and the continuous pursuit of racing immortality.

Racing legends like A.J. Foyt, Mario Andretti, Rick Mears, Al Unser, and Bobby Rahal have become synonymous with the Indianapolis 500. The race is a source of great pride for all citizens of our State, and we are all very excited about the 100th running on Sunday.

I am pleased to be joined by my Indiana colleague Senator DONNELLY in recognizing—through a Senate resolution, which we will offering after Senator DONNELLY speaks—the tremendous occasion of the 100th running of the Indianapolis 500.

I am more than happy to yield to my colleague, Senator DONNELLY.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. DONNELLY. Mr. President, I thank my good friend and colleague Senator COATS. He is truly an institution in our State.

I rise with Senator COATS to commemorate the 100th running of the Indianapolis 500. Think about that. What a long and storied history. The Indy 500 is more than a Memorial Day weekend tradition, and it is more than just a sporting event. It has a storied history, and the list of winners includes some of the most legendary drivers in motor racing history—names like Foyt, Mears, Unser, Andretti, and the legendary family who has been such good friends to our State and such good stewards of the track, the Hulman-George family.

The Indianapolis Motor Speedway and Indianapolis 500 are a sight to see, with its iconic 2½-mile oval and the buzzing atmosphere created by hundreds of thousands of cheering fans. As my colleague and dear friend Senator COATS said, the singing of ''Back Home Again in Indiana,'' the winner drinking milk in victory lane, and raising the Borg-Warner trophy, this is defined by career-making victories as well as heartbreaking crashes and down-to-the-wire finishes.

The Indy 500 is more than just the greatest spectacle in racing. It is about a whole lot more than just that. It is about bringing people and families together. More than 300,000 people will come to watch the race in the city of the speedway this weekend. It boosts local businesses and gives Central Indiana an opportunity to showcase ourselves to the rest of the world.

Over its history, the Indy 500 has been part of the fabric of our Hoosier State. It has endured through economic booms, depressions, and times of turmoil at home and abroad. Through it all, the Indy 500 has become one of the biggest sporting events in the world. It brings together people of all different backgrounds. As the race has grown, it has drawn spectators from across the United States and from around the world—diehard racing fanatics and casual fans alike. Donald Davidson, the track historian, told the Indianapolis Star earlier this week:

There is nothing else like it. It just took off. There was Christmas, there was Easter, and there was the Indianapolis 500.

It is a special event, unlike any other. I have had the privilege of attending the 500 many times, and I am looking forward to attending Sunday's 100th running of the race. You can't help but be struck by the talent of the drivers and the team.

Earlier this month, I visited the Andretti Autosport, where I saw firsthand the craftsmanship and extensive preparations that go into building a single Indy car for the Indy 500. They were building a number of them. The dedication and teamwork is remarkable. Each piece is an intricate creation, and the driver of each car has to have complete trust in the team that designed and built this car, before it even rolls onto the track. The team has to have that same confidence in the driver, that he or she can bring that car into Victory Lane.

For thousands of Hoosier families and racing fans, the Indy 500 is a time for creating lifelong memories. Joining together with friends and neighbors, the race is a chance to showcase the best in Hoosier hospitality and the best our State has to offer. To win the Indy 500, one needs all of the things that we Hoosiers hold dear: determination, hard work, ingenuity, an unwillingness to give up in the face of adversity, and, sometimes, a little bit of luck.

To win you have to be able to overcome setbacks, get back up, dust yourself off, and put your nose back to the grindstone. That is the Hoosier way.

I wish the best to our drivers, to the crews, and to the teams and owners competing in Sunday's 100th running of the Indy 500. May it be a safe and competitive race. May God bless all those involved. God bless Indiana, and God bless America.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. PERDUE). The Senator from Indiana.

Mr. COATS. Mr. President, on behalf of my colleague and friend, Senator DONNELLY, and myself, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 475, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 475) recognizing the 100th running of the Indianapolis 500 Mile Race.

