

and simple. After all, Democratic leaders announced that they will oppose anyone nominated by President Trump—anyone. In fact, some Democratic Senators announced their opposition to Judge Kavanaugh mere minutes after the President nominated him. It is clear that a number of my Democratic colleagues have chosen the path of obstruction and resistance, not, as the Constitution offers, every Senator giving advice and consent.

We have a highly qualified nominee who has authored numerous influential judicial opinions. I stated how they have been respected even when those same cases got to the Supreme Court. Leading liberal law professor Akhil Reed Amar endorsed Judge Kavanaugh in the pages of the *New York Times*. But some of my colleagues can't even bring themselves to at least consider Judge Kavanaugh's nomination.

As I mentioned yesterday, liberal outside groups and their allies are trying to convince Senators to ask Judge Kavanaugh his views on specific cases and Supreme Court precedent. I want to emphasize that these questions are inappropriate. In greater detail, I said that yesterday.

Justice Ginsburg announced—a famous statement of hers—during her own confirmation hearing that a nominee should offer “no hints, no forecasts, no previews” of cases that can potentially come before the Court.

Maybe some of my colleagues think, well, if some are going to come in a couple of months after you are on the Court, why can't you give us your views on that? But they might be asking questions about something 10 years down the road, so how legitimate are the views? Are you going to overturn this President, or are you going to rule this particular way in a particular case?

We also have Justice Kagan declining to state her views on *Roe v. Wade*, saying: “The application of *Roe* in future cases, and even its continued validity, are issues likely to come before the Court in the future.”

So you expect a Justice to look at the facts of a case, look at the law, or look at the Constitution, and leave their own personal views out of it, but you expect them to do it independent of anything they said in their hearing before the Judiciary Committee because nothing should be said there that is going to influence something 10 years down the road.

I expect that Judge Kavanaugh will likewise decline to comment on his views of particular cases decided by the Supreme Court.

I congratulate Judge Kavanaugh on this nomination. I had the opportunity to meet with Judge Kavanaugh earlier today. I know he looks forward to answering questions from my colleagues in the coming weeks. I look forward to hearing from him again when he appears before our Senate Judiciary Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

NATIONAL DEFENSE AUTHORIZATION BILL

Mr. INHOFE. First of all, Mr. President, we are about to go to conference. The first three votes here are very, very significant. They are considered to be maybe the most consequential votes of the year.

We have been working closely with the President on our John S. McCain National Defense Authorization Act. It is going to be a reality. We have done this through regular order in a very effective way. The Senate Armed Services Committee has been in concert with our combatant commanders, with Secretary Mattis, with the service chiefs, with the President. We have had a markup, our committee markup. We actually had over 300 amendments.

I am disturbed that we can't change this policy we have had for a long period of time that says that if one person on the floor objects when we are considering a bill—the NDAA, which we have considered successfully for 57 years—we are not going to be able to consider amendments. That is something we may want to address. To overcome that, we adopted 47 bipartisan amendments, both through the managers' package and the votes on the floor.

Tomorrow, we are going to hold our first big meeting of the conferees. I have been through a number of these in the past. This is where Members of the House and the Senate meet each other, talk about their issues, and talk about their successes and what they want to accomplish in this conference report. I have already visited with Ranking Member Senator REED, Chairman THORNBERRY, and Ranking Member SMITH, and we have a commitment to finish this conference report by the end of July. It is very ambitious. It is something we will be able to do.

The second vote we are going to have is to instruct the conferees in terms of the CFIUS issue. Personally, having recently been to China and the South China Sea, seeing what they are doing right now in northern Africa, in Djibouti—we have a different China than we had before. We are going to have to thoroughly review foreign transactions for national security concerns. I think Senator CORNYN is on the right track. I fully support his amendment.

The last one we will have is from Senator REED, and I think this is significant too. Our President has said several times—I have to say this. Not one President in my memory, Democratic or Republican, has been successful in getting our allies and NATO to carry their share of the burden. This President is getting very tough on that. I think the Reed motion to instruct conferees on NATO is one that will give him a lot of the force that he needs to impact these other countries.

If you take 29 countries—67 percent of our actual budget for our country is the entire amount for 29 countries.

That isn't right. This is something we can change, and we will hopefully succeed in doing that during this conference we will have.

ORDER OF PROCEDURE

Mr. President, I ask unanimous consent that the order for 5 p.m. be moved to now.

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

LEGISLATIVE SESSION

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2019—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

VOTE ON COMPOUND MOTION

The question occurs on agreeing to the pending motion with respect to the House message to accompany H.R. 5515.

