the Treasury Department, in the Bush White House, and the Fed in those days and didn't see the crisis coming. They turned their backs and said: It is OK to allow these dividends and allow these stock buybacks.

Back to this year, the seven largest banks in the country increased their 2018 stock dividends paid to investors by 24 percent compared to last year. The banks that the Fed allowed to increase their stock buybacks increased their repurchases by a stunning 63 percent. What teller, what salesperson, what branch bank manager in Lorain, OH, Mansfield, OH, or Miamisburg, OH, got a raise like that in the last year?

My colleagues don't think much about this, but the average teller in America makes \$12.50 an hour. Bank executives are making \$5 million, \$10 million, and \$20 million, and they get big raises on top of that. They get stock buybacks, juicing their compensation as their stockholdings go up and up. Yet the average teller makes \$12.50 an hour.

Wells Fargo doubled its buybacks—an increase of more than 100 percent. The money spent on stock buybacks alone is 314 times more than what it would cost the bank to boost employee wages to \$15 an hour. Remember that the average teller makes \$12.50 an hour in this country.

Wells CEO Tim Sloan got a 36-percent raise last year, even in the wake of scandal after scandal. I found the ads you see all over the place, watching a Cleveland Indians game on TV, sitting in my living room in Cleveland. I have seen these ads in Washington. I have seen them all over—how Wells Fargo is going to learn from its past mistakes. They were once the greatest company, they failed, and now they will be a great company again. But they gave their CEO—who clearly has had some serious issues at that bank—a 36-percent raise.

Again, tellers make \$12.50 an hour. Wall Street banks are rewarding themselves rather than workers and, in the process, draining the capital that should be their safeguard against taxpayer bailouts.

I hear my colleagues on both sides of the aisle say: We will never allow a bailout again.

We are doing things that will set us up to do that because we are moving away from the reforms we made. The problem is getting worse. The Fed wants to make the tests even easier next year, weakening the key constraints that caused Goldman Sachs and Morgan Stanley to fail this year, or would have caused them to fail if they hadn't talked their way out of it. It is quite a student who can talk their teacher out of it.

Federal Reserve Vice Chair Randal Quarles has also floated giving more leeway to banks to comment on the tests before they are administered. I like Vice Chairman Quarles. I did not vote to confirm him. I like him. I respect him. I sat across the table from



him for 2 or 3 hours, probably total, over his time there. I assume I will get to know him better as we talk on these issues. But he was in the Bush administration as the crisis built and built, when the economy was about to implode. He said things were rosy. We are trusting him. He is the Vice Chair for Supervision. We are entrusting him and others at the Fed to say that it is OK to give leeway to bankers to comment on the tests before they are administered. It is like helping students write the exam. We wouldn't do it anywhere else, but we do it with banks who risk our economy with their instability.

They are even considering dropping the qualitative portion of the stress test altogether. That is the part of the test that examines banks' risk management processes, data systems, and the fitness of its very well-paid board of directors. I am not sure of the precise number, but boards of directors in the seven largest banks, I believe, all make at least \$200,000 a year. I know they average significantly more than that—for part-time jobs. They are important jobs. They also have other jobs—most of them—but jobs where they so often seem to turn their heads at all of these problems.

Banks such as Deutsche Bank, Santander, HSBC, RBS—all foreign-owned banks—and Citigroup, an American bank, have all failed on qualitative grounds before. But rather than taking that as evidence that these banks need to shape up, they are considering scrapping this critical part of the exam. The Dodd-Frank rollback bill that this Congress just passed will also make things worse next year.

Right now the Fed is considering how to replace existing stress tests for banks with between \$100 billion and \$250 billion in assets to make them easier on the banks and less frequent—easier on the banks and less frequent. Rather than having annual company-run stress tests for the largest banks—those with more than \$250 billion in assets—the tests now, because of the new law that bank lobbyists and President Trump wanted, will only be required to be periodic. They used to be annual. Now we are saying periodic. Who interprets “periodic”? A bunch of Fed regulators that have already shown to be too close to bank interests.

All of this test curving comes alongside the weakening of other financial protections: dismantling the Consumer Financial Protection Bureau, undermining the Volcker rule, weakening the Community Reinvestment Act—as if there is no discrimination in this country anymore—and loosening rules around bank capital.