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

Mr. COATS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

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

The resolution (S. Res. 475) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

Mr. COATS. Mr. President, I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2017—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business.

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

FILLING THE SUPREME COURT VACANCY

Mr. WYDEN. Mr. President, I have waited to give this speech for weeks, waited for the rhetoric to die down after the untimely and unexpected passing of Justice Scalia, and waited to speak about the sad state of affairs out of a hope that no more words would be necessary before this Senate acted.

It was my fervent hope that the initial reaction to Justice Scalia's death was due to the shock and the grief at the loss of a conservative icon.

I, like many of my colleagues, were publicly mourning the loss, and I assumed that my colleagues were simultaneously realizing that after decades of trending to the right, it was now more than likely that the Supreme Court was going to shift back to a more centrist, progressive point of view.

But now it appears that the Senate has descended into an ''Alice in Wonderland'' world where the Senate cannot even agree on how many Supreme Court Justices make the Court functional. Throughout our history, in the Senate there have been previous attempts to attack the Court by, on the one hand, denying it members, or, on the other hand, packing the Court. In those instances, this once august body has stood together and always protected the sanctity of the Court—but not today.

The Senate is not only displaying contempt for the Court, but it is demonstrating contempt of its constitutional responsibilities. It is hard for the people we are honored to represent to make sense out of much of what goes on here—who serves on the subcommittee that always sounds like the subcommittee on acoustics and ventilation, what a motion to table the amendment to the amendment to the amendment actually means—but this is an issue the American people get.

We know there are supposed to be nine Supreme Court Justices and the Senate ought to do its job and ensure that the Court can function without wasting years of people's lives and dollars by allowing cases to be undecided through deadlock.

I can state that I am going to be home this weekend for townhall meetings. At these townhall meetings, I hear from citizens who are exasperated.

They tell me this in the grocery store, in the gym, and in other places where Oregonians gather. They cannot understand how a U.S. Senator can ignore the responsibility to advise on a Supreme Court nominee and remain true to his or her oath.

Here is what Oregonians know for sure. They understand that the President of the United States is elected to a 4-year term, not a 3-year term and some number of days—4 years. We learn it in the first quarter of high school civics class. Oregonians and Americans understand that it is the President's job during that 4-year term to fill vacancies on the Court, and Oregonians understand that it is the Senate's job to advise and consent on the nomination by holding hearings and then having an up-or-down vote.

The President has fulfilled his duty. The Senate is utterly failing its responsibility. We have a nominee—an eminently well-qualified nominee. Our President pro tempore in the Senate, who is widely respected, called him ''highly qualified'' and described him this way:

His intelligence and his scholarship cannot be questioned. . . . His legal experience is equally impressive. . . . Accordingly, I believe Mr. Garland is a fine nominee. I know him personally, I know of his integrity, I know of his legal ability, I know of his honesty, I know of his acumen, and he belongs on the Court. I believe he is not only a fine nominee, but is as good as Republicans can expect from this administration. In fact, I would place him at the top of the list.

Those are the exact words of our President pro tempore with respect to this nominee.

The then-chairman of the Judiciary Committee called him ''well qualified,'' even though he objected to bringing the Court he was being appointed to up to its full complement of Justices.

But despite having a fully qualified judge vetted and praised by many of their colleagues, this intemperate rhetoric about blocking the Court has now solidified into an indefensible position. That is why after waiting for weeks, I am on the floor this evening.

The first blow is now well known and often quoted. The majority leader said:

The American people should have a voice in the selection of their next Supreme Court Justice. Therefore, this vacancy should not be filled until we have a new President.

This was said at a time when other officials were releasing statements offering condolences to the Justice's family, which includes 26 grandchildren.