Mr. INHOFE. 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 senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—91

Alexander	Fischer	Murray
Baldwin	Flake	Nelson
Barraso	Gardner	Perdue
Bennet	Graham	Peters
Blumenthal	Grassley	Portman
Blunt	Hassan	Reed
Booker	Hatch	Risch
Boozman	Heinrich	Roberts
Brown	Heitkamp	Rounds
Burr	Heller	Rubio
Cantwell	Hirono	Sasse
Capito	Hoeven	Schatz
Cardin	Hyde-Smith	Schumer
Carper	Inhofe	Scott
Casey	Isakson	Shaheen
Cassidy	Johnson	Shelby
Collins	Jones	Smith
Coons	Kaine	Stabenow
Corker	Kennedy	Sullivan
Cornyn	King	Tester
Cortez Masto	Klobuchar	Thune
Cotton	Lankford	Tillis
Crapo	Leahy	Toomey
Cruz	Lee	Udall
Daines	Manchin	Van Hollen
Donnelly	McCaskill	Warner
Duckworth	McConnell	Whitehouse
Durbin	Menendez	Wicker
Enzi	Moran	Young
Ernst	Murkowski	
Feinstein	Murphy	

NAYS—8

Gillibrand	Merkley	Warren
Harris	Paul	Wyden
Markey	Sanders	

NOT VOTING—1

McCain

The motion was agreed to.

MOTION TO INSTRUCT

Mr. CORNYN. Mr. President, I have at the desk a motion to instruct conferees, which I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 5515 be instructed to insist that the final conference report include language to maintain the position of the Senate regarding modernization of the Committee on Foreign Investment in the United States, as reflected in title XVII of the Senate amendment.

Mr. CORNYN. Mr. President, this motion to instruct conferees for the Defense authorization bill is related to our reforms of the operation of the Committee on Foreign Investment in the United States.

It is no secret that China is weaponizing its investments in the United States to exploit national security vulnerabilities, including backdoor transfers of dual-use U.S. technology and related know-how.

I am delighted to be working with Mrs. FEINSTEIN, the Senator from California, on this issue. I thank our friend Senator INHOFE, who has taken a leadership role on the Armed Services Committee, and Senator CRAPO for the unanimous vote on the Banking Committee.

I yield to Senator INHOFE.

Mr. INHOFE. Just for one comment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I commend the Senator from Texas, Mr. CORNYN, for the effort he has put forth on a very difficult issue. I wholeheartedly agree with him.

I must say that this morning I received a phone call from Secretary Mattis, who strongly supports this and says we really need to have this.

Mr. CORNYN. Mr. President, I ask unanimous consent that the remaining votes in the series be 10 minutes in length, and I yield back the remaining time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. REED. Mr. President, I commend Senator CORNYN and Senator FEINSTEIN for their extraordinary work on this vital legislation and urge complete support.

I yield the floor, and I yield back all time.

The PRESIDING OFFICER. The question is on agreeing to the motion to instruct.

Mr. CORNYN. 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 senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—97

Alexander	Gardner	Nelson
Baldwin	Gillibrand	Perdue
Barrasso	Graham	Peters
Bennet	Grassley	Portman
Blumenthal	Harris	Reed
Blunt	Hassan	Risch
Booker	Hatch	Roberts
Boozman	Heinrich	Rounds
Brown	Heitkamp	Rubio
Burr	Heller	Sanders
Cantwell	Hirono	Sasse
Capito	Hoeven	Schatz
Cardin	Hyde-Smith	Schumer
Carper	Inhofe	Scott
Casey	Isakson	Shaheen
Cassidy	Johnson	Shelby
Collins	Jones	Smith
Coons	Kaine	Stabenow
Corker	Kennedy	Sullivan
Cornyn	King	Tester
Cortez Masto	Klobuchar	Thune
Cotton	Lankford	Tillis
Crapo	Leahy	Toomey
Cruz	Manchin	Udall
Daines	Markey	Van Hollen
Donnelly	McCaskill	Warner
Duckworth	McConnell	Warren
Durbin	Menendez	Whitehouse
Enzi	Merkley	Wicker
Ernst	Moran	Wyden
Feinstein	Murkowski	Young
Fischer	Murphy	
Flake	Murray	

NAYS—2

Lee

Paul

NOT VOTING—1

McCain

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Rhode Island.