Imagine if the people in this town listened as much to workers as they did to Wall Street bankers. But money talks in this town. Lobbyists talk, representing money. Wall Street talks, representing money. Executives talk, representing money.

We have very profitable banks—banks that taxpayers bailed out. Con-

gress in the last year gave these banks huge tax cuts. Congress passed a deregulation bill that these banks demanded. We saw an article in the paper recently that Wall Street is retooling its whole lobbyist network in Washington because they didn't get quite enough on the banking deregulation bill. They thought it did a lot for community banks and midsized banks but not enough for the big guys. So they are retooling. I am not making this up. They are retooling their operations so they can do better. You have a Vice Chair for Supervision who clearly favors Wall Street in the rules that he has already suggested.

Boy, it is good to be a bank. It is great to be a banker in America. It is great to be a banker in 2018. It is great to be a banker in Trump's America.

I yield the floor.

Mr. ENZI. Mr. President, I rise today to express my opposition to the nomination of Mark Bennett to be a circuit judge for the Ninth Circuit Court of Appeals.

Mr. Bennett has had a long legal career and has served as the attorney general of Hawaii. My concerns lie not in his resume, but in his public history of opposing constitutionally protected freedoms essential to our way of life.

I have been and always will be a defender of the right of people to keep and bear arms. Wyoming is a State full of law-abiding gun owners who grow up learning to respect firearms and how to use them responsibly. Folks use them for a variety of purposes, everything from self-defense to hunting to work.

As Hawaii's attorney general, Mr. Bennet joined four other State attorneys general in an amicus curie brief on behalf of the District of Columbia in the Supreme Court case *District of Columbia v. Heller*. The brief argued that the Second Amendment protects no individual right to bear arms. This position worries me that he would not uphold Supreme Court precedent on the Second Amendment.

At a time when so many critical issues are being litigated in our courts, I cannot vote to confirm a nominee with a background of opposing fundamental constitutional rights. Therefore, I must oppose the nomination of Mr. Bennett.

Thank you. The PRESIDING OFFICER. The Senator from North Carolina.

Mr. TILLIS. Mr. President, I ask unanimous consent that notwithstanding the provisions of rule XXII, all postcloture time on the Bennett nomination be considered expired at 2:15 p.m. tomorrow and the Senate immediately vote on the nomination; that if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

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

## LEGISLATIVE SESSION

## MORNING BUSINESS

Mr. TILLIS. Mr. President, I ask unanimous consent that the Senate resume legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

## TRIBUTE TO BARBARA PROFFITT

Mr. McCONNELL. Mr. President, today I am proud to recognize a remarkable woman who has been a constant presence in Hardin County for many years. Barbara Proffitt has meant so much to this community, and as she begins her long-awaited retirement, I would like to thank her for her decades of care and support.

For 30 years, Barbara represented Hardin Memorial Hospital as its community/guest relations coordinator. In her own description, she helps “get the word out about the hospital,” but for someone like Barbara, that meant a lot more than sitting behind a desk sending emails. Throughout Elizabethtown and the surrounding area, Barbara seemed to be everywhere, attending community meetings, special functions, and even driving the health group's car during parades.

Beyond her work at the hospital, Barbara supported her community and her neighbors in so many ways. Although she hasn't had a child attending North Hardin High School since the late 1970s, Barbara proudly continues to be the “team mom” of the boys' basketball team. Usually carrying bags of candy to share, she rarely misses a game and always seems to have a hug ready for every player, manager, and coach.

The close proximity between Barbara's home in Vine Grove to the U.S. Army installation at Fort Knox inspired another form of community work. Crediting her father's service in World War I and the service of her brother and husband in Korea, Barbara has made it her personal mission to support our Nation's men and women in uniform stationed at Fort Knox. She packs boxes of food for soldiers deployed overseas who are serving in Fort Knox's 1st Theater Sustainment Command. Barbara also bakes pecan pies for those at the installation, earning her the nickname she treasures: “Pie Lady.” Having tasted one of her pies myself, I can confirm just how delicious they are. Because of her longstanding generosity to those at the installation, Fort Knox awarded Barbara and her family with its Gold Neighbor Award. In her retirement, she has chosen to join a new mission called “No Vet Dies Alone,” providing comfort to our Nation's heroes in their final hours.

Barbara has also passed on her love of community service to her children,