In some respects this reaction should have been expected. When President Obama took office, it seemed that the goal of some was to oppose anything he did, however reasonable. Senators such as myself who have been here long enough to see the ebbs and flows of the Senate figured that this stance was probably just a temporary slump. Senators put in long hours and travel endlessly to make a difference on issues that are important to them and to their States. Even if the solemn responsibility and constitutional duty with which they are entrusted weren't enough to encourage action in this serious situation, it would seem, for the sake of our country and our people, that many here hoped this body would find its way back again.

Unfortunately, that has not been the case. So the majority leader's response to the death of Justice Scalia becomes yet another example of the scorched-Earth approach to politics the far-right has taken since the very beginning of the Obama Presidency. It is a sad and unworthy response to Americans who expressed their will at the ballot box.

Many Americans list choosing a Supreme Court Justice as one of their leading reasons for choosing a Presidential candidate. Sometimes—many times—this is given as the most significant reason for voting for a President. In the last Presidential election, the American people chose Barack Obama as the duly elected President of the United States. I state this because, for many of my colleagues, that fact somehow seems to have just vanished from their minds, or perhaps there is just a refusal to recognize the results of the 2012 election. Americans chose President Obama to be the Commander in Chief, to administer the laws, and, yes, to appoint a new Supreme Court Justice for any vacancies that occur between January 20, 2013, and January 20, 2017. The unanimous position or near unanimous position of the majority is that elections don't really seem to matter, that the rule of force becomes the rule of law, and saying ''no, we will not'' is an acceptable response for being asked to fulfill constitutional responsibilities. Basically, this position disenfranchises the constitutionally ratified choice of more than 65 million Americans because the majority in the Senate simply doesn't agree with them.

This is not a response worthy of U.S. Senators. It is choosing party and ideology over the needs of our country, and it is a political choice that many of my colleagues are beginning to understand they cannot support.

My colleagues have said: It is not the position; it is the principle. But this is a position without principle. It is really pure politics—pure politics of the worst kind. It calls into question whether perpetrators can effectively do their jobs as Senators going forward.

Today the Senate, this venerable institution, continues to find itself in the hands of the most insidious form of politics—small ''p'' politics. It is the kind of politics that seems just devoid of reason, revolving around what seems to most Americans to be a truly straightforward portion of the Constitution.

Article II, section 2, paragraph 2, of the Constitution states:

[The President] shall have Power, by and with the Advice and Consent of the Senate, to . . . nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court. . . .

Now, I am a lawyer in name only. I don't profess to be a constitutional scholar. But at this point, I am one of the longer serving Members of the Senate, and I have placed a special priority on working with colleagues across the aisle, trying to find common ground, recognizing that the Senate is at its best when colleagues work together. But to my mind, the current approach taken by the majority toward the President's duty to nominate a Supreme Court Justice and the duty the Senate has to advise and consent on the nominee has led this Senate to an unprecedented and dangerous situation. It seems to me that by denying Judge Garland a hearing, we are denied the opportunity to ask the nominee questions to which the American people are owed answers.

The current position of refusing to ask those questions and hear those answers is an insult to our form of government, one understood by originalists, strict constructionists, and liberal interpreters alike. The Senate's decline has been particularly vivid in the case of judicial appointments. The U.S. Court of Appeals for the District of Columbia is the primary judicial forum for appeals of Executive and regulatory actions prior to the Supreme Court. As such, it has become the focus of ideologues who oppose environmental regulations, consumer regulation, anti-trust, and many other hallmarks of our system of government for the past century.

When three vacancies opened on this court and Presidential appointments were made, Senate Republicans proceeded to filibuster each and every one of those nominees, claiming—in my view ridiculously—that the President was engaged in ''court packing.''

Now, in the interest of fairness, court packing is the reprehensible course of action chosen by a liberal icon, President Franklin D. Roosevelt, when faced with a court that opposed his will. That attempt was a dangerous time for our constitutional system of checks and balances and must be remembered, lest it be repeated.

Not only was it dishonest to apply this term to the regular process of filling existing vacancies, the accusers were, in fact, attempting to accomplish FDR's same goal of bending a Federal court to their will in a blatant attack on our system of checks and balances.