MOTION TO INSTRUCT

Mr. REED. Mr. President, I have a motion at the desk, and I ask that it be read.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. REED] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 5515 be instructed to—

(1) reaffirm the commitment of the United States to the North Atlantic Treaty Organization (NATO) alliance as a community of freedom, peace, security, and shared values, including liberty, human rights, democracy, and the rule of law;

(2) reaffirm the ironclad commitment of the United States to its obligations under Article 5 of the North Atlantic Treaty to the collective self-defense of the North Atlantic Treaty Organization alliance;

(3) establish as the policy of the United States pursuit of an integrated approach to strengthening the defense of allies and partners in Europe as part of a broader, long-term strategy using all elements of United States national power to deter and, if necessary, defeat Russian aggression;

(4) call on the Administration to urgently prioritize the completion of a comprehensive, whole-of-government strategy to

counter malign activities of Russia that seek to undermine faith in democratic institutions in the United States and around the world, and to submit that strategy to Congress without delay; and

(5) reflect the support of the United States for the rules-based international order that has ensured, and will continue to promote, an international system that benefits all nations, and for deepening and expanding alliances and partnerships to jointly work with one another on shared challenges in Europe and the Indo-Pacific Region and throughout the world.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, this would instruct the conferees of the National Defense Authorization Act conference to support our traditional relationship with NATO, reaffirm our commitment to work with them, recognize their work with us as they deploy personnel in Afghanistan, as they deploy personnel to training missions in Iraq, and, as members of NATO armed forces, have given their lives to help us in Afghanistan. It recognizes our traditional, long-term support for NATO, and it looks forward to continued support.

I urge adoption.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I agree with the Senator from Rhode Island.

I would like to say that there are 29 members of NATO. Of the 29 countries, if you take all of their defense budgets and add them together, the United States' defense dollars equal about 67 percent of that.

I believe this is sending the right message to let them know that we appreciate them—that is, our partners in NATO—but also that our President has made a very strong pitch that each one of them come up with 2 percent for their commitment, and they have not done it. I think the President needs to have our support. I think this does add legitimacy to that request.

I believe that burden-sharing has always been a problem. We have never been able to do it under Republican or Democrat Presidents, and this, maybe, is the time that we can get it done.

I support this motion.

Mr. REED. 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 question is on agreeing to the motion to instruct.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—97

Alexander	Gardner	Nelson
Baldwin	Gillibrand	Perdue
Barrasso	Graham	Peters
Bennet	Grassley	Portman
Blumenthal	Harris	Reed
Blunt	Hassan	Risch
Booker	Hatch	Roberts
Boozman	Heinrich	Rounds
Brown	Heitkamp	Rubio
Burr	Heller	Sanders
Cantwell	Hirono	Sasse
Capito	Hoeven	Schatz
Cardin	Hyde-Smith	Schumer
Carper	Inhofe	Scott
Casey	Isakson	Shaheen
Cassidy	Johnson	Shelby
Collins	Jones	Smith
Coons	Kaine	Stabenow
Corker	Kennedy	Sullivan
Cornyn	King	Tester
Cortez Masto	Klobuchar	Thune
Cotton	Lankford	Tillis
Crapo	Leahy	Toomey
Cruz	Manchin	Udall
Daines	Markley	Van Hollen
Donnelly	McCaskill	Warner
Duckworth	McConnell	Warren
Durbin	Menendez	Whitehouse
Enzi	Merkley	Wicker
Ernst	Moran	Wyden
Feinstein	Murkowski	Young
Fischer	Murphy	
Flake	Murray	

NAYS—2

Lee Paul

NOT VOTING—1

McCain

The motion was agreed to.

The Presiding Officer appointed Mr. MCCAIN, Mr. INHOFE, Mr. WICKER, Mrs. FISCHER, Mr. COTTON, Mr. ROUNDS, Mrs. ERNST, Mr. TILLIS, Mr. SULLIVAN, Mr. PERDUE, Mr. CRUZ, Mr. GRAHAM, Mr. SASSE, Mr. SCOTT, Mr. CRAPO, Mr. REED, Mr. NELSON, Mrs. MCCASKILL, Mrs. SHAHEEN, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Mr. DONNELLY, Ms. HIRONO, Mr. KAINE, Mr. KING, Mr. HEINRICH, Ms. WARREN, Mr. PETERS, and Mr. BROWN conferees on the part of the Senate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will now resume executive session.

The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

Mr. WHITEHOUSE. Mr. President, this past year and half of the Trump administration has been a constant, daily barrage of scandal, corruption, and chaotic incompetence. In this environment, the Senate now considers the President's controversial nomination of Brian Benczkowski to lead the Criminal Division of the U.S. Department of Justice. It has been over a year since Benczkowski was first nominated, and there have been repeated calls for his nomination to be withdrawn.