Today, we are witnessing another attack on the Constitution in this refusal to do our job and proceed to the confirmation process for Judge Garland.

This is a grave assessment, and maybe I am being a bit too harsh to colleagues in laying their refusal to duty on purely political grounds. So I want to just take a couple of minutes to unpack some of the justifications that have been given for what we have heard. Some Members have argued there is a longstanding tradition that the Senate does not fill a Supreme Court vacancy during a Presidential election year. This has been referred to as an ''80-year precedent'' and as ''standard practice.''

Unfortunately, that turns out not to be the case. There is no such precedent. Or, I would say, there is no such precedent unless you define your terms so narrowly that the concept of precedent becomes meaningless. This can be contrived, for example, by limiting the discussion to nominations made during a Presidential election year rather than nominations considered during a Presidential election year.

However, that is like saying: We never previously filled a Supreme Court vacancy in a year in which Leonardo DiCaprio won an Oscar and Denver won the Super Bowl. This is true enough, but it covers such a small set of cases that it provides no meaningful guidance. If anything, the relevant historical precedent favors the Senate considering a nomination to fill the current vacancy.

Since 1912, the Senate has considered seven Supreme Court nominations during Presidential elections. Six of the nominations were confirmed: Mahlon Pitney in 1912; Louis Brandeis and John H. Clarke in 1916; Benjamin Cardozo in 1932; Frank Murphy in 1940; and the most recent example, Anthony Kennedy in 1988, who was nominated by President Reagan and confirmed unanimously by a Senate in which Democrats held the majority.

In one other case, that of Abe Fortas in 1968, the nomination was rejected in an election year. However, even then, the Senate did its job. It held hearings, reported the nomination from committee, voted on whether to invoke cloture on the nomination on the Senate floor.

In the face of this historical record, some Senators have argued another point. They have invoked the so-called Biden rule, based on a speech that Vice President BIDEN gave on the Senate floor in 1992 when he was chairman of the Senate Judiciary Committee. In that speech, according to some Members, Senator BIDEN established a binding rule that the Senate should never consider Supreme Court nominations during Presidential election years.

First, as discussed above, there is no such thing as a binding Senate rule. We make them. We break them. We change them. It is the flexibility of this institution that has allowed it to continue to serve Americans for 225 years and the current inflexibility of my colleagues that threatens to bring it to harm.

Now, let's look at Senator BIDEN's 1992 comments in perspective. He gave a speech, perhaps intemperate, but in 1988, as I just described, he led the Senate in confirming Justice Anthony Kennedy.

Further, in 1987 and 1991, when Presidents Reagan and Bush submitted the highly controversial nominations of Robert Bork and Clarence Thomas, the Senate Judiciary Committee, chaired by then-Senator BIDEN, held hearings on the nominations and took them to the floor for up-or-down votes. So when Senator BIDEN chaired the Judiciary Committee, he always provided a Republican President's Supreme Court nominees with a hearing, a vote in committee, and a vote on the Senate floor.

It is also important to consider the overall point that Senator BIDEN was making in 1992. The Supreme Court was about to adjourn, which is a time when Justices frequently announce their retirement. Senator BIDEN was arguing that there should not be a trumped-up retirement, designed to create a vacancy for which the President would submit an ideologically extreme nominee as ''part of a campaign to make the Supreme Court an agent of an ultra right conservative social agenda which would lack support in the Congress and the country.''

Senator BIDEN was arguing against partisanship. He was counseling restraint. He said that ''so long as the public continues to split its confidence between branches, compromise is the responsible course both for the White House and for the Senate.''

Noting his support of the nominee, though nominated by an opposing President, Senator BIDEN was urging both sides to step back from partisan ideological warfare. Senator BIDEN urged Congress to develop a nomination confirmation process that reflected divided government by delivering a moderate, well-respected nominee who would be subject to a reasonable, dignified nomination process.

Senator BIDEN went on to say, ''If the President consults and cooperates with the Senate or moderates his selections absent consultation, then his nominees may enjoy my support, just as did Justices Kennedy and Souter.''

That is precisely the approach that President Obama is following here—moderating his selection. In nominating Judge Garland, the President has not politicized the process. The President has not nominated some left-wing ideologue who thrills progressives but angers conservatives. You already heard what I quoted directly from our esteemed friend, the President pro tempore of the Senate, Senator HATCH. The President has gone to the middle, seeking compromise. He has nominated someone who is widely regarded as sound and moderate and capable. Indeed, not long ago, leading Republican Senators cited Judge Garland as the very example of the type of person they were hoping the President would nominate.

Judge Garland is the kind of person about whom my colleagues on the other side of the aisle said: This is the kind of person we would really like to see for this job.

Now, there have been other attempts to defend the indefensible, and they all go back to the facts that I have just outlined. No matter the politics, no matter your concern about a primary challenge from the right, no matter the faint hope that a Member of your party might win the White House and nominate an ideological kindred spirit, no matter the pressure to choose party over country, it is time to do our constitutional duty, hold hearings, ask questions, get answers, and vote on the nominee.

Perhaps, as with Abe Fortas, the nominee will be rejected. If that is the Senate's will, so be it. But denying a duly nominated candidate a responsible and dignified confirmation process is choosing to further endanger the people we serve and the body that we serve in.

Finally, every Republican Member must know that having a meeting or calling for hearings and a vote without taking any action to make it so is pretty much naked politics, and Americans are not going to be fooled. If Members of the majority actually wish to see the Senate do its job, they can force the Senate to make it happen by denying the leadership the ability to act on other less pressing matters until they take up this responsibility.

To go home and claim that you would like hearings—that you would like a vote—without taking action to make it happen is simply lip service to the constitutional responsibility of a Senator.

I am going to close with just a couple of last thoughts. My colleagues have the opportunity to redeem this body. My colleagues have repeatedly said: It is not the position; it is the principle. But it was understood during FDR's time, and it should be understood now, that threatening the makeup of the Supreme Court is a position without principle.

Intemperance appears to be the hallmark of political rhetoric in this day. Somehow, if it is loud and intemperate, that is what people are going to pay attention to. But this sort of intemperate rhetoric is certainly corrosive to this institution.

The Senate still has an opportunity to sober up, regardless of what was said, buckle down, get to work, hold hearings, and vote on a nominee. Political rhetoric can be forgiven. Allowing intemperate rhetoric to control the solemn responsibility of every Senator is unforgivable.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ROUNDS. Mr. President, I rise today to speak about the National Defense Authorization Act of 2017, or the NDAA. This bill was reported out of committee 2 weeks ago with 100 percent support from our friends across the aisle and nearly unanimous support from the majority party.

I am thankful for the leadership of Chairman MCCAIN and Ranking Member REED. I think they have done a marvelous job. These are two veterans who have served their country well before becoming Members of this body. As Members of this body, they have worked very hard to find consensus between Republicans and Democrats with regard to how we work to prepare an authorization bill for funding for our military.

The reason I am here today is I think it is important to share my thoughts about the need to move forward with a discussion of the National Defense Authorization Act on the floor of the Senate in an appropriate timeframe.

For those individuals who wonder how the Senate works, sometimes we find it frustrating because we would like to move on. And as my friend the Senator from Oregon just indicated, they would like to have votes. In this particular case, he was suggesting a vote on the Supreme Court, but on that one there are challenges and there are concerns on the part of Members of the majority party.

But in the case of the National Defense Authorization Act, this is one which has been passed out of the Senate, passed by the House, and signed by the President for 54 years in a row. It is a bipartisan work effort. It is one in which we have agreement; we find consensus. It seems only appropriate that we try to move forward on this particular bill before Memorial Day, the day in which we honor those individuals who have given the ultimate sacrifice.