Why this man, for this job, at this time? There is a very good chance that

something fishy is happening here. The warning signals of something fishy should be evident to Democratic and Republican Senators alike.

The obvious question is whether President Trump and his political or legal team are using this appointment to sneak a fast one by the American people and put themselves in a position to interfere, from the inside, with the Department of Justice investigation into the dealings between Russia and the Trump campaign—the so-called Mueller investigation, though it has expanded beyond Bob Mueller into several other parts of the Department of Justice.

How would this fast one work exactly? We will be voting tomorrow to install a Trump ally and nominee—a longtime political operative with ties to a Russian bank and to the recused Attorney General Jeff Sessions—into one of the most powerful posts at the Department of Justice, a position that just so happens to have significant supervisory control over Special Counsel Mueller's investigation and the criminal investigation of the Southern District of New York into Trump's personal lawyer, Michael Cohen. What could possibly go wrong?

Remember, we are dealing with a President who remains the subject of an ongoing criminal investigation by the Department of Justice. We are dealing with a President who repeatedly violates longstanding rules and norms in his continuing effort to interfere with that investigation. We are dealing with a President who has told the press he believes he has “absolute control” over the Department of Justice and who repeatedly criticizes Attorney General Sessions' recusal from the Russian interference investigation as insufficiently “loyal.”

We are dealing with a President who appears to have actively interfered in the Department's investigations into Michael Flynn, who insisted on “loyalty” from his FBI Director, and who admitted that firing that FBI Director was to ease pressure over what he called “the Russia thing.”

We know all of this in the Senate, often from this President's own mouth and his own tweets. With that backdrop from the Oval Office for this nomination, extra caution is warranted to be sure we are not being led into trouble.

Worse still, it is not just the President who is up to no good with respect to the ongoing criminal investigation. Republicans in the House—I suspect hand in hand with the White House and legal team—are pressing their smear campaign against Deputy Attorney General Rosenstein, seeming to want to kneecap the independence of the Mueller investigation and get access to its confidential investigative files.

As a former U.S. attorney, I recoil from the notion that a legislative body wants to peek over the shoulders of prosecutors in an ongoing investigation, particularly when those legisla-

tors are so closely allied with the subject of that investigation.

Against that added backdrop of House interference, the Senate is being asked to install a Trump loyalist into a key position of authority and control over the Russia-Trump collusion investigation. Even more caution is warranted for this nomination, given the behavior of the House.

Why this man, for this job, at this time? Why Benczkowski? Let's review. He is nominated to be the Chief of the Criminal Division, a critically important office within the Department of Justice. He will oversee nearly 700 career prosecutors who are some of the most talented and experienced lawyers in the country. Criminal Division lawyers prosecute nationally significant cases, from high-profile public corruption to child exploitation, to complicated money laundering and international organized crime cases.

One thing that is obvious—that is obvious—is that Mr. Benczkowski brings astoundingly weak qualifications to that task. Given the stakes and the complexity of the Criminal Division's work, you would expect someone leading the Division who had years of experience as a prosecutor, who had tried cases to a verdict—someone who knew the ins and outs of the Division's work and knew his way around Federal courtrooms.

To say that Benczkowski lacks this experience is putting it mildly. He may be the weakest candidate ever put forward in the history of the Department to oversee the Criminal Division. He is probably not hireable into the career positions he will oversee. The man has less courtroom time than the average citizen who has sat on a jury. He has never tried a case of any sort, criminal or civil, State or Federal. He has never argued a motion—something most litigators have done in their first years out of law school. He has never worked as a prosecutor. His stints at the Department of Justice were never as a practicing lawyer but always on the political side. In his whole career, he told the Senate, he could only come up with one or two times he ever entered a courtroom on what he called “routine scheduling or other matters.”

So it is not Benczkowski's experience or qualifications that are the reasons for his appointment. If qualifications and experience are not the reasons for his appointment, why put this prosecutorial neophyte into one of the most powerful, important prosecutorial positions at the Department of Justice? What, one might ask, is the motive? What do we know?

Although serious questions remain unanswered by the Department of Justice and by Mr. Benczkowski, we know from our correspondence with the Department that the Russia-Trump collusion investigation is being run under Department of Justice procedures that require approvals by the Criminal Division for a wide array of investigative and prosecutorial steps. As the U.S. attorney for Rhode Island, I used to have