Let me share with you what we understand has happened. I understand that when the majority leader had asked for a unanimous offer or an agreement that we take up this bill early—take it up and begin to debate it; not pass it, but debate it and accept amendments to this particular bill about how to appropriately direct our military for the coming year—the minority leader objected, which is his right, and said he would not allow us to move forward, even to debate the bill.

In fact, we had to file what they call cloture or a closure of the time with a 30-hour period, which we are in right now, before we can even take up the bill. That seems inappropriate. At least to me, it seems that if we really wanted to show we honor those individuals—and we talk about the memory of those who lost their lives serving our country—the least we could do would be to move forward with this particular one in some sort of a united effort since there does not appear to be anything that is of a challenge in passing the bill.

I think about Memorial Day because I lost an uncle. As a matter of fact, I am named for him. My name is Marion Michael. I go by Mike, but I was named for an uncle who died in World War II on the island of Okinawa in May of 1945. He never had a chance to vote, never had a chance to have a family. My family lost something. He lost his life, but we lost an uncle, a brother.

This is the time period in which we remember what these folks—these soldiers, sailors, and warriors—have given to our country. It seems appropriate that this would have been a great time to make an example of our working together. That sense of sacrifice didn't stop in World War II; it continues on.

I had the opportunity, the privilege, to work as Governor of South Dakota during the time in which we were sending young men and women off to wars in Afghanistan and Iraq. I remember one time in particular that was an example of the generations supporting our country. It happened to be with a mobilization ceremony in the little town of Redfield. When we send young men and women off in South Dakota, we have a mobilization ceremony that is attended by literally the entire town. In this case it was the 147th Field Artillery, 2nd Battalion. I was working as Governor at the time, and when we came into this town, we went to the high school gymnasium. You couldn't park win three blocks of that gymnasium because it was filled.

When we walked inside, there were people everywhere. They were even sitting on the window sills because there were a little over 105 soldiers who were being deployed, and they were going to Iraq.

I remember it specifically because as we finished the ceremonies for deployment in this packed crowd, we went down the line, and we started thanking each soldier for their service. I walked through the line saying: Thank you. We appreciate your service. Be careful. Come back safely.

I looked at one of the soldiers and looked at his last name. He was gray haired, clearly he was a sergeant, and he was one of the leaders. I said: Thank you for your service. Do your job, but bring these guys home safely.

He said: Yes, sir.

The next man in line—I looked at his name, and it was the same name as the individual ahead of him. I looked at him and I said: Is that your dad?

He said: No, sir, that is my uncle. My dad is behind me.

Three generations, three separate members of the same family were serving in the 147th, three of them offering their own and their families' time to support our country. I don't know whether they were Republican or Democrat. All I know is that they were wearing the uniform of the United States of America.

Sometimes, as we talk about what we do, we have to remind ourselves that when these young men and women deploy, they are not deploying as Republicans or Democrats. They really don't care about how we see the progression of the votes that we take here. What they look at is whether or not we are united as Americans.

This would be a very appropriate time for the minority leader to perhaps consider giving back some of the time that he is holding for debate on this bill to begin. Let's begin the debate on this bill before we leave for Memorial Day. Let's begin the process of letting these families know that this is important to us, too, and that we understand the significance of Memorial Day.

For that particular family I talked about in Redfield, this is especially important this year because that young man came back and carried the Cross of War with him. They lost him earlier this year. This year, Memorial Day means a little bit more.

What I would ask today is that we send a message to all of the men and women who wear the uniform. Politics is gone. We will debate the bill, we will spend time on the bill, we will make it better, but we will not hold it hostage. We will do what they want us to do as Americans protecting our country and honoring the memory of those who have given everything in defense of our country.

This is the time to vote—to vote for those who died before they ever had a chance to vote. This is a chance to share our strong belief that when it comes to the defense of our country, we are Americans first, Republicans and Democrats last.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

WATER RESOURCES DEVELOPMENT ACT

Mr. PETERS. Mr. President, tonight I rise to speak about the pressing need to invest in our aging infrastructure across this great country, especially drinking water infrastructure.

What makes the ongoing crisis in Flint so tragic is that it was preventable. Steps could have and should have been taken over months and even years that would have prevented the poisoning of the citizens of Flint. Because these steps were not taken, efforts to mitigate the effects of lead exposure and repair the damage will be necessary for many years to come.

Our drinking water supply is largely dependent on systems built decades ago that are now deteriorating. Many of the pipes in some of our older cities were installed before World War II, and many are made of lead. The EPA estimates about 10 million homes and buildings are serviced with lead lines.

The American Water Works Association has said that we are entering ''the replacement era.'' Water systems are reaching the end of their lifespan, and we must replace them. We have no choice.

If we want to simply maintain our current levels of water service, experts estimate a cost of at least $1 trillion over the next two decades. That is why it is so important that we pass a new Water Resources Development Act, or WRDA. We now have the opportunity and the ability to dedicate resources to Flint and to communities dealing with infrastructure challenges all across our country.

The Environment and Public Works Committee listened to water experts, State and local elected officials, and the shipping industry, as well as stakeholders, to craft a WRDA bill that makes crucial infrastructure investments in drinking and wastewater projects as well as our ports and our waterways.

My friend Senator DEBBIE STABENOW and I were proud to work with Senator JIM INHOFE and Senator BARBARA BOXER to include bipartisan measures that would include emergency aid to

address the contamination crisis in Flint and provide assistance to our communities across our country facing similar infrastructure challenges.

The Flint aid package included in the bipartisan WRDA bill includes direct funding for water infrastructure emergencies and critical funding for programs to combat the health complications from lead exposure. This includes a drinking water lead exposure registry and a lead exposure advisory committee to track and address long-term health effects.

Additionally, funding for national childhood health efforts, such as the childhood lead prevention poisoning program, would be increased in this bill.

The Water Resources Development Act also includes funding for secured loans through the Water Infrastructure Finance and Innovation Act, or WIFIA program. This financing mechanism was created by Congress in 2014 in a bipartisan effort to provide low-interest financing for large-scale water infrastructure projects. These loans will be available to States and municipalities all across our country.

There are also a number of other important provisions in this year's WRDA bill. It promotes restoration of our great lakes and great waters, which include ecosystems such as the Great Lakes, Puget Sound, Chesapeake Bay, and many more.

In fact, the bill includes an authorization of the Great Lakes Restoration Initiative through the year 2021, which has been absolutely essential to Great Lakes cleanup efforts in recent years. It is important to know that the Great Lakes provide drinking water for over 40 million people.

The WRDA bill also will modernize our ports, improve the condition of our harbors and waterways, and keep our economy moving.

A saying attributed to Benjamin Franklin rings especially true with this WRDA bill. He said: ''An ounce of prevention is worth a pound of cure.'' If we make the necessary infrastructure investments now, we will preserve clean water, save taxpayer money in the long run, and protect American families from the dangerous health impacts of aging lead pipes.

The Environment and Public Works Committee passed the Water Resources Development Act with strong, overwhelming bipartisan support last month. This bill is ready for consideration by the full Senate, and communities across our country—including the families of Flint—are waiting for us to act.

I am hopeful that this body will do just that in the coming weeks, and I urge my colleagues to prioritize this commonsense, bipartisan infrastructure bill for a vote on the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

MORNING BUSINESS

Mr. ROUNDS. Mr. President, I ask unanimous consent that the Senate be in 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.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, nearly 150 years ago, Congress determined that a fully functioning Supreme Court should consist of nine Justices. For more than 100 days, however, the Supreme Court has been unable to operate at full strength as a result of unprecedented obstruction by Senate Republicans. Under Republican leadership, the Senate is on track to be in session for the fewest days since 1956. Senate Republicans simply refuse to do their jobs. If Senate Republican leadership has its way, this seat on the Supreme Court will remain unnecessarily vacant for more than a year.

President Obama nominated Chief Judge Merrick Garland 70 days ago. Based on the timing of the Senate's consideration of Supreme Court nominees over the past four decades, Chief Judge Garland should be receiving a confirmation vote on the Senate floor today. Instead, Republican Senators are discussing a hypothetical list of nominees issued by their presumptive nominee for President.

Senate Republicans should be responsible enough to address the real vacancy on the Supreme Court that is right now keeping the Court from operating at full strength. Chief Judge Garland has received bipartisan support in the past, and there is no reason other than partisan politics to deny him the same process the Senate has provided Supreme Court nominees for the last 100 years. The chairman of the Judiciary Committee recently suggested we put down on paper how the Senate treats Supreme Court nominees. I did just that with Senator HATCH in 2001 when we memorialized the longstanding Judiciary Committee practice that Supreme Court nominees receive a hearing and a vote, even in instances when a majority of the Judiciary Committee did not support the nominee. The chairman and all Republicans should go back to that letter to use as roadmap for considering Chief Judge Garland's nomination now.

Republicans have been dismissive about the need for a fully functioning Supreme Court with nine Justices, but as we have already seen this term, the Supreme Court has been repeatedly unable to serve its highest function under our Constitution. Without a full bench of justices, the Court has deadlocked and has been unable to address circuit court conflicts or resolve cases on the merits. The effect, as the New York Times reported recently, is a ''diminished'' Supreme Court. In a bid to appeal to moneyed interest groups, Republicans have weakened our highest Court in the land, both functionally and symbolically.

In the face of this obstruction, some Supreme Court justices have tried to put on a brave face, proclaiming things are going along just fine. The facts show, however, that the opposite is true. As another recent news article notes, the Supreme Court is on pace to take on the lightest caseload in at least 70 years. At least one Supreme Court expert has suggested that the eight Justices currently serving may be reluctant to take on certain cases when they cannot be certain they will reach an actual decision on the merits without deadlocking. As each week passes and we see the Court take a pass on taking additional cases, the problem gets worse and the Court is further diminished.

In some instances, the Court has issued rare and unprecedented follow-up orders to try to reach some kind of compromise where they otherwise cannot resolve the issue with eight Justices. This happened in Zubik v. Burwell, which involved religiously affiliated employers' objections to their employees' health insurance coverage for contraception. In that case, the Court took the unusual step of ordering supplemental briefing in the case, seemingly to avoid a 4–4 split and to reach some kind of compromise. Even with the extra briefing, the Court could not make a decision. Instead, it sent the issue back to the lower courts expressing ''no view on the merits of the cases.'' The reason we have one Supreme Court is so it can issue final decisions on the merits after the lower courts have been unable to do so in a consistent fashion. But the Supreme Court has recently punted cases back down to the lower courts for them to resolve the issue, possibly in different ways, because of its diminished stature. A Supreme Court that cannot resolve disputes among the appellate courts cannot live up to its name.

The Court has been unable to resolve cases where even the most fundamental right is at stake, that of life and death. Former Judge Timothy K. Lewis of the Third Circuit Court of Appeals warned us of this earlier this month when he spoke at a public meeting to discuss the qualifications of Chief Judge Garland. Sadly, these warnings have become a reality. In one death row case, the Supreme Court has not yet decided whether to review it despite the fact that, at trial, an expert testified that the defendant was more likely to be dangerous in the future because of his race. The prosecution later conceded this testimony was inappropriate, but continued to raise procedural defenses in Buck's case. Such a case about whether a person sentenced to death has received due process is at the very heart of our democracy; yet our diminished Supreme Court has been unable to make a decision in this case and could deadlock on others.

There are some who suggest a deadlocked decision may be beneficial when